

Article 2.

Department of Natural and Cultural Resources.

Part 1. General Provisions.

**§ 143B-49. Department of Natural and Cultural Resources – creation, powers and duties.**

There is hereby created a department to be known as the "Department of Natural and Cultural Resources," with the organization, duties, functions, and powers defined in the Executive Organization Act of 1973. (1973, c. 476, s. 29; 2002-180, s. 3.2; 2015-241, s. 14.30(s).)

**§ 143B-50. Duties of the Department.**

It shall be the duty of the Department to do the following:

- (1) To provide the necessary management, development of policy and establishment and enforcement of standards for the furtherance of resources, services and programs involving the arts and the historical and cultural aspects of the lives of the citizens of North Carolina.
- (2) To provide and keep a museum or collection of the natural history of the State and to maintain the North Carolina Biological Survey. (1973, c. 476, s. 30; 2015-241, s. 14.30(fff).)

**§ 143B-50.1. Additional powers and duties of the Department regarding recreation.**

(a) Definition. – As used in this section, "recreation" means those interests that are diversionary in character and that aid in promoting entertainment, pleasure, relaxation, instruction, and other physical, mental, and cultural developments and experiences of a leisure nature, and includes all governmental, private nonprofit, and commercial recreation forms of the recreation field and includes parks, conservation, recreation travel, the use of natural resources, wilderness, and high density recreation types and the variety of recreation interests in areas and programs which are incorporated in this range.

(b) Recreation. – The Department shall have the following powers and duties with respect to recreation:

- (1) To study and appraise the recreation needs of the State and to assemble and disseminate information relative to recreation.
- (2) To cooperate in the promotion and organization of local recreation systems for counties, municipalities, and other political subdivisions of the State, to aid them in the administration, finance, planning, personnel, coordination and cooperation of recreation organizations and programs.
- (3) To aid in recruiting, training, and placing recreation workers, and to promote recreation institutes and conferences.
- (4) To establish and promote recreation standards.
- (5) To cooperate with appropriate State, federal, and local agencies and private membership groups and commercial recreation interests in the promotion of recreation opportunities, and to represent the State in recreation conferences, study groups, and other matters of recreation concern.
- (6) To accept gifts, devises, and endowments. The funds, if given as an endowment, shall be invested in securities designated by the donor, or if there is no such designation, in securities in which the State sinking fund may be invested. All such gifts and devises and all proceeds from such invested endowments shall be used for carrying out the purposes for which they were made.

- (7) To advise agencies, departments, organizations and groups in the planning, application and use of federal and State funds which are assigned or administered by the State for recreation programs and services on land and water recreation areas and on which the State renders advisory or other recreation services or upon which the State exercises control.
- (8) To act jointly, when advisable, with any other State, local or federal agency, institution, private individual or group in order to better carry out the Department's objectives and responsibilities.

(c) Federal Assistance. – The Department, with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual, and may comply with the terms, conditions, and limitations of the grant, in order to accomplish any of the purposes of the Department. Grant funds shall be expended pursuant to the State Budget Act. The Director of the Department's Division of Parks and Recreation is designated as the State liaison officer with respect to funding through the federal Land and Water Conservation Fund or any successor fund established for similar purposes, and the Secretary may designate additional personnel to assist the Director in the responsibilities imposed by this subsection. (2019-20, s. 4(a), (c); 2020-78, s. 8.1.)

**§ 143B-51. Functions of the Department.**

(a) The functions of the Department of Natural and Cultural Resources shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to the development and preservation of libraries, historical records, sites and property, and of an appreciation of art and music and further including those prescribed powers, duties, and functions enumerated in Article 17 of Chapter 143A of the General Statutes of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 17 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Natural and Cultural Resources except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

- (1) The Secretary and Department of Art, Culture and History;
- (2) The State Department of Archives and History;
- (3) The North Carolina Advisory Council on Historic Preservation;
- (4) The North Carolina State Library;
- (5) The Interstate Library Compact;
- (6) The North Carolina Museum of Art;
- (7) Repealed by Session Laws 2012-120, s. 1(c), effective October 1, 2012.
- (8) The North Carolina Symphony Society, Inc.;
- (9) The State Art Museum Building Commission;
- (10) The Library Certification Board;
- (11) The Tryon Palace Commission;
- (12) The North Carolina Arts Council;
- (13) The U.S.S. North Carolina Battleship Commission;
- (14), (15) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
- (16) The Executive Mansion Fine Arts Commission;
- (17) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.

- (18) The North Carolina Awards Commission;
- (19) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
- (20) The Roanoke Island Historical Association, Inc.;
- (21) through (23) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
- (24) The Edenton Historical Commission;
- (25) The Historic Bath Commission;
- (26) The Historic Hillsborough Commission; and
- (27) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
- (28) The Historic Murfreesboro Commission.
- (29) through (39) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015. (1973, c. 476, s. 31; 2012-120, s. 1(c); 2015-184, s. 6; 2015-241, s. 14.30(s).)

**§ 143B-52. Head of the Department.**

The Secretary of Natural and Cultural Resources shall be the head of the Department. (1973, c. 476, s. 32; 2015-241, s. 14.30(t).)

**§ 143B-53. Organization of the Department.**

(a) The Department of Cultural Resources shall be organized initially to include the Art Commission, the Art Museum Building Commission, the North Carolina Historical Commission, the Tryon Palace Commission, the U.S.S. North Carolina Battleship Commission, the Executive Mansion Fine Arts Committee, the North Carolina Awards Committee, the North Carolina Arts Council, the Public Librarian Certification Commission, the State Library Commission, the North Carolina Symphony Society, Inc., and the Division of the State Library, the Division of Archives and History, the Division of the Arts, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

(b) The Department of Natural and Cultural Resources shall include the currently existing entities listed in subsection (a) of this section and the following additional entities:

- (1) The Parks and Recreation Division.
- (2) The State Parks System, including Mount Mitchell State Park.
- (3) The North Carolina Aquariums Division.
- (4) The North Carolina Zoological Park.
- (5) The Museum of Natural Sciences.
- (6) The North Carolina Land and Water Fund.
- (7) The Natural Heritage Program.
- (6) North Carolina Parks and Recreation Authority.
- (7) North Carolina Trails Committee.
- (8) North Carolina Zoological Park Council.
- (9) Advisory Commission for North Carolina State Museum of Natural Sciences. (1973, c. 476, s. 33; 1981, c. 918, s. 1; 2006-66, s. 22.22(e); 2006-221, s. 23; 2012-120, s. 1(d); 2015-184, s. 7; 2015-241, s. 14.30(ggg); 2023-70, s. 9(d).)

**§ 143B-53.1. Appropriation, allotment, and expenditure of funds for historic and archeological property.**

The Department of Natural and Cultural Resources may not expend any State funds for the acquisition, preservation, restoration, or operation of historic or archeological real and personal property, and the Director of the Budget may not allot any appropriations to the Department of Natural and Cultural Resources for a particular historic site until (i) the property or properties shall have been approved for such purpose by the Department of Natural and Cultural Resources according to criteria adopted by the North Carolina Historical Commission, (ii) the report and recommendation of the North Carolina Historical Commission has been received and considered by the Department of Natural and Cultural Resources, and (iii) the Department of Natural and Cultural Resources has found that there is a feasible and practical method of providing funds for the acquisition, restoration and/or operation of such property. (1963, c. 210, s. 3; 1973, c. 476, s. 48; 1985 (Reg. Sess; 1986), c. 1014, s. 171(e); 2006-203, s. 7; 2015-241, s. 14.30(s).)

**§ 143B-53.2. Salaries, promotions, and leave of employees of the North Carolina Department of Natural and Cultural Resources.**

(a) and (b) Repealed by Session Laws 2007-484, s. 9(b), effective August 30, 2007.

(c) The exemptions to Chapter 126 of the General Statutes authorized by G.S. 126-5(c11) for the employees of the Department of Natural and Cultural Resources listed in that subsection shall be used to develop organizational classification and compensation innovations that will result in the enhanced efficiency of operations. The Office of State Human Resources shall assist the Secretary of Natural and Cultural Resources in the development and implementation of an organizational structure and human resources programs that make the most appropriate use of the exemptions, including (i) a system of job categories or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for agency personnel and the voluntary sharing of such time off; and (iii) a system of uniform performance assessments for agency personnel tailored to the agency's needs. The Secretary of Natural and Cultural Resources may, under the supervision of the Office of State Human Resources, develop and implement organizational classification and compensation innovations having the potential to benefit all State agencies. (2006-204, s. 3; 2007-484, s. 9(b); 2013-382, s. 9.1(c); 2015-241, s. 14.30(s), (x).)

**§ 143B-53.3. Queen Anne's Revenge Project.**

(a) Fund. – The Queen Anne's Revenge Project Special Fund is created as a special, interest-bearing revenue fund within the Department of Natural and Cultural Resources, Office of Archives and History. The Fund shall consist of all receipts derived from donations, gifts, devises, and earned revenue. The monies in the Fund may be used only for contracted services, personal services and operations, conference and meeting expenses, travel, staff salaries, operations for laboratory needs, museum exhibits, and other administrative costs related to the Queen Anne's Revenge Project. The staff of the Office of Archives and History and the Department of Natural and Cultural Resources shall determine how the funds shall be used for the purposes of the Queen Anne's Revenge Project, and those funds are hereby appropriated for those purposes.

(b) Application. – This section applies to the Queen Anne's Revenge, the historic shipwreck owned by the State and managed by the Department of Natural and Cultural Resources, Office of Archives and History.

(c) Reports. – The Department of Natural and Cultural Resources shall submit a report by September 30 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate

Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. This report shall include the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2014-100, s. 19.4; 2015-241, ss. 14.30(s), (hhh); 2017-57, ss. 14.1(dd), 14.3(d).)

**§ 143B-53.10. Annual report on fees.**

The Department of Natural and Cultural Resources shall submit a report by October 15 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources on fees charged in the previous fiscal year at all historic sites, museums, aquariums, and State parks and at the North Carolina Zoological Park and the U.S.S. North Carolina Battleship. The report shall include all of the following:

- (1) For each site, the amount and type of fees charged.
- (2) For each site, the total amount collected by type of fee and how the funds were expended.
- (3) Visitor information for each site, including a breakdown of fee-paying visitors and visitors whose fees were waived, such as visitors in school groups.
- (4) Any fee changes and a justification for any increases or decreases.
- (5) Number of days the site was open to visitors.
- (6) Plans, if known, to change fees in the upcoming year. (2020-78, s. 8.2(a).)

Part 2. Art Commission.

**§§ 143B-54 through 143B-57. Repealed by Session Laws 1979, 2nd Session, c. 1306, s. 5.**

Part 3. Art Museum Building Commission.

**§ 143B-58 through 143B-61.1: Repealed by Session Laws 2000-140, s. 78.**

Part 4. North Carolina Historical Commission.

**§ 143B-62. North Carolina Historical Commission – creation, powers and duties.**

There is hereby created the North Carolina Historical Commission of the Department of Natural and Cultural Resources to give advice and assistance to the Secretary of Natural and Cultural Resources and to promulgate rules and regulations to be followed in the acquisition, disposition, preservation, and use of records, artifacts, real and personal property, and other materials and properties of historical, archaeological, architectural, or other cultural value, and in the extension of State aid to other agencies, counties, municipalities, organizations, and individuals in the interest of historic preservation.

- (1) The Historical Commission shall have the following powers and duties:
  - a. To advise the Secretary of Natural and Cultural Resources on the scholarly editing, writing, and publication of historical materials to be issued under the name of the Department.
  - b. To evaluate and approve proposed nominations of historic, archaeological, architectural, or cultural properties for entry on the National Register of Historic Places.
  - c. To evaluate and approve the State plan for historic preservation as provided for in Chapter 121.

- d. To evaluate and approve historic, archaeological, architectural, or cultural properties proposed to be acquired and administered by the State.
  - e. To evaluate and prepare a report on its findings and recommendations concerning any property not owned by the State for which State aid or appropriations are requested from the Department of Natural and Cultural Resources, and to submit its findings and recommendations in accordance with Chapter 121.
  - f. To serve as an advisory and coordinative mechanism in and by which State undertakings of every kind that are potentially harmful to the cause of historic preservation within the State may be discussed, and where possible, resolved, particularly by evaluating and making recommendations concerning any State undertaking which may affect a property that has been entered on the National Register of Historic Places as provided for in Chapter 121 of the General Statutes of North Carolina.
  - g. To exercise any other powers granted to the Commission by provisions of Chapter 121 of the General Statutes of North Carolina.
  - h. To give its professional advice and assistance to the Secretary of Natural and Cultural Resources on any matter which the Secretary may refer to it in the performance of the Department's duties and responsibilities provided for in Chapter 121 of the General Statutes of North Carolina.
  - i. To serve as a search committee to seek out, interview, and recommend to the Secretary of Natural and Cultural Resources one or more experienced and professionally trained historian(s) for either the position of Deputy Secretary of Archives and History when a vacancy occurs, and to assist and cooperate with the Secretary in periodic reviews of the performance of the Deputy Secretary.
  - j. To assist and advise the Secretary of Natural and Cultural Resources and the Deputy Secretary of Archives and History in the development and implementation of plans and priorities for the State's historical programs.
- (2) The Historical Commission shall have the power and duty to establish standards and provide rules and regulations as follows:
- a. For the acquisition and use of historical materials suitable for acceptance in the North Carolina Office of Archives and History.
  - b. For the disposition of public records under provisions of Chapter 121 of the General Statutes of North Carolina.
  - c. For the certification of records in the North Carolina State Archives as provided in Chapter 121 of the General Statutes of North Carolina.
  - d. For the use by the public of historic, architectural, archaeological, or cultural properties as provided in Chapter 121 of the General Statutes of North Carolina.
  - e. For the acquisition of historic, archaeological, architectural, or cultural properties by the State.

- f. For the extension of State aid or appropriations through the Department of Natural and Cultural Resources to counties, municipalities, organizations, or individuals for the purpose of historic preservation or restoration.
  - f1. For the extension of State aid or appropriations through the Department of Natural and Cultural Resources to nonstate-owned nonprofit history museums.
  - g. For qualification for grants-in-aid or other assistance from the federal government for historic preservation or restoration as provided in Chapter 121 of the General Statutes of North Carolina. This section shall be construed liberally in order that the State and its citizens may benefit from such grants-in-aid.
- (3) The Commission shall adopt rules and regulations consistent with the provisions of this section. All current rules and regulations heretofore adopted by the Executive Board of the State Department of Archives and History, the Historic Sites Advisory Committee, the North Carolina Advisory Council on Historical Preservation, and the Executive Mansion Fine Arts Commission shall remain in full force and effect unless and until repealed or superseded by action of the Historical Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural and Cultural Resources. (1973, c. 476, s. 44; 1977, c. 513, s. 2; 1979, c. 861, s. 6; 1985 (Reg. Sess., 1986), c. 1014, s. 171(f); 1997-411, ss. 1-3; 2002-159, s. 35(k); 2015-184, s. 8; 2015-241, s. 14.30(s), (t).)

**§ 143B-63. Historical Commission – members; selection; quorum; compensation.**

The Historical Commission of the Department of Natural and Cultural Resources shall consist of 11 members appointed by the Governor.

The members of the North Carolina Historical Commission shall include the members of the existing North Carolina Historical Commission who shall serve for a period equal to the remainder of their current terms on the Commission, plus four additional appointees of the Governor, two of whose appointments shall expire March 31, 1979, and two of whose appointments shall expire March 31, 1981. At the end of the respective terms of office of the members, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Of the members, at least five shall have professional training or experience in the fields of archives, history, historic preservation, historic architecture, archaeology, or museum administration, including at least three currently involved in the teaching of history at the college or university level or in administering archives or historical collections or programs. Any appointment to fill a vacancy on the Commission created by resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance according to the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 476, s. 45; 1977, c. 513, s. 1; 2015-241, s. 14.30(s), (t).)

**§ 143B-64. Historical Commission – officers.**

The Historical Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term. (1973, c. 476, s. 46.)

**§ 143B-65. Historical Commission – regular and special meetings.**

The Historical Commission shall meet at least twice per year and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least four members. (1973, c. 476, s. 42.)

Part 5. Archaeological Advisory Committee.

**§ 143B-66. Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 10.**

Part 6. Public Librarian Certification Commission.

**§ 143B-67. Public Librarian Certification Commission – creation, powers and duties.**

There is hereby created the Public Librarian Certification Commission of the Department of Natural and Cultural Resources with the power and duty to adopt rules and regulations to be followed in the certification of public librarians. The Commission is authorized to establish and require written examinations for certified public librarian applicants.

The Commission shall adopt such rules and regulations consistent with the provisions of this Chapter. All rules and regulations consistent with the provisions of this Chapter heretofore adopted by the Library Certification Board shall remain in full force and effect unless and until repealed or superseded by action of the Public Librarian Certification Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural and Cultural Resources. (1973, c. 476, s. 49; 1981 (Reg. Sess., 1982), c. 1359, s. 4; 2015-241, s. 14.30(s).)

**§ 143B-68. Public Librarian Certification Commission – members; selection; quorum; compensation.**

The Public Librarian Certification Commission of the Department of Natural and Cultural Resources shall consist of five members as follows: (i) the chairman of the public libraries section of the North Carolina Library Association, (ii) two individuals named by the Governor upon the nomination of the North Carolina Library Association, (iii) the dean, department chair, program director, or equivalent of a State or regionally accredited graduate school of librarianship in North Carolina appointed by the Governor, and (iv) one member at large appointed by the Governor.

The members shall serve four-year terms or while holding the appropriate chairmanship. Any appointment to fill a vacancy created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.



The members of the Commission shall receive per diem, and necessary travel expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of the Department through the regular staff of the Department. (1973, c. 476, s. 50; 2015-241, s. 14.30(s); 2017-212, s. 8.12; 2020-74, s. 19(a).)

**§ 143B-69. Public Librarian Certification Commission – officers.**

The Public Librarian Certification Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term. (1973, c. 476, s. 51.)

**§ 143B-70. Public Librarian Certification Commission – regular and special meetings.**

The Public Librarian Certification Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least three members. (1973, c. 476, s. 52.)

Part 7. Tryon Palace Commission.

**§ 143B-71. Tryon Palace Commission – creation, powers, and duties.**

There is hereby created the Tryon Palace Commission of the Department of Natural and Cultural Resources with the power and duty to adopt, amend, and rescind rules and regulations concerning the restoration and maintenance of the Tryon Palace complex, and with other powers and duties as provided in Article 2 of Chapter 121 of the General Statutes, including the authority to charge reasonable admission and related activity fees. The Commission is exempt from the requirements of Chapter 150B of the General Statutes and G.S. 12-3.1 when adopting, amending, or repealing rules for operating hours and admission fees or related activity fees at Tryon Palace Historic Sites and Gardens. (1973, c. 476, s. 54; 2013-297, s. 2(b); 2013-360, s. 19.2(b); 2014-100, s. 19.5(b); 2015-241, s. 14.30(s); 2017-57, s. 14.1(cc); 2020-78, s. 8.2(c).)

**§ 143B-72. Tryon Palace Commission – members; selection; quorum; compensation.**

The Tryon Palace Commission of the Department of Natural and Cultural Resources shall consist of the following members: 25 voting members appointed by the Governor, nonvoting members emeriti appointed by the Governor, and five voting ex officio members as provided in this section.

The Governor shall appoint 25 voting members. The terms of the initial members shall be staggered as follows: Nine of the members shall be appointed to serve four-year terms, eight of the members shall be appointed to serve three-year terms, and eight of the members shall be appointed to serve two-year terms. At the end of the respective terms of office of the initial appointed members of the Commission, the appointments of their successors, with the exception of ex officio members and members emeriti, shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission shall be for the balance of the unexpired term. The Governor shall designate the chair of the Tryon Palace Commission. The other officers of the Tryon Palace Commission shall be elected by the members of the Tryon Palace Commission.

The Governor may also appoint any person who has previously served on the Tryon Palace Commission with distinction to the Commission as a member emeritus. A person appointed as a member emeritus shall be deemed a lifetime member of the Commission and shall serve as a nonvoting member.

In addition to the members who are appointed by the Governor, the Attorney General, the Secretary of Natural and Cultural Resources or the Secretary's designee, the mayor of the City of New Bern, the Dean of the College of Arts and Sciences at East Carolina University, and the chairman of the Board of County Commissioners of Craven County shall serve as voting ex officio members of said Commission. The provisions of the Executive Organization Act of 1973 pertaining to the residence of members of commissions shall not apply to the Tryon Palace Commission.

A majority of the voting members of the Commission shall constitute a quorum for the transaction of business.

The members of the Commission shall serve without pay and without expense allowance. (1973, c. 476, s. 55; 1977, c. 771, s. 4; 1979, c. 151, s. 1; 1993, c. 109, s. 1; 2015-241, ss. 14.30(s), (t).)

#### Part 8. U.S.S. North Carolina Battleship Commission.

##### **§ 143B-73. U.S.S. North Carolina Battleship Commission – creation, powers, and duties.**

There is hereby created the U.S.S. North Carolina Battleship Commission of the Department of Natural and Cultural Resources with the power and duty to adopt, amend, and rescind rules under and not inconsistent with the laws of this State necessary in carrying out the provisions and purposes of this Part, including the following:

- (1) The U.S.S. North Carolina Battleship Commission is authorized and empowered to adopt such rules not inconsistent with the management responsibilities of the Secretary of the Department provided by Chapter 143A of the General Statutes and laws of this State and this Chapter that may be necessary and desirable for the operation and maintenance of the U.S.S. North Carolina as a permanent memorial and exhibit commemorating the heroic participation of the men and women of North Carolina in the prosecution and victory of the Second World War and for the faithful performance and fulfillment of its duties and obligations.
- (2) The U.S.S. North Carolina Battleship Commission shall have the power and duty to charge reasonable admission and related activity fees for admission to the ship and to establish standards and adopt rules for the maintenance and operation of the ship as a permanent memorial and exhibit.
- (3) The Commission shall adopt rules consistent with the provisions of this Chapter. The Commission is exempt from the requirements of Chapter 150B of the General Statutes and G.S. 12-3.1 when adopting, amending, or repealing rules for operating hours and admission fees or related activity fees at the U.S.S. North Carolina Battleship. (1973, c. 476, s. 57; 1977, c. 741, s. 3; 2013-360, s. 19.2(c); 2014-100, s. 19.5(c); 2015-241, s. 14.30(s); 2017-57, s. 14.1(cc); 2021-180, s. 14.2(a).)

##### **§ 143B-73.1. U.S.S. North Carolina Battleship Commission – duties.**

The Commission shall have the further duty and authority to select an appropriate site for the permanent berthing of the Battleship U.S.S. North Carolina, taking into consideration factors including, but not limited to, the accessibility, location in relation to roads and highways, scenic attraction, protection from hazards of weather, fire and sea, cost of site and berthing, cooperation of local governmental authorities in securing, equipping, and maintaining appropriate areas surrounding the site, and others which may affect the suitability of such site for establishment of the ship as a permanent memorial and exhibit; to accept gifts, grants, and donations for the purposes of this Article; to transport to, and berth the ship at the site; to ready the ship for visitation by the public; to establish and provide for a proper charge for admission to the ship, and for safekeeping of funds; to maintain and operate the ship as a permanent memorial and exhibit; to acquire property, both real and personal, with the approval of the Governor and the Council of State, and to accept donations of property, both real and personal, from any source; to establish, supervise, manage and maintain in New Hanover County with the approval and assistance of the Department of Natural and Cultural Resources exhibits, dramas, cultural activities, museums, and records pertaining to the marine and naval history of the State of North Carolina and the United States of America; to identify, preserve and protect properties having historical, marine and naval significance to New Hanover County, the State, its communities and counties and the nation; to establish and provide for a proper charge for admission to all properties maintained and operated by the Commission in New Hanover County; to otherwise provide in carrying out its duties for the establishment of appropriate activities to encourage interest in the marine and naval history of North Carolina; to perpetuate the memory of North Carolinians who gave their lives in the course of World War II and in the events in which the battleship was a participant, and to allocate funds for the fulfillment of the duties and authority herein provided as may be necessary and appropriate for the purpose of this Article. (1961, c. 158; 1977, c. 741, ss. 1, 8; 2015-241, s. 14.30(s).)

**§ 143B-74. U.S.S. North Carolina Battleship Commission – members; selection; quorum; compensation.**

The U.S.S. North Carolina Battleship Commission of the Department of Natural and Cultural Resources shall consist of 18 members including the Secretary of Natural and Cultural Resources and the Secretary of Commerce who shall serve as voting ex officio members. The members of the Commission appointed for terms to end in 1991 shall serve for an additional two-year period. At the end of the respective terms of office of the members of the Commission serving in 1991, their successors shall be appointed for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The provisions of the Executive Organization Act of 1973 pertaining to the residence of members of commissions shall not apply to the U.S.S. North Carolina Battleship Commission.

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

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business. The Governor shall designate from among the members of the Commission a chairman, vice-chairman and treasurer. The Secretary of Natural and Cultural Resources or his designee shall serve as Secretary of the Commission. The Commission shall meet at least twice annually upon the call of

the chairman, the Secretary of Natural and Cultural Resources, or any seven members of the Commission. (1973, c. 476, s. 58; 1977, c. 741, s. 4; 1991, c. 73, s. 1; 1991 (Reg. Sess., 1992), c. 959, s. 39; 2015-241, ss. 14.30(s), (t).)

**§ 143B-74.1. U.S.S. North Carolina Battleship Commission – funds.**

The Commission shall establish and maintain a "Battleship Fund" composed of the monies which may come into its hands from admission or inspection fees, gifts, donations, grants, or devises, which funds will be used by the Commission to pay all costs of maintaining and operating the ship for the purposes herein set forth. The Commission shall maintain books of accounting records concerning revenue derived and all expenses incurred in maintaining and operating the ship as a public memorial. The operations of the Commission shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The Commission shall reimburse the State Auditor the cost of any audit. The Commission shall establish a reserve fund in an amount to be determined by the Secretary of Natural and Cultural Resources to be maintained and used for contingencies and emergencies beyond those occurring in the course of routine maintenance and operation, and may authorize the deposit of this reserve fund in a depository to be selected by the Treasurer of North Carolina. (1961, c. 158; 1977, c. 741, ss. 2, 8; 1983, c. 913, s. 40; 2010-31, s. 21.1; 2011-284, s. 97; 2015-241, s. 14.30(t).)

**§ 143B-74.2. U.S.S. North Carolina Battleship Commission – employees.**

The Department of Natural and Cultural Resources is authorized to hire laborers, artisans, caretakers, stenographic and administrative employees, and other personnel, in accordance with the provisions of the North Carolina Human Resources Act, as may be necessary in carrying out the purposes and provisions of this Article, and to maintain the ship in a clean, neat, and attractive condition satisfactory for exhibition to the public. The Commission shall appoint and fix the salary of an Executive Director and Assistant Director to serve at its pleasure. Employees shall be residents of the State of North Carolina except as may, in emergency conditions, be necessary for the procurement of specially trained or specially skilled employees. Any materials used for any purpose in maintaining and operating the ship for the purposes of this Article shall be, insofar as practicable, North Carolina materials. (1961, c. 158; 1975, c. 879, s. 46; 1977, c. 741, ss. 6, 8; 2006-204, s. 1; 2013-382, s. 9.1(c); 2015-241, s. 14.30(s).)

**§ 143B-74.3. U.S.S. North Carolina Battleship Commission – employees not to have interest.**

It shall be unlawful for any member of the Commission to charge, receive, or obtain, directly or indirectly, any fee, commission, retainer or brokerage other than established salaries to be fixed by the Commission, and no member of the Commission shall have any interest in any land, materials, commissions or contracts sold to or made with the Commission, or with any member thereof. Violation of any provisions of this section shall be a Class 2 misdemeanor. (1961, c. 158; 1977, c. 741, ss. 7, 8; 1993, c. 539, s. 1037; 1994, Ex. Sess., c. 24, s. 14(c).)

Part 9. Sir Walter Raleigh Commission.

**§§ 143B-75 through 143B-78. Repealed by Session Laws 1979, c. 504, s. 1.**

Part 10. Executive Mansion Fine Arts Committee.

**§ 143B-79. Executive Mansion Fine Arts Committee – creation, powers and duties.**

There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

- (1) To advise the Secretary of Natural and Cultural Resources on the preservation and maintenance of the Executive Mansion located at 200 North Blount Street, Raleigh, North Carolina;
- (2) To encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the Secretary of Natural and Cultural Resources on major changes in the furnishings of the Mansion;
- (3) To make recommendations to the Secretary of Natural and Cultural Resources concerning major renovations necessary to preserve and maintain the structure;
- (4) To aid the Secretary of Natural and Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;
- (5) No gifts or articles shall be accepted for the Executive Mansion without the approval of the Committee; and
- (6) The Committee shall advise the Secretary of Natural and Cultural Resources upon any matter the Secretary may refer to it.
- (7) Notwithstanding Article 3 of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Natural and Cultural Resources, Division of Archives and History, appointed by the Secretary of Natural and Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee shall view proposed items for disposition and shall make a recommendation to the North Carolina Historical Commission who shall make a final decision. The Historical Commission shall consider whether the disposition is in the best interest of the State of North Carolina. If any property is sold or leased, the net proceeds of each sale or lease and any interest earned thereon shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration, or repair of other property for use in the Executive Mansion. (1973, c. 476, s. 65; 1983, c. 632, s. 1; 1987, c. 251; 2013-360, s. 19.8(a); 2015-241, s. 14.30(s), (t); 2017-57, s. 14.3(e); 2023-70, s. 2(f).)

**§ 143B-80. Executive Mansion Fine Arts Committee – members; selection; quorum; compensation.**

The Executive Mansion Fine Arts Committee shall consist of 16 members appointed by the Governor. The initial members of the Committee shall be the appointed members of the present Executive Mansion Fine Arts Commission who shall serve for a period equal to the remainder of their current terms on the Executive Mansion Fine Arts Commission, four of whose appointments expire June 30, 1973, four of whose appointments expire June 30, 1974, four of whose appointments expire June 30, 1975, and four of whose appointments expire June 30, 1976. At the end of the respective terms of office of the initial members, the appointments of their successors

shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 476, s. 66; 2015-241, s. 14.30(t).)

#### **§ 143B-80.1. Regular and special meetings.**

The Executive Mansion Fine Arts Committee shall meet at least twice per year and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members.

Whenever a member shall fail, except for ill health or other valid reason, to be present for two successive regular meetings of the Board, his place as a member shall be deemed vacant. (1983, c. 632, s. 2.)

#### **§ 143B-80.2. Reserved for future codification purposes.**

#### **§ 143B-80.3. Reserved for future codification purposes.**

#### **§ 143B-80.4. Reserved for future codification purposes.**

Part 10A. State Capitol Preservation Act.

**§§ 143B-80.5 through 143B-80.14: Repealed by Session Laws 1995, c. 507, s. 12(a).**

Part 11. American Revolution Bicentennial Committee.

**§§ 143B-81 through 143B-82: Repealed by Session Laws 1979, c. 504, s. 2.**

Part 12. North Carolina Awards Committee.

#### **§ 143B-83. North Carolina Awards Committee – creation, powers and duties.**

There is hereby created the North Carolina Awards Committee with the duty to advise the Secretary of Natural and Cultural Resources on the formulation and administration of the program governing North Carolina awards and on the selection of a committee in each award area to choose the recipients.

The Committee shall advise the Secretary of the Department upon any matter the Secretary may refer to it. (1973, c. 476, s. 71; 1979, c. 504, s. 2; 1983 (Reg. Sess., 1984), c. 995, s. 22; 2015-241, s. 14.30(t).)

#### **§ 143B-84. North Carolina Awards Committee – members; selection; quorum; compensation.**

The North Carolina Awards Committee shall consist of five members appointed by the Governor to serve at the Governor's pleasure.

The Governor shall designate a member of the Committee as chairman to serve in such capacity at the pleasure of the Governor.

Members of the Committee shall serve without compensation or travel or per diem.

A majority of the Committee shall constitute a quorum for the transaction of business.

The Secretary of Natural and Cultural Resources is hereby authorized to request contingency and emergency funds for the administration of the North Carolina Awards Committee, for the period between July 1, 1973, and ratification of the next general appropriations bill for the Department.

All clerical and other services required by the Committee shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 476, s. 72; 2015-241, s. 14.30(t).)

Part 13. America's Four Hundredth Anniversary Committee.

**§§ 143B-85, 143B-86: Repealed by Session Laws 2015-184, s. 4, effective August 1, 2015.**

Part 14. North Carolina Arts Council.

**§ 143B-87. North Carolina Arts Council – creation, powers and duties.**

There is hereby created the North Carolina Arts Council with the following duties and functions:

- (1) To advise the Secretary of Natural and Cultural Resources on the study, collection, maintenance and dissemination of factual data and pertinent information relative to the arts;
- (2) To advise the Secretary concerning assistance to local organizations and the community at large in the area of the arts;
- (3) To advise the Secretary on the exchange of information, promotion of programs and stimulation of joint endeavor between public and nonpublic organizations;
- (4) To identify research needs in the arts area and to encourage such research;
- (5) To advise the Secretary in regard to bringing the highest obtainable quality in the arts to the State and promoting the maximum opportunity for the people to experience and enjoy those arts;
- (6) To advise the Secretary of the Department upon any matter the Secretary may refer to it; and
- (7) To advise the Secretary concerning the promotion of theater arts in the State. (1973, c. 476, s. 77; 1985 (Reg. Sess., 1986), c. 1028, s. 14; 2015-241, s. 14.30(t).)

**§ 143B-87.1: Reserved for future codification purposes.**

Part 14. North Carolina Arts Council.

**§ 143B-87.2. A+ Schools Special Fund.**

(a) Fund. – The A+ Schools Special Fund is created as a special interest-bearing revenue fund in the Department of Natural and Cultural Resources, North Carolina Arts Council. The Fund shall consist of all receipts derived from donations, gifts, devises, and earned revenue. The revenue in the Fund may be used only for contracted services, conference and meeting expenses, travel, staff salaries, and other administrative costs related to the A+ Schools program. The staff of the North Carolina Arts Council and the Department shall determine how the funds shall be used for the purposes of the A+ Schools program.

(b) Application. – This section applies to the A+ Schools program, which was transferred to the North Carolina Arts Council by Section 9.8 of S.L. 2010-31.

(c) Reports. – The Department shall submit a report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division by September 30 of each year that includes the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2013-297, s. 3; 2015-241, s. 14.30(s), (iii); 2017-57, ss. 14.1(dd), 14.3(f).)

**§ 143B-88. North Carolina Arts Council – members; selection; quorum; compensation.**

The North Carolina Arts Council shall consist of 24 members appointed by the Governor. The initial members of the Council shall be the appointed members of the present Arts Council who shall serve for a period equal to the remainder of their current terms on the Arts Council, eight of whose terms expire June 30, 1973, eight of whose terms expire June 30, 1974, and eight of whose terms expire June 30, 1975. At the end of the respective terms of office of the initial members, the appointments of their successors shall be for terms of three years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council as chairman to serve at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 476, s. 78; 2015-241, s. 14.30(t).)

Part 15. North Carolina State Art Society, Incorporated.

**§ 143B-89: Repealed by Session Laws 2012-120, s. 1(c), effective October 1, 2012.**

Part 16. State Library Commission.

**§ 143B-90. State Library Commission – creation, powers and duties.**

There is hereby created the State Library Commission of the Department of Natural and Cultural Resources. The State Library Commission has the following functions and duties:

- (1) To advise the Secretary of Natural and Cultural Resources on matters relating to the operation and services of the State Library;
- (2) Repealed by Session Laws 1991, c. 757, s. 2.
- (2a) To work for the financial support of statewide and local public library services;
- (3) To advise the Secretary upon any matter the Secretary might refer to it;
- (4) Repealed by Session Laws 1991, c. 757, s. 2.
- (4a) To work for the financial support of statewide interlibrary services;
- (5) Repealed by Session Laws 1991, c. 757, s. 2.
- (5a) To aid and advise the Secretary of Natural and Cultural Resources in the development of information services for the promotion of cultural, educational, and economic well-being of the State.



- (6) through (8) Repealed by Session Laws 1991, c. 757, s. 2.
- (8a) To aid and advise the Secretary of Natural and Cultural Resources on the recruitment and appointment of the State Librarian. (1973, c. 476, s. 82; 1981, c. 918, s. 2; 1991, c. 757, s. 2; 2015-241, ss. 14.30(s), (t).)

**§ 143B-91. State Library Commission – members; selection; quorum; compensation.**

(a) The State Library Commission shall consist of 15 members. All members shall have an interest in the development of library and information services in North Carolina. Eight members shall be appointed by the Governor. One member shall be appointed by the President Pro Tempore of the Senate. One member shall be appointed by the Speaker of the North Carolina House of Representatives. Three members shall be appointed by the North Carolina Public Library Directors Association. Two members shall be the President and the President-elect of the North Carolina Library Association or two appointees as determined by the North Carolina Library Association's Board of Directors. The State Librarian shall be an ex officio member and act as secretary to the Commission.

All appointments shall be for four-year terms with eight of the commissioners taking office on the first four-year cycle and seven commissioners taking office on the second four-year cycle. Any appointment to fill a vacancy in one of the positions appointed by the Governor, President Pro Tempore or Speaker of the House of Representatives shall be for the remainder of the unexpired term. Appointees shall not serve more than two successive four-year terms.

The Governor shall choose a chairperson from among the gubernatorial appointees. The chairperson shall serve not more than two successive two-year terms as chair.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses as provided in G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Natural and Cultural Resources.

The Commission shall meet at least twice a year.

(b) There may be committees established to advise the Secretary of Natural and Cultural Resources, the Commission, and the State Librarian. Each committee shall be composed of a committee chairperson and at least four persons appointed by the chair with the approval of the Commission. At least one of the members of each committee shall be a member of the Commission. Each committee shall report to the Commission at least once a year. (1973, c. 476, s. 83; 1981, c. 918, s. 3; 1991, c. 757, s. 3; 1995, c. 490, s. 53; 2015-241, s. 14.30(t); 2020-74, s. 19(b).)

Part 17. Roanoke Island Historical Association.

**§ 143B-92. Roanoke Island Historical Association – creation, powers and duties.**

There is hereby recreated the Roanoke Island Historical Association with the powers and duties delineated in Article 19 of Chapter 143 of the General Statutes of North Carolina. (1973, c. 476, s. 85.)

**§ 143B-93. Roanoke Island Historical Association – status.**

The Roanoke Island Historical Association is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of

the Executive Organization Act of 1973 except G.S. 143B-92 and G.S. 143B-93. (1973, c. 476, s. 86.)

Part 18. North Carolina Symphony Society.

**§ 143B-94. North Carolina Symphony Society, Inc.**

The North Carolina Symphony Society, Incorporated, shall continue to be under the patronage of the State as provided in Article 2 of Chapter 140 of the General Statutes of North Carolina. The governing body of the North Carolina Symphony Society, Incorporated, shall be a board of trustees consisting of not less than 16 members of which the Governor of the State and the Superintendent of Public Instruction shall be ex officio members and four other members shall be named by the Governor. The remaining trustees shall be chosen by members of the North Carolina Symphony Society, Incorporated, in such manner and for such terms as that body shall determine. The initial members named by the Governor shall be appointed from the members of the existing board of trustees of the North Carolina State Symphony Society, Incorporated, for the balance of their existing terms. Subsequent appointments shall be made for terms of four years each. (1973, c. 476, s. 88.)

Part 19. Edenton Historical Commission.

**§ 143B-95. Edenton Historical Commission – creation, purposes and powers.**

There is hereby recreated the Edenton Historical Commission. The purposes of the Commission are to effect and encourage preservation, restoration, and appropriate presentation of the Town of Edenton and Chowan County, as a historic, educational, and aesthetic place, to the benefit of the citizens of the place and the State and of visitors. To accomplish its purposes, the Commission has the following powers and responsibilities:

- (1) To acquire, hold, and dispose of title to or interests in historic properties in the Town of Edenton and County of Chowan and to repair, restore, and otherwise improve the properties, and to maintain them;
- (2) To acquire, hold, and dispose of title to or interests in other land there, upon which historic structures have been or shall be relocated, and to improve the land and maintain it;
- (3) To acquire, hold, and dispose of suitable furnishings for the historic properties, and to provide and maintain suitable gardens for them;
- (4) To develop and maintain one or more collections of historic objects and things pertinent to the history of the town and county, to acquire, hold, and dispose of the items, and to preserve and display them;
- (5) To develop and conduct appropriate programs, under the name "Historic Edenton" or otherwise, for the convenient presentation and interpretation of the properties and collections to citizens and visitors, as places and things of historic, educational, and aesthetic value;
- (6) To conduct programs for the fostering of research, for the encouragement of preservation, and for the increase of knowledge available to the local citizens and the visitors in matters pertaining to the history of the town and county;
- (7) To cooperate with the Secretary and Department of Natural and Cultural Resources and with appropriate associations, governments, governmental agencies, persons, and other entities, and to assist and advise them, toward the furtherance of the Commission's purposes;

- (8) To solicit gifts and grants toward the furtherance of these purposes and the exercise of these powers;
- (9) To conduct other programs and do other things appropriate and reasonably necessary to the accomplishment of the purposes and the exercise of the powers; and
- (10) To adopt and enforce any bylaws and rules that the Commission deems beneficial and proper. (1973, c. 476, s. 90; 1979, c. 733, s. 1; 2015-241, s. 14.30(s).)

**§ 143B-96. Edenton Historical Commission – status.**

The Edenton Historical Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-95 through G.S. 143B-98. (1973, c. 476, s. 91.)

**§ 143B-97. Edenton Historical Commission – reports.**

The Edenton Historical Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Natural and Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Natural and Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission. (1973, c. 476, s. 92; 2015-241, s. 14.30(t).)

**§ 143B-98. Edenton Historical Commission – members; selection; compensation; quorum.**

The Edenton Historical Commission shall consist of 33 members, 22 appointed by the Governor to serve at his pleasure, four appointed by the President Pro Tempore of the Senate, four appointed by the Speaker of the House of Representatives, and, ex officio, the Mayor of the Town of Edenton, the Chairman of the Board of Commissioners of Chowan County, and the Secretary of Natural and Cultural Resources or his designee.

All the present members of the Commission may continue to serve, at the pleasure of the Governor, until the end of his present term of office. The Commission shall elect its own officers, and the members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum. (1973, c. 476, s. 93; 1979, c. 733, s. 2; 2005-421, s. 3.1(a); 2015-241, s. 14.30(t).)

Part 20. Historic Bath Commission.

**§ 143B-99. Historic Bath Commission – creation, powers and duties.**

There is hereby created the Historic Bath Commission. The Historic Bath Commission shall have the following powers:

- (1) To acquire and dispose of title to or interests in historic properties in and near the Town of Bath in Beaufort County, and to repair, restore, or otherwise improve such properties, and to maintain them;
- (2) To offer such historic properties to the State of North Carolina, subject to the acceptance of such properties by the State;

- (3) To cooperate with, assist, and advise the Secretary of Natural and Cultural Resources upon any matter pertaining to the administration of Bath State Historic Site, which the Secretary of the Department may refer to it; and
- (4) To carry out other programs reasonably related to these purposes. (1973, c. 476, s. 95; 2015-241, s. 14.30(t).)

**§ 143B-100. Historic Bath Commission – status.**

The Historic Bath Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-99 through G.S. 143B-102. (1973, c. 476, s. 96.)

**§ 143B-101. Historic Bath Commission – reports.**

The Historic Bath Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Natural and Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Natural and Cultural Resources is authorized to recommend the abolition of the Commission to the next General Assembly. (1973, c. 476, s. 97; 2015-241, s. 14.30(t).)

**§ 143B-102. Historic Bath Commission – members; selection; quorum; compensation.**

The Historic Bath Commission shall consist of 25 members appointed by the Governor plus, ex officio, the mayor of the Town of Bath, the Chairman of the Board of Commissioners of Beaufort County, and the Secretary of Natural and Cultural Resources or designee. The initial members of the Commission shall be the members of the present Historic Bath Commission who shall serve for a period equal to the remainder of their current terms on the Historic Bath Commission. At the end of the respective terms of office of the initial members of the Commission, the appointments of their successors, with the exception of the ex officio members, shall be for terms of five years and until their successors are appointed and qualify. Any appointments to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum. (1973, c. 476, s. 98; 2015-241, s. 14.30(t).)

Part 21. Historic Hillsborough Commission.

**§ 143B-103. Historic Hillsborough Commission – creation, powers and duties.**

There is hereby recreated the Historic Hillsborough Commission. The Historic Hillsborough Commission shall have the following powers:

- (1) In cooperation with the Hillsborough Historical Society, the elected officials of Hillsborough and Orange County, and appropriate public agencies, to use every legal aid and method to preserve and restore the Town of Hillsborough, and its immediately adjacent area, as a living, functioning, educational, and historical exhibit of North Carolina's early life and times;
- (2) To acquire and to dispose of property, real and personal; to repair, restore, or otherwise improve such properties; to have prepared a history of the town and

- area; and to write, compile, publish, or sponsor such historical works as may pertain to the town and area; and
- (3) To carry on other programs reasonably related to these purposes. (1973, c. 476, s. 100.)

**§ 143B-104. Historic Hillsborough Commission – status.**

The Historic Hillsborough Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-103 through G.S. 143B-106. (1973, c. 476, s. 101.)

**§ 143B-105. Historic Hillsborough Commission – reports.**

The Historic Hillsborough Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Natural and Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Natural and Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission. (1973, c. 476, s. 102; 2015-241, s. 14.30(t).)

**§ 143B-106. Historic Hillsborough Commission – members; selection; quorum; compensation.**

The Historic Hillsborough Commission shall consist of not fewer than 25 members appointed by the Governor plus, ex officio, the mayor of the Town of Hillsborough, the Chairman of the Board of Commissioners of Orange County, the Orange County Register of Deeds, the Orange County Clerk of Superior Court, and the Secretary of Natural and Cultural Resources or designee. The initial appointed members of the Commission shall be the members of the present Historic Hillsborough Commission who shall serve for a period equal to the remainder of their current terms on the Historic Hillsborough Commission. At the end of the respective terms of office of the present members, the appointments of members, excepting the ex officio members, shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum. (1973, c. 476, s. 103; 2015-241, s. 14.30(t).)

Part 22. Historic Murfreesboro Commission.

**§ 143B-107. Historic Murfreesboro Commission – creation, powers and duties.**

There is hereby recreated the Historic Murfreesboro Commission. The Historic Murfreesboro Commission shall have the following powers:

- (1) To acquire and dispose of title to or interests in historic properties in and near the Town of Murfreesboro, and to repair, restore, or otherwise improve and maintain such properties;
- (2) To conduct research and planning to carry out a program for the preservation of historic sites, buildings, or objects in and near the Town of Murfreesboro;

- (3) To carry out other programs reasonably related to these purposes. (1973, c. 476, s. 105.)

**§ 143B-108. Historic Murfreesboro Commission – status.**

The Historic Murfreesboro Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-107 through G.S. 143B-110. (1973, c. 476, s. 106.)

**§ 143B-109. Historic Murfreesboro Commission – reports.**

The Historic Murfreesboro Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Natural and Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Natural and Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission. (1973, c. 476, s. 107; 2015-241, s. 14.30(t).)

**§ 143B-110. Historic Murfreesboro Commission – members; selection; quorum; compensation.**

The Historic Murfreesboro Commission shall consist of 30 members appointed by the Governor plus, ex officio, the mayor of the Town of Murfreesboro, the Chairman of the Board of Commissioners of the County of Hertford, the President of Chowan College, and the Secretary of Natural and Cultural Resources or designee. The initial appointed members of the Commission shall be the members of the present Historic Murfreesboro Commission who shall serve for a period equal to the remainder of their current terms on the Historic Murfreesboro Commission. At the end of the respective terms of office of the initial members of the Commission, the appointments of their successors, with the exception of ex officio members, shall be for terms of five years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum. (1973, c. 476, s. 108; 2015-241, s. 14.30(t).)

Part 23. John Motley Morehead Memorial Commission.

**§§ 143B-111 through 143B-115: Repealed by Session Laws 2015-184, s. 5, effective August 5, 2015.**

**§§ 143B-116 through 143B-120. Reserved for future codification purposes.**

Part 24. Grassroots Arts Program.

**§ 143B-121. Program established.**

The Department of Natural and Cultural Resources shall establish a program to be known as the Grassroots Arts Program, by which funds shall be distributed among the counties of this State for the purpose of assisting the counties in the development of community arts programs. The Grassroots Arts Program shall be established within the "Community Art Development Section"

(North Carolina Arts Council) of the Division of the Arts. (1977, c. 1008, s. 1; 2015-241, s. 14.30(s).)

**§ 143B-122. Distribution of funds.**

Of the funds available under the Grassroots Arts Program, twenty percent (20%) of the total shall be distributed among the counties equally, and the remaining eighty percent (80%) shall be distributed among the counties on a per capita basis. (1977, c. 1008, s. 2; 2007-323, s. 21.1(a).)

**§ 143B-123. Rules and procedures; standards for qualification for funds.**

The Department of Natural and Cultural Resources shall be authorized to adopt rules and procedures necessary to implement this program and shall adopt standards which must be met by organizations within the counties in order to qualify for funds under the Grassroots Arts Program. The standards adopted shall include, but not be limited to the following:

- (1) The organization must show that it exists primarily to aid the arts and that it aids the arts in all its forms including the performing, visual and literary.
- (2) The organization must show that its programs are open to the entire community.
- (3) The organization must show that it is a nonprofit, tax-exempt corporation, governed by a citizen board which is not self-perpetuating, and that it has been in existence and active for at least one full year.
- (4) The organization must show that it can match funds available under the Grassroots Arts Program with public or private funds from within the county in which it is located at a ratio of one-to-one. (1977, c. 1008, s. 3; 2015-241, s. 14.30(s).)

**§ 143B-124. Designation of organization as official distributing agent; duties.**

Guided by the standards set out in G.S. 143B-123, the board of county commissioners of each county shall designate to the Department of Natural and Cultural Resources an organization to serve as its distributing agent for Grassroots Arts Program funds. Upon the approval of the Department of Natural and Cultural Resources, the designated organization shall become the official distributing agent for that county and shall remain so until such time as it no longer meets the necessary standards. To receive its per capita funds, the official distributing agent must annually submit to the Department of Natural and Cultural Resources for its approval a plan for the expenditure of the funds allotted to that county and must account for the funds after they have been expended. Funds may be used for programming, administrative and operating expenses, and should assist in the total development of the arts within that county. (1977, c. 1008, s. 4; 2015-241, s. 14.30(s).)

**§ 143B-125. Disposition of funds for counties without organizations meeting Department standards.**

Funds for counties without organizations which meet the necessary standards set by the Department of Natural and Cultural Resources shall be retained by the department and used for arts programming within these counties. Where feasible, the department shall maintain the same per capita rate for the distribution of funds to these counties and shall require the same matching ratio. (1977, c. 1008, s. 5; 1993, c. 321, s. 33; 2015-241, s. 14.30(s).)

Part 25. Historical Military Reenactment Groups.

**§ 143B-126. Voluntary registration; designation of names; registration symbol.**

The Department of Natural and Cultural Resources shall establish a program for the voluntary registration of historical military reenactment groups. The Department shall require, as part of the registration procedure, the filing of a copy of the various bylaws governing the groups. The Department shall designate the names to be used by the groups to ensure a lack of duplication or confusion between the groups and shall, in the case of duplicate name requests, decide the use of a particular name based on the longest period of existence as shown by the dates of the bylaws or other evidence of creation. The Department shall create a seal or other logo which shall indicate registration with the Department and shall be authorized for use only by groups properly registered pursuant to this part. (1981, c. 523, s. 1; 2015-241, s. 14.30(s).)

**§ 143B-127. Contracts with registered groups.**

The Department of Natural and Cultural Resources, Office of Archives and History shall sign contracts for the performance of military historical dramas on State-owned property only with historical military reenactment groups properly registered pursuant to this Part. (1981, c. 523, s. 2; 2002-159, s. 35(j); 2015-241, s. 14.30(s).)

Part 26. Advisory Committee on Abandoned Cemeteries.

**§ 143B-128: Repealed by Session Laws 2011-266, s. 1.1, effective July 1, 2011.**

Part 27. Roanoke Voyages and Elizabeth II Commission.

**§§ 143B-129 through 143B-131: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 769, s. 12.5(c).**

Part 27A. Roanoke Island Commission.

**§§ 143B-131.1, 143B-131.2: Repealed by Session Laws 2017-57, s. 14.8(e), effective October 1, 2017.**

**§ 143B-131.3: Repealed by Session Laws 2014-100, s. 19.8(a), effective July 1, 2014.**

**§§ 143B-131.4 through 143B-131.6: Repealed by Session Laws 2017-57, s. 14.8(e), effective October 1, 2017.**

**§ 143B-131.7: Repealed by Session Laws 2015-241, s. 14.33, effective July 1, 2015.**

**§ 143B-131.8: Repealed by Session Laws 2011-145, s. 21.2(c), effective July 1, 2012.**

**§ 143B-131.8A: Recodified as G.S. 143-202.3 by Session Laws 2017-57, s. 14.8(c), effective October 1, 2017.**

**§ 143B-131.9: Recodified as G.S. 143-202.4 by Session Laws 2017-57, s. 14.8(c), effective October 1, 2017.**

**§ 143B-131.10: Repealed by Session Laws 2017-57, s. 14.8(e), effective October 1, 2017.**

Part 28. Andrew Jackson Historic Memorial Committee.



**§ 143B-132: Repealed by Session Laws 2011-266, s. 1.3, effective July 1, 2011.**

Part 29. Veterans' Memorial Commission.

**§§ 143B-133, 143B-133.1: Expired.**

**§ 143B-134. Reserved for future codification purposes.**

Part 30. African-American Heritage Commission.

**§ 143B-135. Commission established.**

(a) **Creation and Duties.** – There is created the African-American Heritage Commission in the Department of Natural and Cultural Resources to advise and assist the Secretary of Natural and Cultural Resources in the preservation, interpretation, and promotion of African-American history, arts, and culture. The Commission shall have the following powers and duties:

- (1) To advise the Secretary of Natural and Cultural Resources on methods and means of preserving African-American history, arts, and culture.
- (2) To promote public awareness of historic buildings, sites, structures, artwork, and culture associated with North Carolina's African-American heritage through special programs, exhibits, and publications.
- (3) To support African-American heritage education in elementary and secondary schools in coordination with North Carolina Public Schools.
- (4) To build a statewide network of individuals and groups interested in the preservation of African-American history, arts, and culture.
- (5) To develop a program to catalog, preserve, assess, and interpret all aspects of African-American history, arts, and culture.
- (6) To advise the Secretary of Natural and Cultural Resources upon any matter the Secretary may refer to it.

(b) **Composition and Terms.** – The Commission shall consist of 10 members who shall serve staggered terms. The initial board shall be selected on or before October 1, 2008, as follows:

- (1) Four appointed by the Governor, two of whom shall serve terms of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year. At least one appointee shall be a member of the North Carolina Historical Commission.
- (2) Three appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall serve a term of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year.
- (3) Three appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall serve a term of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year.

Upon the expiration of the terms of the initial Commission members, each member shall be appointed for a three-year term and shall serve until a successor is appointed.

(c) **Vacancies.** – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. – The Commission may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from participating in the official business of the Commission until the charges have been resolved.

(e) Officers. – The chair shall be designated by the Governor from among the members of the Commission to serve as chair at the pleasure of the Governor. The Commission shall elect annually from its membership a vice-chair and other officers deemed necessary by the Commission to carry out the purposes of this Article.

(f) Meetings; Quorum. – The Commission shall meet at least semiannually to conduct business. The Board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of Commission members shall constitute a quorum.

(g) Compensation. – The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable. (2008-107, s. 19A.2; 2015-241, ss. 14.30(s), (t).)

#### Part 30A. American Indian Heritage Commission.

##### **§ 143B-135.5. American Indian Heritage Commission established.**

(a) Creation and Duties. – There is created the American Indian Heritage Commission in the Department of Natural and Cultural Resources. The Commission shall advise and assist the Secretary of Natural and Cultural Resources in the preservation, interpretation, and promotion of American Indian history, arts, customs, and culture. The Commission shall have the following powers and duties:

- (1) Assist in the coordination of American Indian cultural events.
- (2) Advise the Secretary of Natural and Cultural Resources on the oversight and management of all State-managed American Indian historic sites.
- (3) Promote public awareness of the annual American Indian Heritage Month Celebration.
- (4) Encourage American Indian cultural tourism throughout the State of North Carolina.
- (5) Advise the Secretary of Natural and Cultural Resources upon any matter the Secretary may refer to it.

(b) Members. – The Commission shall consist of 12 members. The initial board shall be selected on or before February 1, 2022, as follows:

- (1) One representative recommended by each of the following tribes: Coharie, Eastern Band of Cherokee Indians, Haliwa-Saponi, Lumbee, Meherrin, Occaneechi Band of the Saponi Nation, Sappony, and Waccamaw-Siouan.
- (2) One representative recommended by each of the following organizations: Cumberland County Association for Indian People, Guilford Native American Association, Metrolina Native American Association, and the Triangle Native American Society.

(c) Terms. – The members recommended by the Coharie, Eastern Band of Cherokee Indians, Haliwa-Saponi, and Lumbee Tribes and the members recommended by the Cumberland County Association for Indian People and the Guilford Native American Association shall serve initial terms of two years expiring on June 30, 2023. The members recommended by the Meherrin, Occaneechi Band of the Saponi Nation, Sappony, and Waccamaw-Siouan Tribes and the members

recommended by the Metrolina Native American Association and the Triangle Native American Society shall serve initial terms of three years expiring on June 30, 2024. Upon the expiration of the terms of the initial members of the Commission, each member shall be appointed to terms for three years and shall serve until a successor is appointed.

(d) Vacancies. – A vacancy shall be filled in the same manner as the original appointment. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(e) Removal. – The Commission may remove a member for misfeasance, malfeasance, nonfeasance, or neglect of duty.

(f) Officers. – The chair shall be elected from among the membership. The Commission shall select its other officers from among the membership as it deems necessary. All officers serve for one year or until successors are qualified.

(g) Meetings; Quorum. – The Commission shall meet at least semiannually to conduct business. The Commission shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of Commission members shall constitute a quorum. The Department of Natural and Cultural Resources shall provide space for the Commission to meet.

(h) Compensation. – The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 138-5 and G.S. 138-6, as applicable.

(i) Staffing. – The Secretary of the Department of Natural and Cultural Resources shall be responsible for staffing the Commission. (2021-180, s. 14.9(a); 2022-6, s. 7.4.)

#### Part 31. Acquisition and Control of State Parks.

##### **§ 143B-135.10. Definitions.**

In this Part, unless the context requires otherwise, "Department" means the Department of Natural and Cultural Resources, and "Secretary" means the Secretary of Natural and Cultural Resources. (1939, c. 317, s. 1; 1969, c. 342, s. 1; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 827, s. 90; 1989, c. 727, s. 49; 1991 (Reg. Sess., 1992), c. 890, s. 2; 1997-443, s. 11A.119(a); 2011-145, s. 13.25(n); 2015-241, ss. 14.30(e), (l).)

##### **§ 143B-135.12. Power to acquire lands as State parks, and other recreational areas; donations or leases by United States; leases for recreational purposes.**

(a) The Department may acquire by gift, purchase, or condemnation under the provisions of Chapter 40A of the General Statutes, areas of land in different sections of the State that may in the opinion of the Department be necessary for the purpose of establishing or developing State parks, and other areas and developments essential to the effective operation of the State park activities under its charge. Condemnation proceedings shall be instituted and prosecuted in the name of the State, and any property so acquired shall be administered, developed, and used for public recreation and for other purposes authorized or required by law. Before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where the property is located. The Attorney General shall ensure that all deeds to the State for land acquired under this section are properly executed before the gift is accepted or payment of the purchase money is made.

(b) The Department may accept as gifts to the State any submarginal farmland acquired by the federal government that is suitable for the purpose of creating and maintaining game refuges,

public shooting grounds, State parks, State lakes, and other recreational areas, or to enter into longtime leases with the federal government for the areas and administer them with funds secured from their administration in the best interest of longtime public use, supplemented by any appropriations made by the General Assembly. The Department may segregate revenue derived from State hunting and fishing licenses, use permits, and concessions and other proper revenue secured through the administration of State game refuges, public shooting grounds, State parks, State lakes, and other recreational areas to be deposited in the State treasury to the credit of the Department to be used for the administration of these areas.

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

(d) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law. (1915, c. 253, s. 1; C.S., s. 6124; 1925, c. 122, s. 22; 1935, c. 226; 1941, c. 118, s. 1; 1951, c. 443; 1953, c. 1109; 1957, c. 988, s. 2; 1965, c. 1008, s. 1; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 827, s. 91; 1989, c. 727, s. 54; 1993, c. 539, s. 829; 1994, Ex. Sess., c. 24, s. 14(c); 2001-487, s. 38(e); 2003-284, s. 35.1(a); 2011-145, s. 13.25(n); 2015-241, s. 14.30(e).)

#### **§ 143B-135.14. Power to acquire conservation lands not included in the State Parks System.**

The Department of Administration may acquire and allocate to the Department of Natural and Cultural Resources for management by the Division of Parks and Recreation lands that the Department of Natural and Cultural Resources finds are important for conservation purposes but which are not included in the State Parks System. Lands acquired pursuant to this section are not subject to Part 32 of Article 2 of Chapter 143B of the General Statutes and may be traded or transferred as necessary to protect, develop, and manage the Mountains to Sea State Park Trail, other State parks, or other conservation lands. This section does not expand the power granted to the Department of Natural and Cultural Resources under G.S. 143B-135.12(a) to acquire land by condemnation. (2000-157, s. 3; 2015-241, ss. 14.30(e), (l).)

#### **§ 143B-135.16. Control over State parks; operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules.**

(a) The Department shall make reasonable rules governing the use by the public of State parks and State lakes under its charge. These rules shall be posted in conspicuous places on and adjacent to the properties of the State and at the courthouse of the county or counties in which the properties are located. A violation of these rules is punishable as a Class 3 misdemeanor. Notwithstanding any other provision of law, violations of rules regarding the following shall be punishable as an infraction and carry a penalty of not more than twenty-five dollars (\$25.00):

- (1) Parking a motor vehicle outside of a designated area.
- (2) Persons using skateboards, rollerblades, roller skates, or similar devices in prohibited areas.
- (3) Persons bathing animals or washing clothes or motor vehicles.
- (4) Persons bathing, wading, surfing, diving, scuba diving, or swimming in undesignated areas.
- (5) Persons carrying or depositing glass, crockery, or any metallic substance on a swimming area or beach.
- (6) Persons using boats, rafts, surfboards, personal watercraft, canoes, or other vessels in designated swimming areas.

(7) Persons fishing in nondesignated areas.

A person found responsible for a violation carrying a penalty of an infraction of this section shall not be assessed court costs for the infraction.

(b) The Department may adopt rules under which the Secretary may issue a special-use permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions. The rules shall require that experts supervise the use of pyrotechnics and that written authorization for the use of pyrotechnics be obtained from the board of commissioners of the county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may impose any conditions on a permit that the Secretary determines to be necessary to protect public health, safety, and welfare. These conditions shall include a requirement that the permittee execute an indemnification agreement with the Department and obtain general liability insurance covering personal injury and property damage that may result from the use of pyrotechnics with policy limits determined by the Secretary.

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

- (1) The erection, maintenance, and use of docks, piers, and any other structures permitted in or on State lakes under rules adopted by the Department.
- (2) Fishing privileges in State parks and State lakes, provided that these privileges shall be extended only to holders of State hunting and fishing licenses who comply with all State game and fish laws.
- (3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.
- (4) The erection, maintenance, and use of a marina at Carolina Beach.

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

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

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

(g) Repealed by Session Laws 2023-70, s. 4(a), effective June 30, 2023.

(h) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law. (1931, c. 111; 1947, c. 697; 1965, c. 1008, s. 2; 1969, c. 343; 1973, c. 547; c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 827, s. 92; 1989, c. 727, s. 55; 1993, c. 539, ss. 830, 831; 1994, Ex. Sess., c. 24, s. 14(c); 1997-258, s. 2; 1997-443, s. 11A.119(a); 2003-284, ss. 35.1(b), 35.1A(a), 35.1A(b); 2004-124, s. 12.3(a);

2011-145, s. 13.25(n); 2012-93, s. 2(3); 2015-241, s. 14.30(e), (l); 2019-241, s. 2(a); 2023-70, s. 4(a).)

**§ 143B-135.18. Legislative authority necessary for payment.**

Nothing in this Part shall operate or be construed as authority for the payment of any money out of the State treasury for the purchase of lands or for other purposes unless by appropriation for said purpose by the General Assembly. (1915, c. 253, s. 21/2; C.S., s. 6126; 2015-241, ss. 14.30(e), (l).)

**§ 143B-135.20. License fees for hunting and fishing on government-owned property unaffected.**

No wording in G.S. 113-307.1(a), or any other North Carolina statute or law, or special act, shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for license for hunting and fishing on any government-owned land or in any government-owned stream in North Carolina including the license for county, State or nonresident hunters or fishermen; or upon any lands or in any streams hereafter acquired by the federal government within the boundaries of the State of North Carolina. The lands and streams within the boundaries of the Great Smoky Mountains National Park to be exempt from this section. (1933, c. 537, s. 2; 1979, c. 830, s. 6; 2011-145, s. 13.25(n); 2015-241, s. 14.30(e).)

**§ 143B-135.22. Donations of property for park purposes; agreements with federal government or agencies for acquisition.**

The Department is hereby authorized and empowered to accept gifts, donations or contributions of land suitable for park purposes and to enter into agreements with the federal government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the Department are desirable for State parks. (1935, c. 430, s. 1; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 58; 2011-145, s. 13.25(n); 2015-241, s. 14.30(e).)

**§ 143B-135.24. Expenditure of funds for development, etc.; disposition of products from lands; rules.**

When lands are acquired or leased under G.S. 143B-135.22, the Department is hereby authorized to make expenditures from any funds not otherwise obligated, for the management, development and utilization of such areas; to sell or otherwise dispose of products from such lands, and to make such rules as may be necessary to carry out the purposes of G.S. 143B-135.22 to 143B-135.30. (1935, c. 430, s. 2; 1987, c. 827, s. 93; 2015-241, s. 14.30(e).)

**§ 143B-135.26. Disposition of revenues received from lands acquired.**

All revenues derived from lands now owned or later acquired under the provisions of G.S. 143B-135.22 to 143B-135.30 shall be set aside for the use of the Department in acquisition, management, development and use of such lands until all obligations incurred have been paid in full. Thereafter, fifty percent (50%) of all net profits accruing from the administration of such lands shall be applicable for such purposes as the General Assembly may prescribe, and fifty percent (50%) shall be paid into the school fund to be used in the county or counties in which lands are located. (1935, c. 430, s. 3; 2015-241, s. 14.30(e).)

**§ 143B-135.28. State not obligated for debts created hereunder.**

Obligations for the acquisition of land incurred by the Department under the authority of G.S. 143B-135.22 to 143B-135.30 shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the State. (1935, c. 430, s. 4; 2015-241, s. 14.30(e).)

**§ 143B-135.30. Disposition of lands acquired.**

The Department shall have full power and authority to sell, exchange or lease lands under its jurisdiction when in its judgment it is advantageous to the State to do so in the highest orderly development and management of State parks: Provided, however, said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into. (1935, c. 430, s. 5; 2011-145, s. 13.25(n); 2015-241, s. 14.30(e).)

Part 32. State Parks Act.

**§ 143B-135.40. Short title.**

This Part shall be known as the State Parks Act. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

**§ 143B-135.42. Declaration of policy and purpose.**

(a) The State of North Carolina offers unique archaeological, geologic, biological, scenic, and recreational resources. These resources are part of the heritage of the people of this State. The heritage of a people should be preserved and managed by the people for their use and for the use of their visitors and descendants.

(b) The General Assembly finds it appropriate to establish the State Parks System. This system shall consist of parks which include representative examples of the resources sought to be preserved by this Part, together with such surrounding lands as may be appropriate. Park lands are to be used by the people of this State and their visitors in order to promote understanding of and pride in the natural heritage of this State.

(c) The tax dollars of the people of the State should be expended in an efficient and effective manner for the purpose of assuring that the State Parks System is adequate to accomplish the goals as defined in this Part.

(d) The purpose of this Part is to establish methods and principles for the planned acquisition, development, and operation of State parks. (1987, c. 243, s. 1; 2003-340, s. 1.1; 2015-241, ss. 14.30(e), (l).)

**§ 143B-135.43. Control of Mount Mitchell Park and other parks in the North Carolina State Parks System.**

The Department shall have responsibility for: (1) the control and management of Mount Mitchell Park and of any other parks which have been or may be acquired by the State as part of the North Carolina State Parks System and (2) the planning and coordination of State trails, which are components of the State Parks System, authorized by the General Assembly pursuant to G.S. 143B-135.54(b). (1925, c. 122, s. 23; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 43; 2015-241, s. 14.30(e); 2019-20, s. 3(a).)

**§ 143B-135.44. Definitions.**

As used in this Part, unless the context requires otherwise:

(1) "Department" means the Department of Natural and Cultural Resources.

- (2) "Park" means any tract of land or body of water comprising part of the State Parks System under this Part, including existing State parks, State natural areas, State recreation areas, State trails, State rivers, and State lakes.
- (3) "Plan" means State Parks System Plan.
- (4) "Secretary" means the Secretary of Natural and Cultural Resources.
- (5) "State Parks System" or "system" mean all those lands and waters which comprise the parks system of the State as established under this Part. (1987, c. 243, s. 1; 1989, c. 727, s. 218(50); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(e), (l).)

**§ 143B-135.46. Powers of the Secretary.**

The Secretary shall implement the provisions of this Part and shall be responsible for the administration of the State Parks System. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

**§ 143B-135.48. Preparation of a System Plan.**

(a) The Secretary shall prepare and adopt a State Parks System Plan by December 31, 1988. The Plan, at a minimum, shall do all of the following:

- (1) Outline a method whereby the mission and purposes of the State Parks System as defined in G.S. 143B-135.42 can be achieved in a reasonable, timely, and cost-effective manner.
- (2) Evaluate existing parks against these standards to determine their statewide significance.
- (3) Identify duplications and deficiencies in the current State Parks System and make recommendations for correction.
- (4) Describe the resources of the existing State Parks System and their current uses, identify conflicts created by those uses, and propose solutions to them.
- (5) Describe anticipated trends in usage of the State Parks System, detail what impacts these trends may have on the State Parks System, and recommend means and methods to accommodate those trends successfully.
- (6) Validate the number of visitors per car used in the calculation of visitor counts at units of the State Parks System.

(b) The Plan shall be developed with full public participation, including a series of public meetings held on adequate notice under rules which shall be adopted by the Secretary. The purpose of the public meetings and other public participation shall be to obtain from the public:

- (1) Views and information on the needs of the public for recreational resources in the State Parks System;
- (2) Views and information on the manner in which these needs should be addressed;
- (3) Review of the draft plan prepared by the Secretary before he adopts the Plan.

(c) The Secretary shall revise the Plan at intervals not exceeding five years. Revisions to the Plan shall be made consistent with and under the rules providing public participation in adoption of the Plan.

(d) No later than October 1, 2018, and every five years thereafter, the Department shall submit electronically the State Parks System Plan to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division. Concurrently, the Department shall submit a summary of each



change to the Plan that was made during the previous five fiscal years. (1987, c. 243, s. 1; 2010-31, s. 13.13; 2015-241, s. 14.30(e), (l); 2017-10, s. 4.20; 2023-70, s. 4(b).)

**§ 143B-135.50. Classification of parks resources.**

After adopting the Plan, the Secretary shall identify and classify the major resources of each of the parks in the State Parks System, in order to establish the major purpose or purposes of each of the parks, consistent with the Plan and the purposes of this Part. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

**§ 143B-135.52. General management plans.**

Every park classified pursuant to G.S. 143B-135.50 shall have a general management plan. The plan shall include a statement of purpose for the park based upon its relationship to the System Plan and its classification. An analysis of the major resources and facilities on hand to achieve those purposes shall be completed along with a statement of management direction. The general management plan shall be revised as necessary to comply with the System Plan and to achieve the purposes of this Part. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

**§ 143B-135.54. Additions to and deletions from the State Parks System.**

(a) If, in the course of implementing G.S. 143B-135.50 the Secretary determines that the major purposes of a park are not consistent with the purposes of this Part and the Plan, the Secretary may propose to the General Assembly the deletion of that park from the State Parks System. On a majority vote of each house of the General Assembly, the General Assembly may remove the park from the State Parks System. No other agency or governmental body of the State shall have the power to remove a park or any part from the State Parks System.

(b) New parks shall be added to the State Parks System by the Department after authorization by the General Assembly. Each additional park shall be authorized only by an act of the General Assembly. Additions shall be consistent with and shall address the needs of the State Parks System as described in the Plan. All additions shall be accompanied by adequate authorization and appropriations for land acquisition, development, and operations. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

**§ 143B-135.56. Parks and Recreation Trust Fund.**

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a special revenue fund consisting of donations, gifts, and devises to the Trust Fund and other monies appropriated to the Trust Fund by the General Assembly.

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

- (1) Sixty-five percent (65%) for the State Parks System or a State recreational forest for capital projects, repairs and renovations of park facilities, and land acquisition.
- (2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching

requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

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

(c) Geographic Distribution. – In allocating funds in the Trust Fund under this section, the North Carolina Parks and Recreation Authority shall make geographic distribution across the State to the extent practicable.

(d) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(e) Operating Expenses for State Parks System Allocations. – In allocating funds in the Trust Fund under subdivision (1) of subsection (b) of this section, the North Carolina Parks and Recreation Authority shall consider the operating expenses associated with each capital project, repair and renovation project, and each land acquisition. In considering the operating expenses, the North Carolina Parks and Recreation Authority shall determine both:

- (1) The minimal anticipated operating expenses, which are determined by the minimum staff and other operating expenses needed to maintain the project.
- (2) The optimal anticipated operating budget, which is determined by the level of staff and other operating expenses required to achieve a more satisfactory level of operation under the project.

(f) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under subsection (c) of this section, this report shall include the operating expenses determined under subdivisions (1) and (2) of subsection (e) of this section.

(g) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section and for waterfront access. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer. (1993 (Reg. Sess., 1994), c. 772, s. 1; 1995, c. 456, s. 2; 1995 (Reg. Sess., 1996), c. 646, s. 20; 1998-212, ss. 14.6(a), 14.7; 2001-114, s. 1; 2001-487, s. 73; 2004-179, s. 2.4; 2007-323, ss. 12.8, 29.14(f); 2009-484, s. 13; 2010-31, s. 13.11; 2013-360, s. 14.4(b); 2013-363, s. 5.8; 2014-100, s. 14.21(d); 2015-241, s. 14.30(e), (l); 2016-94, s. 16.7; 2017-10, s. 4.23; 2017-57, s. 14.3(g).)

#### **§ 143B-135.58. State Parks boat ramps.**

Any park that includes an existing boat ramp suitable for launch of motorized watercraft shall ensure the ramp is accessible to the public during the park's regular operating hours. (2017-57, s. 14.18.)

**§ 143B-135.59. (Effective December 31, 2024) State Parks System native plant requirement and preference.**

In consultation with university system and community college horticulture programs and the North Carolina Forestry Association, the Department of Natural and Cultural Resources shall require the use of seeds and plants the U.S. Department of Agriculture has classified as native to a state or county in the Southeastern United States, including cultivars and varieties thereof that were not bred to have reduced reproductive structures, with a strong preference for plants the U.S. Department of Agriculture has classified as native to North Carolina, on all lands that are part of the State Parks System as defined in G.S. 143B-135.44. Exempt from this requirement are (i) nonnative seeds and plants used in landscaping for locations where the primary purpose is crop cultivation, crop and horticulture research, science, botanical gardens, plantings for wildlife by the Wildlife Resources Commission, and zoos and (ii) nonnative turf grass. For purposes of this section, the Southeastern United States means the states of Alabama, Georgia, North Carolina, South Carolina, Tennessee, Virginia, and the following counties in Florida: Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington. (2023-134, s. 41.8(b).)

Part 33. North Carolina Appalachian Trails System Act.

**§ 143B-135.70. Short title.**

This Part may be cited as the North Carolina Appalachian Trails System Act. (1973, c. 545, s. 1; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.72. Policy and purpose.**

(a) In order to provide for the ever-increasing outdoor recreation needs of an expanded population and in order to promote public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas of the State, the Appalachian Trail should be protected in North Carolina as a segment of the National Scenic Trails System.

(b) The purpose of this Part is to provide the means for attaining these objectives by instituting a North Carolina Appalachian Trail System, designating the Appalachian Trail lying or located in the North Carolina Counties of Avery, Mitchell, Yancey, Madison, Haywood, Swain, Graham, Macon, and Clay, as defined in the Federal Register of the National Trails Act as the basic component of that System, and by prescribing the methods by which, and standards according to which, additional connecting trails may be added to the System. (1973, c. 545, s. 2; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.74. Appalachian Trails System; connecting or side trails; coordination with the National Trails System Act.**

Connecting or side trails may be established, designated and marked as components of the Appalachian Trail System by the Department of Natural and Cultural Resources in consultation with the federal agencies charged with the responsibility for the administration and management of the Appalachian Trail in North Carolina. Criteria and standards of establishment will coincide with

those set forth in the National Trails System Act (PL 90-543). (1973, c. 545, s. 3; 1977, c. 771, s. 4; 1989, c. 727, s. 218(61); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.76. Assistance under this Part with the National Trails System Act (PL 90-543).**

(a) The Department of Administration in cooperation with other appropriate State departments shall consult with the federal agencies charged with the administration of the Appalachian Trail in North Carolina and develop a mutually agreeable plan for the orderly and coordinated acquisition of Appalachian Trail right-of-way and the associated tracts, as needed, to provide a suitable environment for the Appalachian Trail in North Carolina.

(b) The Department of Natural and Cultural Resources and the federal agencies charged with the responsibility of the administration of the Appalachian Trail in North Carolina shall give due consideration to the conservation of the environment of the Appalachian Trail and, in accordance with the National Trails System Act, may obtain advice and assistance from local governments, Carolina Mountain Club, Nantahala Hiking Club, Piedmont Appalachian Trail Hikers, Appalachian Trail Conference, other interested organizations and individuals, landowners and land users concerned.

(c) The Board of Transportation shall cooperate and assist in carrying out the purposes of this Part and the National Trails System Act where their highway projects cross or may be adjacent to any component of the Appalachian Trail System.

(d) Lands acquired by the State of North Carolina within the 200-foot right-of-way of the Appalachian Trail and within the exterior boundaries of the Pisgah or Nantahala National Forests, will be conveyed to the United States Forest Service as the federal agency charged with the responsibility for the administration and management of the Appalachian Trail within these specific areas.

(e) Lands acquired by the State of North Carolina outside of the boundaries of the Appalachian Trail right-of-way will be administered by the appropriate State department in such a manner as to preserve and enhance the environment of the Appalachian Trail.

(f) In consultation with the Department of Natural and Cultural Resources, the federal agency charged with the responsibility of the administration of the Appalachian Trail in North Carolina shall establish use regulations in accordance with the National Trails System Act.

(g) The use of motor vehicles on the trails of the North Carolina Appalachian Trail System may be authorized when such use is necessary to meet emergencies or to enable adjacent landowners to have reasonable access to their lands and timber rights provided that the granting of this access is in accordance with limitations and conditions of such use set forth in the National Trails System Act. (1973, c. 507, s. 5; c. 545, s. 4; 1977, c. 771, s. 4; 1989, c. 727, s. 218(62); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.78. Acquisition of rights-of-way and lands; manner of acquiring.**

The State of North Carolina may use lands for trail purposes within the boundaries of areas under its administration that are included in the rights-of-way selected for the Appalachian Trail System. The Department of Administration may acquire lands or easements by donation or purchase with funds donated or appropriated for such purpose. (1973, c. 545, s. 5; 2015-241, s. 14.30(f).)

**§ 143B-135.80. Expenditures authorized.**

The Department is authorized to spend any federal, State, local or private funds available for this purpose to the Department for acquisition and development of the Appalachian Trail System. (1973, c. 545, s. 6; 1977, c. 771, s. 4; 1989, c. 727, s. 125; 2015-241, s. 14.30(f).)

Part 34. North Carolina Trails System.

**§ 143B-135.90. Short title.**

This Part shall be known and may be cited as the "North Carolina Trails System Act." (1973, c. 670, s. 1; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.92. Declaration of policy and purpose.**

(a) In order to provide for the ever-increasing outdoor recreation needs of an expanded population and in order to promote public access to, travel within, and enjoyment and appreciation of the outdoor, natural and remote areas of the State, trails should be established in natural, scenic areas of the State, and in and near urban areas.

(b) The purpose of this Part is to provide the means for attaining these objectives by instituting a State Trails System, coordinated with and complemented by existing and future local trail segments or systems, and by prescribing the methods by which, and standards according to which, components may be added to the State Trails System. (1973, c. 670, s. 1; 1993, c. 184, s. 1; 2015-241, s. 14.30(f), (m); 2019-20, s. 3(b).)

**§ 143B-135.94. Definitions.**

Except as otherwise required by context, the following terms when used in this Part shall be construed respectively to mean:

- (1) "Department" means the North Carolina Department of Natural and Cultural Resources.
- (2) "Political subdivision" means any county, any incorporated city or town, or other political subdivision.
- (3) "Scenic easement" means a perpetual easement in land which
  - a. Is held for the benefit of the people of North Carolina,
  - b. Is specifically enforceable by its holder or beneficiary, and
  - c. Limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.
- (4) "Secretary" means the Secretary of Natural and Cultural Resources, except as otherwise specified in this Part.
- (5) "State Trails System" means the trails system established in this Part or pursuant to the State Parks Act, Part 32 of this Article, and including all trails and trail segments, together with their rights-of-way, added by any of the procedures described in this Part or Part 32 of this Article.
- (6) "Trail" means a linear corridor on land or water, protected from motor vehicles, providing public access for recreation or transportation.
- (7) "Trails Committee" means the North Carolina Trails Committee established by Part 35 of this Article. (1973, c. 670, s. 1; 1977, c. 771, s. 4; 1989, c. 727, s.

218(63); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1993, c. 184, s. 2; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(f), (m); 2019-20, s. 3(c).)

**§ 143B-135.96. Composition of State Trails System.**

The State Trails System shall be composed of State trails, which are components of the State Parks System, authorized by the General Assembly pursuant to G.S. 143B-135.54(b), and planned and coordinated by the Department. (1973, c. 670, s. 1; 1993, c. 184, s. 3; 2015-241, s. 14.30(f); 2019-20, s. 3(d).)

**§ 143B-135.98. Authority to designate trails.**

The Department may establish and designate trails on:

- (1) Lands administered by the Department,
- (2) Lands under the jurisdiction of a State department, political subdivision, or federal agency, or
- (3) Private lands provided, fee-simple title, lesser estates, scenic easements, easements of surface ingress and egress running with the land, leases, or other written agreements are obtained from landowners through which a State trail may pass. (1973, c. 670, s. 1; 1979, c. 6, s. 1; 1991, c. 115, s. 1; 1993, c. 184, s. 4; 2015-241, s. 14.30(f).)

**§ 143B-135.100. Use of State land for bicycling; creation of trails by volunteers.**

(a) Any land held in fee simple by this State, any agency of this State, or any land purchased or leased with funds provided by this State may be open and available for use by bicyclists upon establishment of a usage agreement. The usage agreement shall be established between the land manager and any local cycling group or organization intending to use the land and shall specify the terms and conditions for use of the land. The land manager shall designate a representative with knowledge of off-road bicycle trail building to negotiate the agreement. Upon establishment of the usage agreement, any bicyclist may use the land pursuant to the agreement.

The land manager shall not be required to create, maintain, or make available any special trails, paths, or other accommodations to any user of the land for cycling purposes. However, once a usage agreement has been established, any local cycling group or organization may create and maintain special trails for cycling purposes. Any trails created for the purpose of off-road cycling shall be created and maintained using commonly accepted best practices.

(b) Notwithstanding the provisions of subsection (a) of this section, any land may be restricted or removed from use by bicyclists if it is determined by the State, an agency of the State, or the holder of land purchased or leased with State funds that the use would cause substantial harm to the land or the environment or that the use would violate another State or federal law. Before restricting or removing land from use by bicyclists, the State, the agency of the State, or the holder of the land purchased or leased with State funds must show why the lands should not be open for use by bicyclists. Local cycling groups or organizations shall be notified of the intent to restrict or remove the land from use by bicyclists and provided an opportunity to show why cycling should be allowed on the land.

(c) Repealed by Session Laws 2016-90, s. 5, effective July 11, 2016.

(d) Any land open and available for use by bicyclists, pursuant to subsection (a) of this section, shall also be available to members of the public for hiking and walking. Persons using the land pursuant to this subsection shall yield the right-of-way to bicyclists when hiking or walking on

any trails created and maintained for the purpose of off-road cycling and so designated along that trail.

(e) Notwithstanding any other provision of this section, any hiking, walking, or use of bicycles on game lands administered by the Wildlife Resources Commission shall be restricted to roads and trails designated for vehicular use. Hiking, walking, or bicycle use by persons not hunting shall be restricted to days closed to hunting. The Wildlife Resources Commission may restrict the use of bicycles on game lands where necessary to protect sensitive wildlife habitat or species. (2007-449, s. 1; 2015-241, s. 14.30(f); 2016-90, s. 5.)

#### **§ 143B-135.102. Trails Committee duties.**

(a) The Committee shall meet in various sections of the State not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of this Part.

(b) The Committee shall coordinate trail development among local governments, and shall assist local governments in the formation of their trail plans and advise the Department quarterly of its findings.

(c) The Secretary, with advice of the Committee, shall study trail needs and potentials, and make additions to the State Trails System as needed. The Secretary shall submit an annual report by October 1 of each year to the Governor, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division on trail activities by the Department, including rights-of-way that have been established and on the program for implementing this Part. Each report shall include a short statement on the significance of the various trails to the System. The Secretary shall make such rules as to trail development, management, and use that are necessary for the proper implementation of this Part. (1973, c. 670, s. 1; c. 1262, s. 82; 1987, c. 827, s. 132; 2015-241, ss. 14.30(f), (m); 2017-57, s. 14.1(jj).)

#### **§ 143B-135.104. Location of trails.**

When a route shall traverse land within the jurisdiction of a governmental unit or political subdivision, the Department shall consult with such unit or such subdivision prior to its final determination of the location of the route. The selected route shall be compatible with preservation or enhancement of the environment it traverses. Reasonable effort shall be made to minimize any adverse effects upon adjacent landowners and users. Notice of the selected route shall be published by the Department, together with appropriate maps and descriptions to be conspicuously posted online and at the proposed trail location. Such publication shall be prior to the designation of the trail by the Secretary. (1973, c. 670, s. 1; 1993, c. 184, s. 5; 2015-241, s. 14.30(f); 2019-20, s. 3(e).)

#### **§ 143B-135.106. Scenic easements within right-of-way.**

Within the boundaries of the right-of-way, the Secretary of the North Carolina Department of Administration may acquire, on behalf of the State of North Carolina, lands in fee title, or interest in land in the form of scenic easements, cooperative agreements, easements of surface ingress and egress running with the land, leases, or less than fee estates. Acquisition of land or of interest therein may be by gift, purchased with donated funds or funds appropriated by the governmental agencies for this purpose, proceeds from the sale of bonds or exchange. Any change in value of land resulting from the grant of an easement shall be taken into consideration in the assessment of the land for tax purposes. (1973, c. 670, s. 1; 2015-241, s. 14.30(f).)

**§ 143B-135.108. Trails within parks; conflict of laws; State trails on property of others.**

Any component of the System that is or shall become a part of any State park, recreation area, wildlife management area, or similar area shall be subject to the provisions of this Part as well as any other laws under which the other areas are administered, and in the case of conflict between the provisions the more restrictive provisions shall apply. On segments of any State trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property. (1973, c. 670, s. 1; 2015-241, s. 14.30(f), (m); 2019-20, s. 3(f).)

**§ 143B-135.110. Uniform trail markers.**

The Department, in consultation with the Committee, shall establish a uniform marker for trails contained in the System. An additional appropriate symbol characterizing specific trails may be included on the marker. The markers shall be placed at all access points, together with signs indicating the modes of locomotion that are prohibited for the trail, provided that where the trail constitutes a portion of a national scenic trail, use of the national scenic trail uniform marker shall be considered sufficient. The route of the trail and the boundaries of the right-of-way shall be adequately marked. (1973, c. 670, s. 1; 2015-241, s. 14.30(f).)

**§ 143B-135.112. Adopt-A-Trail Program.**

The Department shall establish an Adopt-A-Trail Program to coordinate with the Trails Committee and local groups or persons on trail development and maintenance. Local involvement shall be encouraged, and interested groups are authorized to "adopt-a-trail" for such purposes as placing trail markers, trail building, trail blazing, litter control, resource protection, and any other activities related to the policies and purposes of this Part. (1987, c. 738, s. 153(a); 2015-241, s. 14.30(f), (m).)

**§ 143B-135.114. Administrative policy.**

The North Carolina Trails System shall be administered by the Department according to the policies and criteria set forth in this Part. The Department shall, in addition, have or designate the responsibility for maintaining the trails, building bridges, campsites, shelters, and related public-use facilities where required. (1973, c. 670, s. 1; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.116. Incorporation in National Trails System.**

Nothing in this Part shall preclude a component of the State Trails System from becoming a part of the National Trails System, or a component of the National Trails System from becoming a part of the State Trails System. The Secretary shall coordinate the State Trails System with the National Trails System and is directed to encourage and assist any federal studies for inclusion of North Carolina trails in the National Trails System. The Department may enter into written cooperative agreements for joint federal-State administration of a North Carolina component of the National Trails System, provided such agreements for administration of land uses are not less restrictive than those set forth in this Part. (1973, c. 670, s. 1; 2015-241, s. 14.30(f), (m); 2019-20, s. 3(g).)

**§ 143B-135.118. Trail use liability.**

(a) Any person, as an owner, lessee, occupant, or otherwise in control of land, who allows without compensation another person to use the land for designated trail or other public trail



purposes or to construct, maintain, or cause to be constructed or maintained a designated trail or other public trail owes the person the same duty of care he owes a trespasser.

(b) Any person who without compensation has constructed, maintained, or caused to be constructed or maintained a designated trail or other public trail pursuant to a written agreement with any person who is an owner, lessee, occupant, or otherwise in control of land on which a trail is located shall owe a person using the trail the same duty of care owed a trespasser. (1987, c. 498, s. 1; 1991, c. 38, s. 1; 1993, c. 184, s. 6; 2015-241, ss. 14.30(f), (m).)

Part 35. North Carolina Trails Committee.

**§ 143B-135.130. North Carolina Trails Committee – creation; powers and duties.**

There is hereby created the North Carolina Trails Committee of the Department of Natural and Cultural Resources. The Committee shall have the following functions and duties:

- (1) To meet not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of G.S. 143B-135.102.
- (2) To coordinate trail development among local governments, and to assist local governments in the formation of their trail plans and advise the Department of its findings.
- (3) To advise the Secretary of trail needs and potentials pursuant to G.S. 143B-135.102. (1973, c. 1262, s. 80; 1977, c. 771, s. 4; 1989, c. 727, s. 218(145); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(f), (m).)

**§ 143B-135.132. North Carolina Trails Committee – members; selection; removal; compensation.**

The North Carolina Trails Committee shall consist of seven members appointed by the Secretary of Natural and Cultural Resources. Two members shall be from the mountain section, two from the Piedmont section, two from the coastal plain, and one at large. They shall as much as possible represent various trail users.

Committee members shall serve staggered terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Secretary of Natural and Cultural Resources shall designate a member of the Committee to serve as chairman at the pleasure of the Governor.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973. (1973, c. 1262, s. 81; 1977, c. 771, s. 4; 1989, c. 727, s. 218(146); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

Part 36. Natural and Scenic Rivers System.

**§ 143B-135.140. Short title.**

This Part shall be known and may be cited as the "Natural and Scenic Rivers Act of 1971." (1971, c. 1167, s. 2; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.142. Declaration of policy.**

The General Assembly finds that certain rivers of North Carolina possess outstanding natural, scenic, educational, geological, recreational, historic, fish and wildlife, scientific and cultural values of great present and future benefit to the people. The General Assembly further finds as policy the necessity for a rational balance between the conduct of man and the preservation of the natural beauty along the many rivers of the State. This policy includes retaining the natural and scenic conditions in some of the State's valuable rivers by maintaining them in a free-flowing state and to protect their water quality and adjacent lands by retaining these natural and scenic conditions. It is further declared that the preservation of certain rivers or segments of rivers in their natural and scenic condition constitutes a beneficial public purpose. (1971, c. 1167, s. 2; 2015-241, s. 14.30(f).)

**§ 143B-135.144. Declaration of purpose.**

The purpose of this Part is to implement the policy as set out in G.S. 143B-135.142 by instituting a North Carolina natural and scenic rivers system, and by prescribing methods for inclusion of components to the system from time to time. (1971, c. 1167, s. 2; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.146. Definitions.**

As used in this Part, unless the context requires otherwise:

- (1) "Department" means the Department of Natural and Cultural Resources.
- (2) "Free-flowing," as applied to any river or section of a river, means existing or flowing in natural condition without substantial impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the North Carolina natural and scenic rivers system shall not automatically bar its consideration for such inclusion: Provided, that this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the system.
- (3) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.
- (4) "Road" means public or private highway, hard-surface road, dirt road, or railroad.
- (5) "Scenic easement" means a perpetual easement in land which (i) is held for the benefit of the people of North Carolina, (ii) is specifically enforceable by its holder or beneficiary, and (iii) limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of the land and activities conducted thereon. The object of such limitations and obligations is the maintenance or enhancement of the natural beauty of the land in question or of the areas affected by it.
- (6) "Secretary" means the Secretary of Natural and Cultural Resources. (1971, c. 1167, s. 2; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 122; 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.148. Types of scenic rivers.**

The following types of rivers are eligible for inclusion in the North Carolina natural and scenic rivers system:

Class I. Natural river areas. Those free-flowing rivers or segments of rivers and adjacent lands existing in a natural condition. Those rivers or segments of rivers that are free of man-made impoundments and generally inaccessible except by trail, with the lands within the boundaries essentially primitive and the waters essentially unpolluted. These represent vestiges of primitive America.

Class II. Scenic river areas. Those rivers or segments of rivers that are largely free of impoundments, with the lands within the boundaries largely primitive and largely undeveloped, but accessible in places by roads.

Class III. Recreational river areas. Those rivers or segments of rivers that offer outstanding recreation and scenic values and that are largely free of impoundments. They may have some development along their shorelines and have more extensive public access than natural or scenic river segments. Recreational river segments may also link two or more natural and/or scenic river segments to provide a contiguous designated river area. No provision of this section shall interfere with flood control measures; provided that recreational river users can continue to travel the river. (1971, c. 1167, s. 2; 1989, c. 752, s. 156(a); 2015-241, s. 14.30(f).)

**§ 143B-135.150. Criteria for system.**

For the inclusion of any river or segment of river in the natural and scenic river system, the following criteria must be present:

- (1) River segment length – must be no less than one mile.
- (2) Boundaries – of the system shall be the visual horizon or such distance from each shoreline as may be determined to be necessary by the Secretary, but shall not be less than 20 feet.
- (3) Water quality – shall not be less than that required for Class "C" waters as established by the North Carolina Environmental Management Commission.
- (4) Water flow – shall be sufficient to assure a continuous flow and shall not be subjected to withdrawal or regulation to the extent of substantially altering the natural ecology of the stream.
- (5) Public access – shall be limited, but may be permitted to the extent deemed proper by the Secretary, and in keeping with the property interest acquired by the Department and the purpose of this Part. (1971, c. 1167, s. 2; 1973, c. 1262, ss. 23, 86; 1989, c. 654, s. 1; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.152. Components of system; management plan; acquisition of land and easements; inclusion in national system.**

That segment of the south fork of the New River extending from its confluence with Dog Creek in Ashe County downstream through Ashe and Alleghany Counties to its confluence with the north fork of the New River and the main fork of the New River in Ashe and Alleghany Counties downstream to the Virginia State line shall be a scenic river area and shall be included in the North Carolina Natural and Scenic Rivers System.

The Department shall prepare and implement a management plan for this river section. This management plan shall recognize and provide for the protection of the existing undeveloped scenic and pastoral features of the river. Furthermore, it shall specifically provide for continued use of the

lands adjacent to the river for normal agricultural activities, including, but not limited to, cultivation of crops, raising of cattle, growing of trees and other practices necessary to these agricultural pursuits.

For purposes of implementing this section and the management plan, the Department may acquire lands or interests in lands, provide for protection of scenic values as described in G.S. 143B-135.160, and provide for public access. Easements obtained for the purpose of implementing this section and the management plan shall not abridge the water rights being exercised on May 26, 1975.

Should the Governor seek inclusion of this river segment in the National System of Wild and Scenic Rivers by action of the Secretary of Interior, such inclusion shall be at no cost to the federal government, as prescribed in the National Wild and Scenic Rivers Act, and therefore shall be under the terms described in this section of the North Carolina Wild and Scenic Rivers Act and in the management plan developed pursuant thereto. (1973, c. 879; 1975, c. 404; 1977, c. 555; c. 771, s. 4; 1985, c. 129, s. 3; 1987, c. 827, s. 127; 1989, c. 654, s. 2; c. 765; 1999-147, s. 1; 2012-200, s. 24; 2015-241, ss. 14.30(f), (m).)

#### **§ 143B-135.154. Additional components.**

That segment of the Linville River beginning at the State Highway 183 bridge over the Linville River and extending approximately 13 miles downstream to the boundary between the United States Forest Service lands and lands of Duke Power Company (latitude 35° 50' 20") shall be a natural river area and shall be included in the North Carolina Natural and Scenic River System.

That segment of the Horsepasture River in Transylvania County extending downstream from Bohaynee Road (N.C. 281) to Lake Jocassee shall be a natural river and shall be included in the North Carolina Natural and Scenic Rivers System.

That segment of the Lumber River extending from county road 1412 in Scotland County downstream to the North Carolina-South Carolina state line, a distance of approximately 102 river miles, shall be included in the Natural and Scenic Rivers System and classified as follows: from county road 1412 in Scotland County downstream to the junction of the Lumber River and Back Swamp shall be classified as scenic; from the junction of the Lumber River and Back Swamp downstream to the junction of the Lumber River and Jacob Branch and the river within the Fair Bluff town limits shall be classified as recreational; and from the junction of the Lumber River and Jacob Branch downstream to the North Carolina-South Carolina state line, excepting the Fair Bluff town limits, shall be classified as natural. (1975, c. 698; 1985, c. 344, s. 1; 1989, c. 752, s. 156(b); 2015-241, s. 14.30(f).)

#### **§ 143B-135.156. Administrative agency; federal grants; additions to the system; regulations.**

(a) The Department is the agency of the State of North Carolina with the duties and responsibilities to administer and control the North Carolina natural and scenic rivers system.

(b) The Department is the agency of the State with the authority to accept federal grants of assistance in planning, developing (which would include the acquisition of land or an interest in land), and administering the natural and scenic rivers system.

(c) The Secretary of the Department shall study and from time to time submit to the Governor, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division proposals for the additions to the system of rivers and segments of rivers which, in the Secretary's judgment, fall within one or more of the categories set out in G.S. 143B-135.148. Each proposal shall specify the category of the proposed addition and

shall be accompanied by a detailed report of the facts which, in the Secretary's judgment, makes the area a worthy addition to the system.

(c1) Before submitting any proposal under subsection (c) of this section for the addition to the system of a river or segment of a river, the Secretary or the Secretary's authorized representative shall hold a public hearing in the county or counties where the river or segment of river is situated. Notice of the public hearing shall be given by publishing a notice once each week for two consecutive weeks in a newspaper having general circulation in the county where the hearing is to be held, the second of the notices appearing not less than 10 days before the hearing. Any person attending the hearing shall be given an opportunity to be heard. No public hearing, however, is required with respect to a river bounded solely by the property of one owner, who consents in writing to the addition of the river to the system.

(c2) The Department shall also conduct an investigation on the feasibility of the inclusion of a river or a segment of river within the system and shall file a written report with the proposal described in subsection (c) of this section.

(c3) The Department, before submitting a proposal under subsection (c) of this section, shall notify in writing the owner, lessee, or tenant of any lands adjoining the river or segment of river of its intention to make the proposal. In the event the Department, after due diligence, is unable to determine the owner or lessee of the land, the Department may publish a notice for four successive weeks in a newspaper having general circulation in the county where the land is situated of its intention to make a proposal for the addition of a river or segment of river to the system.

(d) Upon receipt of a request in the form of a resolution from the commissioners of the county or counties in which a river segment is located and upon studying the segment and determining that it meets the criteria set forth in G.S. 143B-135.150, the Secretary may designate the segment a potential component of the natural and scenic rivers system. The designation as a potential component shall be transmitted to the Governor and all appropriate State agencies. Any segment so designated is subject to the provisions of this Part applicable to designated rivers, except for acquisition by condemnation or otherwise, and to any rules adopted pursuant to this Part. The Secretary shall make a full report and, if appropriate, a proposal for an addition to the natural and scenic rivers system to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division within 90 days after the convening of the next session of the General Assembly following issuance of the designation, and the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources shall determine whether to designate the segment as a component of the natural and scenic rivers system. If the next session of the General Assembly fails to take affirmative action on the designation, the designation as a potential component shall expire.

(e) The Department may adopt rules to implement this Part. (1971, c. 1167, s. 2; 1973, c. 911; c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1985, c. 129, s. 1; 1987, c. 827, ss. 125, 128; 1989, c. 727, s. 123; 2015-241, ss. 14.30(f), (m); 2017-57, s. 14.1(kk).)

#### **§ 143B-135.158. Raising the status of an area.**

Whenever in the judgment of the Secretary of the Department a scenic river segment has been sufficiently restored and enhanced in its natural scenic and recreational qualities, such segment may be reclassified with the approval of the Department, to a natural river area status and thereafter administered accordingly. (1971, c. 1167, s. 2; 1973, c. 1262, ss. 28, 86; 2015-241, s. 14.30(f).)

#### **§ 143B-135.160. Land acquisition.**

(a) The Department of Administration is authorized to acquire for the Department, within the boundaries of a river or segment of river as set out in G.S. 143B-135.150 on behalf of the State of North Carolina, lands in fee title or a lesser interest in land, preferably "scenic easements." Acquisition of land or interest therein may be by donation, purchase with donated or appropriated funds, exchange or otherwise.

(b) The Department of Administration in acquiring real property or a property interest therein as set out in this Part shall have and may exercise the power of eminent domain in accordance with Article 3 of Chapter 40A of the General Statutes. (1971, c. 1167, s. 2; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1987, c. 827, ss. 127, 129; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.162. Claim and allowance of charitable deduction for contribution or gift of easement.**

The contribution or donation of a "scenic easement," right-of-way or any other easement or interest in land to the State of North Carolina, as provided in this Part, shall be deemed a contribution to the State of North Carolina within the provisions of G.S. 105-130.9 and section 170(c)(1) of the Internal Revenue Code. The value of the contribution or donation shall be the fair market value of the easement or other interest in land when the contribution or donation is made. (1971, c. 1167, s. 2; 1991, c. 45, s. 23; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.164. Component as part of State park, wildlife refuge, etc.**

Any component of the State natural and scenic rivers system that is or shall become a part of any State park, wildlife refuge, or state-owned area shall be subject to the provisions of this Part and the laws under which the other areas may be administered, and in the case of conflict between the provisions of these laws, the more restrictive provisions shall apply. (1971, c. 1167, s. 2; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.166. Component as part of national wild and scenic river system.**

Nothing in this Part shall preclude a river or segment of a river from becoming part of the national wild and scenic river system. The Secretary is directed to encourage and assist any federal studies for the inclusion of North Carolina rivers in the national system. The Secretary may enter into cooperative agreements for joint federal-state administration of a North Carolina river or segment of river: Provided, that such agreements relating to water and land use are not less restrictive than the requirements of this Part. (1971, c. 1167, s. 2; 1973, c. 1262, s. 86; 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.168. Violations.**

(a) Civil Action. – Whoever violates, fails, neglects or refuses to obey any provision of this Part or rule or order of the Secretary may be compelled to comply with or obey the same by injunction, mandamus, or other appropriate remedy.

(b) Penalties. – Whoever violates, fails, neglects or refuses to obey any provision of this Part or rule or order of the Secretary is guilty of a Class 3 misdemeanor and may be punished only by a fine of not more than fifty dollars (\$50.00) for each violation, and each day such person shall fail to comply, where feasible, after having been officially notified by the Department shall constitute a separate offense subject to the foregoing penalty. (1971, c. 1167, s. 2; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1987, c. 827, s. 125; 1989, c. 727, s. 124; 1993, c. 539, s. 872; 1994, Ex. Sess., c. 24, s. 14(c); 2015-241, ss. 14.30(f), (m).)

**§ 143B-135.170. Authorization of advances.**

The Department of Administration is hereby authorized to advance from land-purchase appropriations necessary amounts for the purchase of land in those cases where reimbursement will be later effected by the Bureau of Outdoor Recreation of the United States Department of the Interior. (1971, c. 1167, s. 2; 2015-241, s. 14.30(f).)

**§ 143B-135.172. Restrictions on project works on natural or scenic river.**

The State Utilities Commission may not permit the construction of any dam, water conduit, reservoir, powerhouse transmission line, or any other project works on or directly affecting any river that is designated as a component or potential component of the State Natural and Scenic Rivers System. No department or agency of the State may assist by loan, grant, license, permit, or otherwise in the construction of any water resources project that would have a direct and adverse effect on any river that is designated as a component or potential component of the State Natural and Scenic Rivers System. This section shall not, however, preclude licensing of or assistance to a development below or above a designated or potential component. No department or agency of the State may recommend authorization of any water resources project that would have a direct and adverse effect on any river that is designated as a component or potential component of the State Natural and Scenic Rivers System, or request appropriations to begin construction of any such project, regardless of when authorized, without advising the Secretary in writing of its intention to do so at least 60 days in advance. Such department or agency making such recommendation or request shall submit a written impact statement to the General Assembly to accompany the recommendation or request specifically describing how construction of the project would be in conflict with the purposes of this act and how it would affect the component or potential component. (1985, c. 129, s. 2; 2015-241, s. 14.30(f).)

Part 37. Division of North Carolina Aquariums.

**§ 143B-135.180. Division of North Carolina Aquariums – creation.**

The Division of North Carolina Aquariums is created in the Department of Natural and Cultural Resources. (1985, c. 202, s. 3; 1995, c. 509, s. 98; 1997-286, s. 2; 1997-400, ss. 6.3(a), (b); 1997-443, s. 11A.119(b); 2015-241, ss. 14.30(g), (n).)

**§ 143B-135.182. Division of North Carolina Aquariums – organization; powers and duties.**

(a) The Division of North Carolina Aquariums shall be organized as prescribed by the Secretary of Natural and Cultural Resources and shall exercise the following powers and duties:

- (1) Establish and maintain the North Carolina Aquariums.
- (2) Administer the operations of the North Carolina Aquariums, such administrative duties to include, but not be limited to the following:
  - a. Adopt goals and objectives for the Aquariums and review and revise these goals and objectives periodically.
  - b. Review and approve requests for use of the Aquarium facilities and advise the Secretary of Natural and Cultural Resources on the most appropriate use consistent with the goals and objectives of the Aquariums.
  - c. Continually review and evaluate the types of projects and programs being carried out in the Aquarium facilities and determine if the

operation of the facilities is in compliance with the established goals and objectives.

- d. Recommend to the Secretary of Natural and Cultural Resources any policies and procedures needed to assure effective staff performance and proper liaison among Aquarium facilities in carrying out the overall purposes of the Aquarium programs.
  - e. Review Aquarium budget submissions to the Secretary of Natural and Cultural Resources.
  - f. Recruit and recommend to the Secretary of Natural and Cultural Resources candidates for the positions of directors of the Aquariums.
  - g. Create local advisory committees in accordance with the provisions of G.S. 143B-135.186.
- (3) Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, dispose of any exhibit, exhibit component, or object from the collections of the North Carolina Aquariums by sale, lease, donation, or trade. A sale, lease, donation, or trade under this subdivision shall be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums. After deducting the expenses attributable to the sale or lease, the net proceeds of any sale or lease shall be credited to the North Carolina Aquariums Fund.
- (4) Assume any other powers and duties assigned to it by the Secretary.

(b) The Secretary may adopt any rules and procedures necessary to implement this section. (1985, c. 202, s. 3; 1991, c. 320, s. 3; 1993, c. 321, ss. 28(d), 28(e); 1997-286, s. 3; 1997-400, s. 6.3(b), (c); 1997-443, ss. 11A.119(a), 11A.123; 1999-49, s. 1; 2015-241, s. 14.30(c), (g), (n), (w); 2023-70, s. 2(g).)

#### **§ 143B-135.184. North Carolina Aquariums; purpose.**

The purpose of establishing and maintaining the North Carolina Aquariums is to promote an awareness, understanding, and appreciation of the diverse natural and cultural resources associated with North Carolina's oceans, estuaries, rivers, streams, and other aquatic environments. (1991, c. 320, s. 4; 1993, c. 321, s. 28(d); 1997-400, s. 6.3(b); 2015-241, s. 14.30(g).)

#### **§ 143B-135.186. Local advisory committees; duties; membership.**

Local advisory committees created pursuant to G.S. 143B-135.182(a)(2) shall assist each North Carolina Aquarium in its efforts to establish projects and programs and to assure adequate citizen-consumer input into those efforts. Members of these committees shall be appointed by the Secretary of Natural and Cultural Resources for three-year terms from nominations made by the Director of the Division of North Carolina Aquariums. Each committee shall select one of its members to serve as chairperson. Members of the committees shall serve without compensation for services or expenses. (1991, c. 320, s. 4; 1993, c. 321, ss. 28(d), 28(f); 1997-286, ss. 4; 1997-400, s. 6.3(b), (d); 1997-443, ss. 11A.119(a), 11A.123; 2015-241, ss. 14.30(g), (n); 2015-268, s. 5.4(c).)

#### **§ 143B-135.188. North Carolina Aquariums; fees; fund.**



(a) Fees. – The Secretary of Natural and Cultural Resources may adopt a schedule of fees for the aquariums and piers operated by the North Carolina Aquariums, including:

- (1) Gate admission fees.
- (2) Facility rental fees.
- (3) Educational programs.

(b) Fund. – The North Carolina Aquariums Fund is hereby created as a special fund. The North Carolina Aquariums Fund shall be used for the following purposes with respect to the aquariums and the pier operated by the Division of North Carolina Aquariums:

- (1) Repair, renovation, expansion, maintenance, and educational exhibit construction. Funds used for repair, renovation, and expansion projects may be transferred to a capital projects fund to account for use of the funds for each project.
- (2) Payment of the debt service and lease payments related to the financing of facility expansions, subject to G.S. 143B-135.190.
- (3) Matching of private funds that are raised for these purposes.
- (4) Marketing the North Carolina Aquariums.

(c) Disposition of Receipts. – All receipts derived from the collection of admissions charges and other fees and the lease or rental of property or facilities shall be credited to the aquariums' General Fund operating budget. At the end of each fiscal year, the Secretary may transfer from the North Carolina aquariums' General Fund operating budget to the North Carolina Aquariums Fund an amount not to exceed the sum of the following:

- (1) One million five hundred thousand dollars (\$1,500,000).
- (2) The amount needed to cover the expenses described by subdivision (2) of subsection (b) this section.
- (3) Any donations, gifts, and devises received by the North Carolina aquariums.

(d) Approval. – The Secretary may approve the use of the North Carolina Aquariums Fund for repair and renovation projects at the aquariums-related facilities that comply with the following:

- (1) The total project cost is less than five hundred thousand dollars (\$500,000).
- (2) The project meets the requirements of G.S. 143C-8-13(a).
- (3) The project is paid for from funds appropriated to the Fund.
- (4) The project does not obligate the State to provide increased recurring funding for operations.

(e) Repealed by Session Laws 2015-286, s. 4.12(d), effective October 22, 2015.

(f) Report. – The Department shall submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Aquariums Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (1997-286, s. 5; 1997-400, s. 6.3(b); 1997-443, s. 11A.119(b); 1999-49, s. 2; 2002-159, s. 46; 2005-276, s. 12.10; 2012-142, s. 12.5(a); 2013-413, s. 42(a); 2014-100, s. 14.2C; 2014-115, s. 17; 2015-241, s. 14.30(g), (n); 2015-268, s. 5.4(d); 2015-286, s. 4.12(d); 2016-94, s. 16.6(b); 2017-57, ss. 14.3(h), 36.12(e); 2021-180, ss. 14.3(a), 14.3A(a).)

#### **§ 143B-135.190. Satellite areas prohibited absent General Assembly authorization.**

Notwithstanding any other provision of law, State funds shall not be used for any of the following purposes unless specifically authorized by the General Assembly:

- (1) Construction of any satellite area.
- (2) Commencement of any capital project in connection with the construction or acquisition of any satellite area.
- (3) Operation of any satellite area.

For purposes of this section, the term "satellite area" means any property or facility that is to be operated by the Division of North Carolina Aquariums that is located somewhere other than on the site of the aquariums at Pine Knoll Shores, Roanoke Island, and Fort Fisher. (2012-142, s. 12.5(c); 2015-241, s. 14.30(g).)

Part 38. North Carolina Parks and Recreation Authority.

**§ 143B-135.200. North Carolina Parks and Recreation Authority; creation; powers and duties.**

The North Carolina Parks and Recreation Authority is created, to be administered by the Department of Natural and Cultural Resources. The North Carolina Parks and Recreation Authority shall have at least the following powers and duties:

- (1) To receive public and private donations, appropriations, grants, and revenues for deposit into the Parks and Recreation Trust Fund.
- (2) To allocate funds for land acquisition from the Parks and Recreation Trust Fund.
- (3) To allocate funds for repairs, renovations, improvements, construction, and other capital projects from the Parks and Recreation Trust Fund.
- (4) To solicit financial and material support from public and private sources.
- (5) To develop effective public and private support for the programs and operations of the parks and recreation areas.
- (6) To consider and to advise the Secretary of Natural and Cultural Resources on any matter the Secretary may refer to the North Carolina Parks and Recreation Authority. (1995, c. 456, s. 1; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(h), (o).)

**§ 143B-135.202. North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.**

(a) Membership. – The North Carolina Parks and Recreation Authority shall consist of nine members. The members shall include persons who are knowledgeable about park and recreation issues in North Carolina or with expertise in finance. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:

- (1) One member appointed by the Governor.
- (2) One member appointed by the Governor.
- (3) One member appointed by the Governor.
- (4) One member appointed by the Governor.
- (5) One member appointed by the Governor.
- (6) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- (7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- (8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(b) Terms. – Members shall serve staggered terms of office of three years. Members shall serve no more than two consecutive three-year terms. After serving two consecutive three-year terms, a member is not eligible for appointment to the Authority for at least one year after the expiration date of that member's most recent term. Upon the expiration of a three-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The terms of members appointed under subdivisions (1), (6), and (8) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three, with the initial appointments expiring July 1, 2022. The terms of members appointed under subdivisions (2), (3), and (4) of subsection (a) of this section shall expire on July 1 of years that follow by one year those years that are evenly divisible by three, with the initial appointments expiring July 1, 2020. The terms of members appointed under subdivisions (5), (7), and (9) of subsection (a) of this section shall expire on July 1 of years that precede by one year those years that are evenly divisible by three, with the initial appointments expiring July 1, 2021.

(c) Chair. – The Governor shall appoint one member of the North Carolina Parks and Recreation Authority to serve as Chair.

(d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority shall be filled by the appointing authority responsible for making the appointment to that position as provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(e) Removal. – The Governor may remove, as provided in Article 10 of Chapter 143C of the General Statutes any member of the North Carolina Parks and Recreation Authority appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General Assembly may remove any member of the North Carolina Parks and Recreation Authority appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.

(f) Compensation. – The members of the North Carolina Parks and Recreation Authority shall receive per diem and necessary travel and subsistence expenses according to the provisions of G.S. 138-5.

(g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at least quarterly at a time and place designated by the Chair.

(h) Quorum. – A majority of the North Carolina Parks and Recreation Authority shall constitute a quorum for the transaction of business.

(i) Staff. – All clerical and other services required by the North Carolina Parks and Recreation Authority shall be provided by the Secretary of Natural and Cultural Resources. (1995, c. 456, s. 1; 1996, 2nd Ex. Sess., c. 15, s. 16.1; 1997-443, s. 11A.119(a); 1997-496, s. 10; 2001-424, s. 19.3(a); 2006-203, s. 105; 2007-437, s. 2; 2013-360, s. 14.5(a); 2015-241, s. 14.30(h), (o); 2019-32, s. 2.)

#### Part 39. North Carolina Zoological Park.

##### **§ 143B-135.204. Powers and duties of the Secretary.**

(a) Operation of Park. – The Secretary of the Department of Natural and Cultural Resources may adopt rules governing the operation of the Zoological Park, including rules regulating its use and enjoyment by the public. The Department must provide and maintain recycling bins for the collection and recycling of newspaper, aluminum cans, glass containers, and recyclable plastic beverage containers at Zoological Park.

(b) Park Property. – The Secretary of the Department of Natural and Cultural Resources may acquire, dispose of, and develop Zoological Park property, both real and personal. A sale, lease, donation, or trade under this subsection must be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums. (2019-241, s. 1(b); 2023-46, s. 13; 2023-70, s. 7(a).)

**§ 143B-135.205. North Carolina Zoological Park Council – creation; powers and duties.**

There is hereby created the North Carolina Zoological Park Council of the Department of Natural and Cultural Resources. The North Carolina Zoological Park Council shall have the following functions and duties:

- (1) To advise the Secretary on the basic concepts of and for the Zoological Park, including conceptual plans for the Zoological Park and its buildings.
- (2) To advise on the construction, furnishings, equipment and operations of the North Carolina Zoological Park.
- (3) To recommend admission fees for the approval of the Secretary of Natural and Cultural Resources as provided in G.S. 143B-135.213.
- (4) To recommend programs to promote public appreciation of the North Carolina Zoological Park.
- (5) To disseminate information on animals and the park as deemed necessary.
- (6) To develop effective public support of the North Carolina Zoological Park through whatever means are desirable and necessary.
- (7) To solicit financial and material support from various private sources within and without the State of North Carolina.
- (8) To advise the Secretary of Natural and Cultural Resources upon any matter the Secretary may refer to it. (1973, c. 1262, s. 83; 1977, c. 771, s. 4; 1981, c. 278, s. 2; 1989, c. 727, s. 218(147); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(i), (p); 2023-70, s. 7(b).)

**§ 143B-135.207. North Carolina Zoological Park Council – members; selection; removal; chairman; compensation; quorum; services.**

The North Carolina Zoological Park Council of the Department of Natural and Cultural Resources shall consist of 15 members appointed by the Governor, one of whom shall be the Chairman of the Board of Directors of the North Carolina Zoological Society.

At the end of the respective terms of office of the initial members of the Council, the Governor, to achieve staggered terms, shall appoint five members for terms of two years, five members for terms of four years and five members for terms of six years. Thereafter, the appointment of their successors shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 1262, s. 84; 1977, c. 771, s. 4; 1979, c. 30, s. 1; 1989, c. 727, s. 218(148); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(i), (p).)

**§ 143B-135.209. North Carolina Zoo Fund.**

(a) Fund. – The North Carolina Zoo Fund is created as a special fund. The North Carolina Zoo Fund shall be used for the following types of projects and activities at the North Carolina Zoological Park and to match private funds raised for these projects and activities:

- (1) Repair, renovation, expansion, maintenance, and educational exhibit construction. Funds used for repair, renovation, and expansion projects may be transferred to a capital projects fund to account for use of the funds for each project.
- (2) Renovations of exhibits in habitat clusters, visitor services facilities, and support facilities (including greenhouses and temporary animal holding areas).
- (3) The acquisition, maintenance, or replacement of tram equipment as required to maintain adequate service to the public.
- (4) Marketing the North Carolina Zoological Park.

(b) Disposition of Receipts. – All receipts derived from the collection of admissions charges and other fees, the lease or rental of property or facilities, and the disposition of products of the land or structures shall be credited to the North Carolina Zoological Park's General Fund operating budget. At the end of each fiscal year, the Secretary may transfer from the North Carolina Zoological Park's General Fund operating budget to the North Carolina Zoo Fund an amount not to exceed the sum of one million five hundred thousand dollars (\$1,500,000) and any donations, gifts, and devises received by the North Carolina Zoological Park.

(c) Approval. – The Secretary may approve the use of the North Carolina Zoo Fund for repair and renovation projects at the North Carolina Zoological Park that comply with the following:

- (1) The total project cost is less than five hundred thousand dollars (\$500,000).
- (2) The project meets the criteria to be classified as a repair or renovation under G.S. 143C-8-13(a).
- (3) The project is paid for from funds appropriated to the Fund.
- (4) The project does not obligate the State to provide increased recurring funding for operations.

(d) Report. – The Department shall submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Zoo Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (1989, c. 752, s. 154; 1995, c. 324, s. 26.11; 1997-443, s. 11A.119(a); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2005-386, s. 5; 2010-142, s. 4; 2015-241, s. 14.30(i), (p); 2016-94, s. 16.6(a); 2017-57, ss. 14.3(i), 36.12(f); 2021-180, ss. 14.3(b), 14.3A(b); 2023-70, s. 7(c).)

**§ 143B-135.210. Right to receive gifts.**

In order to carry out the purposes of this Part, the Council and the Secretary of Natural and Cultural Resources are authorized to acquire by gift or will, absolutely or in trust, from individuals, corporations, or any other source money or other property, or any interests in property, which may

be retained, sold or otherwise used to promote the purposes of this Part. The use of gifts shall be subject to such limitations as may be imposed thereon by donors, notwithstanding any other provisions of this Part. (1969, c. 1104, s. 8; 2015-241, s. 14.30(j), (q); 2023-70, s. 7(d).)

**§ 143B-135.211. Tax exemption for gifts to North Carolina Zoological Park.**

All gifts made to the North Carolina Zoological Park for the purposes of this Part shall be exempt from every form of taxation including, but not by the way of limitation, ad valorem, intangible, gift, inheritance and income taxation. Proceeds from the sale of any property acquired under the provisions of this Part shall be deposited in the North Carolina State treasury and shall be credited to the North Carolina Zoological Park. (1969, c. 1104, s. 9; 1973, c. 1262, s. 85; 2015-241, ss. 14.30(j), (q).)

**§ 143B-135.212. Cities and counties.**

Cities and counties are hereby authorized to expend funds derived from nontax sources and to make gifts of surplus property, to assist in carrying out the purposes of this Part. (1969, c. 1104, s. 10; 2015-241, ss. 14.30(j), (q).)

**§ 143B-135.213. Sources of funds.**

(a) It is the intent of this Part that the funds for the creation, establishment, construction, operation and maintenance of the North Carolina Zoological Park shall be obtained primarily from private sources; however, the Secretary of Natural and Cultural Resources is hereby authorized to receive and expend such funds as may from time to time become available by appropriation or otherwise from the State of North Carolina; provided, that the Secretary shall not in any manner pledge the faith and credit of the State of North Carolina for any of its purposes.

(b) The Secretary of Natural and Cultural Resources is authorized to establish and set admission fees which are reasonable and consistent with the purpose and function of the North Carolina Zoological Park, as recommended by the Council.

(c) Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Secretary of Natural and Cultural Resources may dispose of any exhibit, exhibit component, or object from the collections of the North Carolina Zoological Park by sale, lease, donation, or trade. A sale, lease, donation, or trade under this subsection shall be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums. After deducting the expenses attributable to the sale or lease, the net proceeds of any sale or lease shall be credited to the North Carolina Zoo Fund. (1969, c. 1104, s. 11; 1973, c. 1262, s. 85; 1977, c. 771, s. 4; 1981, c. 278, s. 1; 1989, c. 727, s. 218(101); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(j), (q); 2017-57, s. 14.3(j); 2023-70, s. 7(e).)

**§ 143B-135.214. Powers of Department regarding certain fee negotiations, contracts, and capital improvements.**

(a) The exception for the North Carolina Zoological Park set forth in G.S. 143-341(3) shall apply only to projects requiring the estimated expenditure of public money of two million dollars (\$2,000,000) or less. The Department of Natural and Cultural Resources shall, with respect to the design, construction, or renovation of buildings, utilities, and other property developments of the North Carolina Zoological Park that fall below that threshold:

- (1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.
  - (2) Develop procedures governing the responsibilities of the Department to perform the duties of the Department of Administration under G.S. 133-1.1(d) and G.S. 143-341(3).
  - (3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the Department shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.
- (b) The Department shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.
- (c) A contract may not be divided for the purpose of evading the monetary limit under this section.
- (d) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded pursuant to this section.
- (e) This section shall not exempt any capital improvement project from review and approval as may be required by law by the entity having jurisdiction over the subject property.
- (f) The Department shall annually report to the State Building Commission the following:
- (1) A list of projects governed by this section.
  - (2) The estimated cost of each project along with the actual cost.
  - (3) The name of each person awarded a contract under this section.
  - (4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).
- (g) Unless clearly indicated otherwise, nothing in this section is intended to relieve the Department from the obligations imposed by Article 3 of Chapter 143 of the General Statutes. (2017-57, s. 36.8(b); 2023-70, s. 7(f).)

Part 40. North Carolina State Museum of Natural Sciences.

**§ 143B-135.215. Commission created; membership.**

There is created an Advisory Commission for the North Carolina State Museum of Natural Sciences which shall determine its own organization. It shall consist of at least nine members, which shall include the Director of the North Carolina State Museum of Natural Sciences, the Commissioner of Agriculture, the State Geologist and Secretary of Natural and Cultural Resources, the Director of the Institute of Fisheries Research of the University of North Carolina, the Director of the Wildlife Resources Commission, the Superintendent of Public Instruction, or qualified representative of any or all of the above-named members, and at least three persons representing the East, the Piedmont, and the Western areas of the State. Members appointed by the Governor shall serve for four-year staggered terms. Terms shall begin on 1 September. Members appointed by the Governor shall not serve more than three consecutive four-year terms. Any member may be removed by the Governor for cause. (1961, c. 1180, s. 1; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(119); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1993, c. 561, ss. 116(b), (f); 1997-443, s. 11A.119(a); 2007-495, s. 4(a); 2015-241, ss. 14.30(k), (r).)

**§ 143B-135.217. Duties of Commission; meetings, formulation of policies and recommendations to Governor and General Assembly.**

It shall be the duty of the Advisory Commission for the North Carolina State Museum of Natural Sciences to meet at least twice each year, to formulate policies for the advancement of the Museum, to make recommendations to the Governor and to the General Assembly concerning the Museum, and to assist in promoting and developing wider and more effective use of the North Carolina State Museum of Natural Sciences as an educational, scientific and historical exhibit. (1961, c. 1180, s. 2; 1993, c. 561, ss. 116(b), (f); 2015-241, ss. 14.30(k).)

**§ 143B-135.219. No compensation of members; reimbursement for expenses.**

Members of the Advisory Commission shall serve without compensation and shall be reimbursed for actual expenses incurred while in attendance at meetings of the Commission at the same rate as that established for reimbursement of State employees. Payment for such reimbursement for actual expense shall be made from the Contingency and Emergency Fund. (1961, c. 1180, s. 3; 1993, c. 561, s. 116(b); 2015-241, s. 14.30(k).)

**§ 143B-135.221. Reports to General Assembly.**

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division on or before October 1 of each year. (1961, c. 1180, s. 4; 1993, c. 561, ss. 116(b), (f); 2010-142, s. 5; 2015-241, ss. 14.30(k), (r); 2017-57, s. 14.1(l).)

**§ 143B-135.223. Museum of Natural Sciences; disposition of objects.**

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of Natural and Cultural Resources may sell, lease, donate, or trade any object from the collection of the Museum of Natural Sciences when it would be in the best interest of the Museum to do so. Any sale, lease, donation, or trade under this section shall be conducted in accordance with generally accepted practices for accredited museums. If an object is sold or leased, the net proceeds of the sale or lease shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the Museum's collections or exhibits. (1991 (Reg. Sess., 1992), c. 900, s. 175; 1997-261, s. 24; 1998-212, s. 21(a); 2015-241, s. 14.30(k), (r); 2023-70, s. 2(h).)

**§ 143B-135.225. Museum of Natural Sciences; fees; fund.**

(a) Fund. – The North Carolina Museum of Natural Sciences Fund is created as a special fund. The North Carolina Museum of Natural Sciences Fund shall be used for repair, renovation, expansion, maintenance, and educational exhibit construction at the North Carolina Museum of Natural Sciences and to match private funds raised for these projects.

(b) Certain Admission Fees Permitted; Disposition of Receipts. – The Museum may collect a charge for special exhibitions, special events, and other temporary attractions. All Museum receipts shall be credited to the North Carolina Museum of Natural Sciences' General Fund operating budget. At the end of each fiscal year, the Secretary may transfer from the North Carolina Museum of Natural Sciences' General Fund operating budget to the North Carolina Museum of Natural Sciences Fund an amount not to exceed one million dollars (\$1,000,000).



(c) Approval. – The Secretary may approve the use of the North Carolina Museum of Natural Sciences Fund for repair and renovation projects at the North Carolina Museum of Natural Sciences recommended by the Advisory Commission that comply with the following:

- (1) The total project cost is less than three hundred thousand dollars (\$300,000).
- (2) The project meets the requirements of G.S. 143C-8-13(a).

(d) Report. – The Department shall submit to the House and Senate appropriations committees with jurisdiction over natural and economic resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Museum of Natural Sciences Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2015-241, s. 14.30(r); 2015-268, s. 5.4(e); 2017-57, s. 36.12(g).)

### **§ 143B-135.227. North Carolina Science Museums Grant Program.**

(a) Grant Program. – The North Carolina State Museum of Natural Sciences (hereinafter "Museum of Natural Sciences") shall administer the North Carolina Science Museums Grant Program as a competitive grant program. Any museum in the State may apply for a grant under the Program, but grant funds shall be awarded only if the museum meets the criteria established in subsection (d) of this section. No museum shall be guaranteed a grant under the Program.

(b) Transition Requirements. – For the 2016-2017 fiscal year, the Museum of Natural Sciences shall award grants for a one-year period as set forth in this subsection. Any museum may submit an application for funding. If the museum received funding during the 2015-2016 fiscal year under the Grassroots Science Program, and the Museum of Natural Sciences determines those museums meet the criteria for funding established in subsection (d) of this section, it shall be funded at a level determined as set forth in subsection (b1) of this section. Funds remaining after funding of eligible 2015-2016 fiscal year Grassroots Science Program recipients may be awarded to other museums under the criteria set forth in subsections (b1), (d), and (e) of this section.

(b1) Tier-Based Funding Preferences. – The Museum of Natural Sciences shall reserve seven hundred fifty thousand dollars (\$750,000) for the purpose of awarding grants to museums located in development tier one counties and six hundred thousand dollars (\$600,000) for museums located in development tier two counties. The development tier designation of a county shall be determined as provided in G.S. 143B-437.08. If, after the initial awarding of grants to all museum applicants who meet the eligibility criteria provided for in subsection (d) of this section, there are funds remaining in any development tier category, the Museum of Natural Sciences may reallocate those funds to another development tier category. The maximum amount of each grant awarded in any fiscal year shall be (i) seventy-five thousand dollars (\$75,000) for a museum in a development tier one county; (ii) sixty thousand dollars (\$60,000) for a museum in a development tier two county; and (iii) fifty thousand dollars (\$50,000) for a museum in a development tier three county. For purposes of this subsection, a museum located in a rural census tract, as defined in G.S. 143B-472.127(a)(2), in a development tier two or development tier three county shall be subject to the maximum grant amount for a development tier one county.

(c) Beginning July 1, 2017, it is the intent of the General Assembly that the Museum of Natural Sciences shall award grants under this program for a two-year period. For each two-year grant cycle, the Museum of Natural Sciences shall reserve the amounts for development tier one and tier two counties and shall award the maximum grant amounts for each year of the grant cycle as provided in subsection (b1) of this section. The tier-based funding preferences in subsection (b1) of this section and the requirements of subsections (d) and (e) of this section shall apply to the

two-year grants. If there are funds remaining after the awarding of grants to all museum applicants meeting the eligibility criteria set forth in subsection (d) of this section in any grant cycle, the remaining balance of funds shall be distributed equally to all museum applicants awarded funds during that grant cycle without regard to the maximum grant amounts established in subsection (b1) of this section.

(d) To be eligible to receive a grant under the competitive grant program, a museum shall demonstrate:

- (1) That it is a science center or museum or a children's museum that is physically located in the State.
- (2) That it has been open, operating, and exhibiting science or science, technology, engineering, and math (STEM) education objects to the general public at least 120 days of each year for the past two or more years.
- (3) That it is either (i) a nonprofit organization that is exempt from federal income taxes pursuant to section 501(c)(3) of the Internal Revenue Code or (ii) an organization that received funding in fiscal year 2015-2016 from the Grassroots Science Program.
- (4) That it has on its staff at least one full-time professional person.
- (5) That its governing body has adopted a mission statement that includes language that shows the museum has a concentration on science or STEM education.
- (6) In its application, in a format to be determined by the Museum of Natural Sciences, a detailed plan for (i) the proposed use of the funds and (ii) measurements to demonstrate at the end of the grant cycle that the use of the funds has had the projected results.

(e) The Museum of Natural Sciences shall, in awarding grants under this section, give priority to museums that:

- (1) When compared to other museum applicants:
  - a. Are located in counties that are more economically distressed according to the annual rankings prepared by the Department of Commerce pursuant to G.S. 143B-437.08(c).
  - b. Generate a larger portion of their operating funds from non-State revenue.
  - c. Have a higher attendance-to-population ratio.
- (2) Partner with other museums in the State to share exhibits, programs, or other activities.
- (3) Are not located in close proximity to other science or STEM education museums.

(f) Of the funds appropriated to the North Carolina Science Museums Grant Program each year, the Department may use no more than the greater of one hundred thousand dollars (\$100,000) or four percent (4%) as its operating expenses for the Program. In addition to administering the Grant Program, positions created with these funds shall also (i) serve as liaisons between grant applicants or recipients and the Museum to answer questions and assist with grant applications; (ii) foster collaboration between the Museum and grant recipients with respect to education program development and the loaning of exhibits from the Museum or between grantee institutions; and (iii) undertake other duties in support of the Grant Program at the discretion of the Director of the Museum. (2015-241, s. 15.18A(b); 2016-94, s. 16.5; 2017-57, s. 14.11; 2022-74, s. 14.3.)

**§ 143B-135.229. North Carolina Museum of Natural Sciences' satellite museums.**

(a) The Department of Natural and Cultural Resources shall establish and administer the North Carolina Museum of Natural Sciences at Whiteville in Columbus County as a satellite museum of the North Carolina State Museum of Natural Sciences.

(b) The Department of Natural and Cultural Resources may enter into agreements with nonprofit organizations to establish satellite museums of the North Carolina State Museum of Natural Sciences that are administered by the nonprofit organizations and meet the requirements of G.S. 143B-135.227(d)(1)-(5). (1998-212, s. 14.1(a); 2015-241, s. 14.30(k), (r); 2019-241, s. 6.)

Part 41. North Carolina Land and Water Fund.

**§ 143B-135.230. Purpose.**

(a) It is the intent of the General Assembly to support and accelerate the State's programs of land conservation and protection and farmland and open space preservation and coordination to find means to assure and increase funding for these programs, to support the long-term management of conservation lands acquired by the State, and to improve the coordination, efficiency, and implementation of the various State and local land protection programs operating in North Carolina.

(b) It is the further intent of the General Assembly that moneys from the Fund created under this Part shall be used to help finance projects that enhance or restore degraded surface waters; protect and conserve surface waters, including drinking supplies, and contribute toward a network of riparian buffers and greenways for environmental, educational, and recreational benefits; provide buffers around military bases to protect the military mission; acquire land that represents the ecological diversity of North Carolina; and acquire land that contributes to the development of a balanced State program of historic properties.

(c) It is the further intent of the General Assembly that the State's lands should be protected in a manner that minimizes any adverse impacts on the ability of local governments to carry out their broad mandates. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2003-340, s. 1.3; 2007-549, s. 1; 2011-374, s. 2.1; 2014-100, s. 14.8(a); 2015-241, s. 14.30(k1); 2020-78, s. 8.4(a), (b); 2023-70, s. 9(c).)

**§ 143B-135.232. Definitions.**

The following definitions apply in this Part:

- (1) Repealed by Session Laws 2019-32, s. 1(a), effective July 1, 2019.
- (2) Fund. – The North Carolina Land and Water Fund created pursuant to this Part.
- (3) Land. – Real property and any interest in, easement in, or restriction on real property.
- (4) Local government unit. – Defined in G.S. 159G-20.
- (5) Trustees. – The trustees of the North Carolina Land and Water Fund. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2003-340, s. 1.3; 2005-454, s. 4; 2006-252, s. 2.13; 2014-100, s. 14.8(b); 2015-241, s. 14.30(k1), (r1); 2019-32, s. 1(a); 2023-70, s. 9(e).)

**§ 143B-135.234. North Carolina Land and Water Fund.**

(a) Fund Established. – The North Carolina Land and Water Fund is established as a special revenue fund to be administered by the Department of Natural and Cultural Resources. The North Carolina Land and Water Fund shall also be known by its original name, the Clean Water

Management Trust Fund. The Fund receives revenue from the following sources and may receive revenue from other sources:

- (1) Annual appropriations.
- (2) Special registration plates under G.S. 20-81.12.
- (3) Other special registration plates under G.S. 20-79.7.
- (4) Hazard mitigation funds from the Federal Emergency Management Agency and other agencies.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance projects to clean up or prevent surface water pollution and for land preservation in accordance with this Part. Revenue in the Fund may be used for any of the following purposes:

- (1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.
- (2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply reservoirs.
- (3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.
- (4) To restore previously degraded lands to reestablish their ability to protect water quality.
- (5) To facilitate planning that targets reductions in surface water pollution.
- (6) To finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems.
- (7) To prevent encroachment, provide buffers, and preserve natural habitats around military installations or military training areas, or for State matching funds of federal initiatives that provide funds to prevent encroachment, provide buffers, and preserve natural habitats around military installations or military training areas.
- (8) To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes.
- (9) To acquire land that contributes to the development of a balanced State program of historic properties.
- (10), (11) Repealed by Session Laws 2015-241, s. 14.4, effective July 1, 2015.
- (12) To protect and restore floodplains and wetlands for the purpose of storing water, reducing flooding, improving water quality, providing wildlife and aquatic habitat, and providing recreational opportunities.

(d) Repealed by Session Laws 2015-241, s. 14.4, effective July 1, 2015.

(e) Administrative Expenses. – Of the funds appropriated to the Fund, the Trustees may use no more than three percent (3%) for operating expenses associated with programs and activities authorized by this Part. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2001-424, s. 32.17; 2003-340, s. 1.3; 2004-179, s. 4.4; 2005-454, s. 5; 2007-549, s. 2; 2011-145, s. 13.26(b); 2011-374, s. 2.2; 2013-360, s. 14.3(d); 2014-100, ss. 14.13A(b), 14.21(b); 2015-241, ss. 14.4, 14.30(k1), (r1), (w); 2017-197, s. 4.12; 2019-32, s. 1(a); 2020-69, s. 5.1; 2023-70, s. 9(e); 2023-134, s. 14.8.)

**§ 143B-135.236. North Carolina Conservation Easement Endowment Fund.**

(a) The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment Fund shall consist of a portion of grant funds transferred by the Trustees to the Endowment Fund from the North Carolina Land and Water Fund for stewardship activities related to projects for conservation easements funded from the North Carolina Land and Water Fund. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Board of Trustees. No expenditure or disbursement shall be made from the principal of the Endowment Fund.

(b) The Trustees may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State. (2008-107, s. 12.9(a); 2015-241, s. 14.30(k1); 2023-70, s. 9(e).)

**§ 143B-135.238. Grant requirements.**

(a) Eligible Applicants. – Any of the following are eligible to apply for a grant from the Fund for the purpose of protecting and enhancing water quality:

- (1) A State agency.
- (2) A local government unit.
- (3) A nonprofit corporation whose primary purpose is the conservation, preservation, or restoration of our State's cultural, environmental, or natural resources.

(b) Criteria. – The criteria developed by the Trustees under G.S. 143B-135.242 apply to grants made under this Part.

(c) Matching Requirement. – The Board of Trustees shall establish matching requirements for grants awarded under this Part. This requirement may be satisfied by the donation of land to a public or private nonprofit conservation organization as approved by the Board of Trustees. The Board of Trustees may also waive the requirement to match a grant pursuant to guidelines adopted by the Board of Trustees.

(d) Restriction. – No grant shall be awarded under this Part for any of the following purposes:

- (1) To satisfy compensatory mitigation requirements under 33 USC § 1344 or G.S. 143-214.11.

- (2) To any project receiving State funds authorized by G.S. 143-215.71 for the nonfederal share of a grant under the Environmental Quality Incentives Program.

(e) **Withdrawal.** – An award of a grant under this Part which will require a construction contract is withdrawn if the grant recipient fails to enter into a construction contract for the project within one year after the date of execution of the grant contract, unless the Trustees find that the applicant has good cause for the failure. If the Trustees find good cause for a recipient's failure, the Trustees must set a date by which the recipient must take action or forfeit the grant. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2003-340, s. 1.3; 2005-454, s. 6; 2006-178, s. 1; 2007-185, s. 1; 2014-100, s. 14.8(c); 2015-241, s. 14.30(k1), (r1); 2020-18, s. 12(b); 2023-70, s. 8.)

**§ 143B-135.240. North Carolina Land and Water Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.**

(a) **Board of Trustees Established.** – There is established the North Carolina Land and Water Fund Board of Trustees. The North Carolina Land and Water Fund Board of Trustees shall be administratively located within the Department of Natural and Cultural Resources.

(b) **Membership.** – The North Carolina Land and Water Fund Board of Trustees shall be composed of nine members appointed to three-year terms as follows:

- (1) Two members appointed by the Governor to terms that expire on July 1 of years that precede by one year those years that are evenly divisible by three.
- (2) Two members appointed by the Governor to terms that expire on July 1 of years that follow by one year those years that are evenly divisible by three.
- (3) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
- (5) Repealed by Session Laws 2019-32, s. 1(a), effective July 1, 2019.
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.
- (7) Repealed by Session Laws 2019-32, s. 1(a), effective July 1, 2019.
- (8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
- (9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

The initial terms of members appointed pursuant to subdivisions (2) and (8) of this subsection shall expire July 1, 2020. The initial terms of members appointed pursuant to subdivisions (1) and (4) of this subsection shall expire July 1, 2021. The initial terms of members appointed pursuant to subdivisions (3), (6), and (9) of this subsection shall expire July 1, 2022.

(c) **Qualifications.** – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. When appointing members of the Authority, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of

Representatives shall give consideration to adequate representation from the various regions of the State and shall give consideration to the appointment of members who are knowledgeable in any of the following areas:

- (1) Acquisition and management of natural areas.
  - (2) Conservation and restoration of water quality.
  - (3) Wildlife and fisheries habitats and resources.
  - (4) Environmental management.
  - (5) Historic preservation.
- (d) **Limitation on Length of Service.** – No member of the Board of Trustees shall serve more than two consecutive three-year terms or a total of 10 years.
- (e) **Chair.** – The Governor shall appoint one member to serve as Chair of the Board of Trustees.
- (e1) **Removal.** – Members of the Board of Trustees may be removed pursuant to G.S. 143B-16.
- (f) **Vacancies.** – An appointment to fill a vacancy on the Board of Trustees created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.
- (g) **Frequency of Meetings.** – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.
- (h) **Quorum.** – A majority of the membership of the Board of Trustees constitutes a quorum for the transaction of business.
- (i) **Per Diem and Expenses.** – Each member of the Board of Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 1997-443, s. 11A.119(a); 2001-474, s. 10; 2003-340, s. 1.3; 2003-422, s. 1; 2006-178, s. 2; 2013-360, s. 14.3(e); 2014-100, s. 14.8(d); 2015-241, s. 14.30(k1), (r1), (w); 2019-32, s. 1(a); 2023-70, s. 9(e).)

**§ 143B-135.242. North Carolina Land and Water Fund Board of Trustees: powers and duties.**

- (a) **Allocate Grant Funds.** – The Trustees shall allocate moneys from the Fund as grants. A grant may be awarded only for a project or activity that satisfies the criteria and furthers the purposes of this Part.
- (b) **Develop Grant Criteria.** – The Trustees shall develop criteria for awarding grants under this Part. The criteria developed shall include consideration of the following:
- (1) The significant enhancement and conservation of water quality in the State.
  - (2) The objectives of the various basinwide management plans for the State's river basins and watersheds.
  - (2a) The objectives of basinwide integrated water management plans developed and adopted at the regional level.
  - (3) The promotion of regional integrated ecological networks insofar as they affect water quality.
  - (4) The specific areas targeted as being environmentally sensitive.
  - (5) The geographic distribution of funds as appropriate.

- (6) The preservation of water resources with significant recreational or economic value and uses.
- (7) The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses.
- (8) Water supply availability and the public's need for resources adequate to meet demand for essential water uses. Criteria developed pursuant to this subdivision may include the value of preserving capacity by preventing sedimentation and nutrient pollution.
- (9) The protection or preservation of land with outstanding natural or cultural heritage values.
- (10) The protection or preservation of land that contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon; contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature; or represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.
- (11) The protection or preservation of a site or structure that is of such historical significance as to be essential to the development of a balanced State program of historic properties.
- (12) The rate and likelihood of land-use change and development, where such data is available.
- (13) Priority shall be given to projects that are part of a comprehensive, long-term land-use plan by a State agency, local government unit, or a nonprofit corporation whose primary purpose is the conservation, preservation, or restoration of the State's cultural, environmental, or natural resources.

(c) **Develop Additional Guidelines.** – The Trustees may develop guidelines in addition to the grant criteria consistent with and as necessary to implement this Part.

(d) **Acquisition of Land.** – The Trustees may acquire land by purchase, negotiation, gift, or devise. Any acquisition of land by the Trustees must be reviewed and approved by the Council of State, unless the Council of State delegates approval authority, and deeds for land in fee simple absolute are subject to approval of the Attorney General before the acquisition can become effective. In determining whether to acquire land as permitted by this Part, the Trustees shall consider whether the acquisition furthers the purposes of this Part. Nothing in this section shall allow the Trustees to acquire land under the right of eminent domain.

(e) **Exchange of Land.** – The Trustees may exchange any land they acquire in carrying out the powers conferred on the Trustees by this Part.

(f) **Land Management.** – The Trustees may designate managers or managing agencies of the lands acquired under this Part.

(g) **Rule-making Authority.** – The Trustees may adopt rules to implement this Part. Chapter 150B of the General Statutes applies to the adoption of rules by the Trustees. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a), (c); 1999-237, s. 15.11; 2003-340, s. 1.3; 2004-179, s. 4.5; 2011-374, s. 2.4; 2013-360, s. 14.3(f); 2013-414, s. 58(b); 2014-3, s. 14.14(f); 2014-100, s. 14.8(e); 2015-241, s. 14.30(k1), (r1); 2019-32, s. 1(a); 2023-70, ss. 9(e), 10.)

**§ 143B-135.244. North Carolina Land and Water Fund: reporting requirement.**



The Chair of the Board of Trustees shall report no later than December 1 each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental Review Commission, the Subcommittees of the House of Representatives and Senate Appropriations Committees with jurisdiction over natural and economic resources, and the Fiscal Research Division of the General Assembly regarding the implementation of this Part. The report shall include a list of the projects awarded grants from the Fund for the previous 12-month period. The list shall include for each project a description of the project, the amount of the grant awarded for the project, and the total cost of the project. For projects funded for the purpose set forth in G.S. 143B-135.234(c)(12), the report shall also include the amount of flood storage capacity enhanced or restored for each project. (1997-443, s. 7.10; 2002-148, s. 3; 2003-340, s. 1.3; 2015-241, s. 14.30(k1), (r1); 2017-57, s. 14.1(dd); 2021-180, s. 5.9(r); 2023-70, s. 9(e).)

**§ 143B-135.246. North Carolina Land and Water Fund: Executive Director and staff.**

The Secretary of Natural and Cultural Resources shall select and appoint a competent person in accordance with this section as Executive Director of the North Carolina Land and Water Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall serve as the chief administrative officer of the Trustees. Subject to the approval of the Secretary of Natural and Cultural Resources, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the Executive Director shall be fixed by the Secretary of Natural and Cultural Resources, and the Executive Director shall be allowed travel and subsistence expenses in accordance with G.S. 138-6. The Executive Director's salary and expenses shall be paid from the Fund. The term of office of the Executive Director shall be at the pleasure of the Secretary of Natural and Cultural Resources. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2001-424, s. 32.16(b); 2003-340, s. 1.3; 2013-360, s. 14.3(g); 2013-382, s. 9.1(c); 2015-241, s. 14.30(k1), (r1); 2019-32, s. 1(a); 2023-70, s. 9(e).)

**§ 143B-135.248. Repealed by Session Laws 2019-32, s. 1(a), effective July 1, 2019.**

Part 42. Nature Preserves Act.

**§ 143B-135.250. Short title.**

This Part shall be known as the Nature Preserves Act. (1985, c. 216, s. 1; 2015-241, ss. 14.30(k2), (r2).)

**§ 143B-135.252. Declaration of policy and purpose.**

(a) The continued population growth and land development in North Carolina have made it necessary and desirable that areas of natural significance be identified and preserved before they are destroyed. These natural areas are irreplaceable as laboratories for scientific research, as reservoirs of natural materials for uses that may not now be known, as habitats for plant and animal species and biotic communities, as living museums where people may observe natural biotic and environmental systems and the interdependence of all forms of life, and as reminders of the vital dependence of the health of the human community on the health of the other natural communities.

(b) It is important to the people of North Carolina that they retain the opportunity to maintain contact with these natural communities and environmental systems of the earth and to benefit from the scientific, aesthetic, cultural, and spiritual values they possess. The purpose of this

Part is to establish and maintain a State Registry of Natural Heritage Areas and to prescribe methods by which nature preserves may be dedicated for the benefit of present and future citizens of the State. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

**§ 143B-135.254. Definitions.**

As used in this Part, unless the context requires otherwise:

- (1) "Articles of dedication" means the writing by which any estate, interest, or right in a natural area is formally dedicated as a nature preserve as authorized in G.S. 143B-135.260.
- (2) "Dedicate" means to transfer to the State an estate, interest, or right in a natural area in any manner authorized in G.S. 143B-135.260.
- (3) "Natural area" means an area of land, water, or both land and water, whether publicly or privately owned, that (i) retains or has reestablished its natural character, (ii) provides habitat for rare or endangered species of plants or animals, (iii) or has biotic, geological, scenic, or paleontological features of scientific or educational value.
- (4) "Nature preserve" means a natural area that has been dedicated pursuant to G.S. 143B-135.260.
- (5) "Owner" means any individual, corporation, partnership, trust, or association, and all governmental units except the State, its departments, agencies or institutions.
- (6) "Registration" means an agreement between the Secretary and the owner of a natural area to protect and manage the natural area for its specified natural heritage resource values.
- (7) "Secretary" means the Secretary of Natural and Cultural Resources. (1985, c. 216, s. 1; 1989, c. 727, s. 218(68); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(k2), (r2).)

**§ 143B-135.256. Powers and duties of the Secretary.**

The Secretary shall:

- (1) Establish by rule the criteria for selection, registration, and dedication of natural areas and nature preserves.
- (2) Cooperate or contract with any federal, State, or local government agency, private conservation organization, or person in carrying out the purposes of this Part.
- (3) Maintain a Natural Heritage Program to provide assistance in the selection and nomination for registration or dedication of natural areas. The Program shall include classification of natural heritage resources, an inventory of their locations, and a data bank for that information. The Program shall cooperate with the Department of Agriculture and Consumer Services in the selection and nomination of areas that contain habitats for endangered and rare plant species, and shall cooperate with the Wildlife Resources Commission in the selection and nomination of areas that contain habitats for endangered and rare animal species. Information from the natural heritage data bank may be made available to public agencies and private persons for environmental assessment and land management purposes. Use of the inventory data for any purpose inconsistent

with the Natural Heritage Program may not be authorized. The Program shall include other functions as may be assigned for registration, dedication, and protection of natural areas and nature preserves.

- (4) Prepare a Natural Heritage Plan that shall govern the Natural Heritage Program in the creation of a system of registered and dedicated natural areas.
- (5) Publish and disseminate information pertaining to natural areas and nature preserves within the State.
- (6) Appoint advisory committees composed of representatives of federal, State, and local governmental agencies, scientific and academic institutions, conservation organizations, and private business, to advise him on the identification, selection, registration, dedication, and protection of natural areas and nature preserves.
- (7) Submit to the Governor, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division a biennial report on or before February 15 of odd-numbered years describing the activities of the past biennium and plans for the coming biennium, and detailing specific recommendations for action that the Secretary deems necessary for the improvement of the Program. (1985, c. 216, s. 1; 1987, c. 827, s. 152; 1997-261, s. 82; 2015-241, s. 14.30(k2), (r2); 2017-57, s. 14.1(mm).)

#### **§ 143B-135.258. Registration of natural areas.**

(a) The Secretary shall maintain a State Registry of voluntarily protected natural areas to be called the North Carolina Registry of Natural Heritage Areas. Registration of natural areas shall be accomplished through voluntary agreement between the owner of the natural area and the Secretary. State-owned lands may be registered by agreement with the agency to which the land is allocated. Registration agreements may be terminated by either party at any time, and termination removes the area from the Registry.

(b) A natural area shall be registered when an agreement to protect and manage the natural area for its specified natural heritage resource value has been signed by the owner and the Secretary. The owner of a registered natural area shall be given a certificate signifying the inclusion of the area in the Registry. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

#### **§ 143B-135.260. Dedication of nature preserves.**

(a) The State may accept the dedication of nature preserves on lands deemed by the Secretary to qualify as outstanding natural areas. Nature preserves may be dedicated by voluntary act of the owner. The owner of a qualified natural area may transfer fee simple title or other interest in land to the State. Nature preserves may be acquired by gift, grant, or purchase. Dedication of a preserve shall become effective only upon acceptance of the articles of dedication by the State. Articles of dedication shall be recorded in the office of the register of deeds in the county or counties in which the natural area is located.

(b) Articles of dedication may include any of the following:

- (1) Restrictions and other provisions relating to management, use, development, transfer, and public access, and any other restrictions and provisions as may be necessary or advisable to further the purposes of this Part.

- (2) Definitions, consistent with the purposes of this Part, of the respective rights and duties of the owner and of the State and procedures to be followed in case of violation of restrictions.
- (3) The recognition and creation of reversionary rights, transfers upon conditions or with limitations, and gifts over.
- (4) Varying provisions from one nature preserve to another in accordance with differences in the characteristics and conditions of the several areas.

(c) Subject to the approval of the Governor and Council of State, the State may enter into amendments of any articles of dedication upon finding that the amendment will not permit an impairment, disturbance, use, or development of the area inconsistent with the purposes of this Part. If the fee simple estate in the nature preserve is not held by the State under this Part, no amendment may be made without the written consent of the owner of the other interests therein. (1985, c. 216, s. 1; 2015-241, ss. 14.30(k2), (r2).)

**§ 143B-135.262. Nature preserves held in trust.**

Lands dedicated for nature preserves pursuant to this Part are held in trust by the State for those uses and purposes expressed in this Part for the benefit of the people of North Carolina. These lands shall be managed and protected according to regulations adopted by the Secretary. Lands dedicated as a nature preserve pursuant to G.S. 143B-135.260 may not be used for any purpose inconsistent with the provisions of this Part, or disposed of, by the State without a finding by the Governor and Council of State that the other use or disposition is in the best interest of the State. (1985, c. 216, s. 1; 2015-241, ss. 14.30(k2), (r2).)

**§ 143B-135.264. Dedication of state-owned lands to nature preserves; procedures.**

Subject to the approval of the Governor and Council of State, state-owned lands may be dedicated as a nature preserve. State-owned lands shall be dedicated by allocation pursuant to the provisions of G.S. 143-341(4)g. Lands dedicated pursuant to this section may be removed from dedication upon the approval of the Governor and Council of State. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

**§ 143B-135.266. Dedication of preserves by local governmental units.**

All local units of government may dedicate lands as nature preserves by transfer of fee simple title or other interest in land to the State. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

**§ 143B-135.268. Acquisition of land by State.**

All acquisitions or dispositions of an interest in land by the State pursuant to this Part shall be subject to the provisions of Chapter 146 of the General Statutes. (1985, c. 216, s. 1; 2015-241, ss. 14.30(k2), (r2).)

**§ 143B-135.270. Assessment of land subject to permanent dedication agreement.**

For purposes of taxation, privately owned land subject to a nature preserve dedication agreement shall be assessed on the basis of the true value of the land less any reduction in value caused by the agreement. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

**§ 143B-135.272. Access to information; fees.**

(a) The Secretary may establish fees to defray the costs associated with any of the following:

- (1) Responding to inquiries requiring customized environmental review services or the costs associated with developing, improving, or maintaining technology that supports an online interface for external users to access Natural Heritage Program data. The Secretary may reduce or waive the fee established under this subsection if the Secretary determines that a waiver or reduction of the fee is in the public interest.
- (2) Inventories of natural areas conducted under the Natural Heritage Program, conservation and protection planning, and informational programs for owners of natural areas, as defined in G.S. 143B-135.254.

(b) Fees collected under this section are receipts of the Department of Natural and Cultural Resources and shall be deposited in the special fund for the purpose of supporting the operations of the Natural Heritage Program. (2014-100, s. 14.13A(a); 2015-241, s. 14.30(k2), (r2); 2020-78, s. 8.3(a); 2023-70, s. 5.)

**§ 143B-135.273. Administration of the Conservation Tax Credit program.**

All duties and responsibilities related to stewardship and oversight of properties and interests for which tax credits were granted under the Conservation Tax Credit program for tax years beginning before January 1, 2014, and previously given to the Department of Environmental Quality or its predecessors are transferred to the Department of Natural and Cultural Resources. The Department of Natural and Cultural Resources shall exercise the duties and responsibilities transferred by this section through the Natural Heritage Program. (2020-78, s. 8.3(b).)