

2012 Emergency Management Legislative Summary

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Introduction

During the 2012 Session, the North Carolina General Assembly enacted significant legislation that consolidated, reorganized, and updated the state's emergency management statutes, extended the legal length of law enforcement and emergency management vehicles, and created the criminal offense of terrorism.

Modernize NC Emergency Management Act

[S.L. 2012-12 \(HB843\)](#), "Modernize NC Emergency Management Act," represents the most comprehensive update and reorganization of our state's emergency management statutes since their enactment over three decades ago. The legislation's primary purpose is to consolidate and reorganize the statutes that establish emergency management authorities for state and local governments currently found in Article 1 of G.S. Chapter 166A (North Carolina Emergency Management Act of 1977) and Article 36A of G.S. Chapter 14 (Riots and Civil Disorders). Chapter 166A was enacted in 1977 to update the old civil preparedness laws. Article 36A was enacted in 1969 during the height of the civil rights era. Article 1 of Chapter 166A defines responsibilities within State government for direction and control of the state's emergency management program, and authorizes cities and counties to establish local emergency

management programs (municipal emergency management programs are subject to coordination with the county). Article 36A authorizes cities and counties to enact ordinances imposing various restrictions and prohibitions during a locally declared state of emergency.

S.L. 2012-12 (HB843) amends these emergency management statutes in four primary ways:

First, the legislation consolidates and reorganizes Article 1 of Chapter 166A and relevant sections of Article 36A of Chapter 14 into a new Article 1A of Chapter 166A – which means that all state and local emergency management authorities and responsibilities are consolidated in one place in the general statutes. These statutes are also reorganized into logical sections and parts, making it easier to research and identify relevant laws and authorities.

Second, the legislation clarifies and makes uniform the terminology used throughout the emergency management statutes – for example, a state of emergency is now "declared" (under current law it is either "declared" or "proclaimed," resulting in either a "declaration" or a "proclamation"). More importantly, the legislation draws a clear distinction between a *state of emergency declaration* and a *disaster declaration* – the former being the declaration issued by either the governor or a city or county

local government official when there is an actual or imminent threat of an emergency, while the latter is a declaration issued by the governor based on the severity and impact of an emergency and which triggers state assistance programs. The terms “emergency” and “disaster” are similarly distinguished. Under the new law, an emergency is an actual or imminent “threat of widespread or severe damage, injury, or loss of life or property resulting from natural or man-made accidental, military, paramilitary, weather-related, or riot related case.”¹ In short, the threat event itself, while a disaster represents the degree and severity of the emergency’s impact as declared by the Governor.

Third, the legislation incorporates operational practices that have evolved in recent years, and clears up points of confusion under current law, including:

- Codifying existing operational practices of the NC Division of Emergency Management establishing clear authority for DEM to: maintain the state EOC and a 24-hour operations center; plan for emergencies at nuclear power facilities; and manage mutual aid.
- Eliminating prior statutory inconsistencies in the expiration date of a local state of emergency by simply providing that a local state of emergency remains effective until it is terminated by the issuing authority.
- Clarifying confusion about the geographic scope of a local state of emergency declaration by authorizing local officials to define the emergency area to which a

¹ G.S. 166A-19.3(6).

declaration applies as being part(s) or all of their jurisdiction.

- Clearly authorizing local officials to impose the emergency restrictions or prohibitions deemed necessary in response to a particular emergency (in other words, clarifying that all restrictions and prohibitions provided for in local ordinances are not automatically triggered when an emergency is declared).
- Specifically including among local emergency restrictions the authority to impose a curfew and order evacuations that may be either voluntary or mandatory.
- Authorizing a mayor to extend county emergency restrictions into the jurisdictional area of the mayor’s municipality (previously, only the municipality’s governing board could take this action).
- Increasing the penalty for violations of local emergency restrictions from a Class 3 misdemeanor to a Class 2 misdemeanor to be consistent with the punishment for violations of emergency orders issued by the governor.

Fourth, in response to the federal court’s decision in [*Bateman v. Perdue*, \(No. 5:10-CV-265-H \(E.D.N.C. filed Mar. 29, 2012\)\)](#), the legislation limits the restrictions and prohibitions that cities and counties can impose on dangerous weapons during a locally declared state of emergency. While local officials are still authorized to impose restrictions and prohibitions on the possession, transportation, sale, purchase, storage, and use of dangerous weapons and substances² and gasoline,

² “Dangerous weapon or substance” is defined as “[a]ny deadly weapon,

these restrictions now *cannot* apply to “lawfully possessed firearms and ammunition” (a firearm is defined as a handgun, rifle, or shotgun). The legislation also repeals G.S. 14-288.7, which automatically prohibited the off-premises possession or transportation of a dangerous weapon (including a firearm) when a state of emergency is declared or within the vicinity of a riot (a violation of this statute is punishable as a Class 1 misdemeanor).

What S.L. 2012-12 (HB843) does *not* do is fundamentally alter the legal or operational relationships between cities, counties, and the state. Nor does the bill contain a significant number of substantive changes – roughly 95% of the bill’s text is virtually identical to existing law.

S.L. 2012-12 (HB843) goes into effect on October 1, 2012. Cities and counties that declare a state of emergency prior to this date should operate under existing law, but are *strongly advised* to comply with the new limitation on lawfully possessed firearms and ammunitions discussed above if they elect to impose restrictions or prohibitions on dangerous weapons.

ammunition, explosive, incendiary device, radioactive material or device, as defined in G.S. 14-288.8(c)(5), or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when the circumstances indicate a probability that such part or ingredient will be so used.” G.S. 14-288.1(2).

Other Emergency Management Changes

[S.L. 2012-90 \(SB798\)](#), “Various Emergency Management Changes,” was recommended by the Senate Select Committee on Emergency Preparedness and Response, and makes additional modifications to the emergency management statutes by:

- Extending the expiration dates of gubernatorial disaster declarations (Type I expiration extended to 60 days; Type II expiration extended to 12 months with a total limit of 24 months; Type III disaster extended to 24 months).
- Providing that obligations under federal-state agreements are not affected when a Type II or Type III disaster declaration expires.
- Expanding the liability protection for private property owners whose property is used for emergency management purposes under the direction and control of state or local government to include use of the property for *all* emergency management functions and activities (this provision was originally introduced in HB842).
- Formally establishing the State Emergency Response Team (“SERT”) and listing the representative group of state agency personnel designated to carry out emergency management support functions identified in the state emergency response plan; the Director of the Division of Emergency Management is designated the SERT leader, and management of SERT is added to the Division of Emergency Management’s responsibilities and duties.

- Expanding the functions of the Division of Emergency Management to include coordinating with the Commissioner of Agriculture on agriculturally-related matters in the state emergency response plan.
- Creating the Joint Legislative Emergency Management Oversight Committee. The Committee is comprised of 6 members of the Senate and 6 members of the House, and is authorized to examine issues related to emergency management in North Carolina on an ongoing basis and make recommendations to the General Assembly.

S.L. 2012-90 (SB798) goes into effect immediately, and is structured to conform to the statutory reorganizations enacted in HB843 when that legislation becomes effective on October 1, 2012.

Emergency Vehicle Length

[S.L. 2012-33 \(HB741\)](#) amends G.S. 20-116(d) to extend to 45 feet the legally allowed length of state and local government law enforcement and emergency management vehicles (under current law, the length limitation for these vehicles was 40 feet).

Terrorism Criminal Offense

[S.L. 2012-38 \(HB149\)](#) creates a new criminal offense of terrorism. Amending G.S. Chapter 14 to create a new Article 3A (G.S. 14-10.1), “terrorism” is defined as committing an act of violence (which is already a violation of G.S. 14-17) or any other felony acts of assault, use of force or violence against a person, or use of explosives, or uses of nuclear,

biological, or chemical weapons of mass destruction, with the intent to intimidate the civilian population or an identifiable group of the civilian population or influence, through intimidation, the activities or conduct of the federal, state, or local government. The offense of terrorism is separate from the underlying felony, and is punishable as one felony class higher than the underlying offense (however, if the underlying felony is a Class A or B1, then the offense of terrorism is punished as a Class B1). Real and personal property used in the course of committing the offense of terrorism is subject to seizure and forfeiture.

Comparison of Emergency Management Changes to Existing Law

To assist emergency managers and others who work in this area identify and understand the reorganization, consolidation, and update of emergency management statutes enacted in S.L. 2012-12 (HB843) and S.L. 2012-90 (SB798), the following section contains a conversion of these Session Laws to regular statutory format, and identifies where substantive changes to the law have been made and cross-reference new and existing statutes.

Disclaimer: The following section of this document does not represent the official codification of S.L. 2012-12 and S.L. 2012-90, and is intended for general reference and educational purposes only. All statutory changes noted in the following section are effective October 1, 2012.

**** Unofficial** Table of Contents**
New Article 1A, G.S. Chapter 166A
North Carolina Emergency Management Act

Part 1. General Provisions

- § 166A-19. Short title.
- § 166A-19.1. Purposes.
- § 166A-19.2. Limitations.
- § 166A-19.3. Definitions.

Part 2. State Emergency Management.

- § 166A-19.10. Powers of the Governor.
- § 166A-19.11. Powers of the Secretary of Public Safety.
- § 166A-19.12. Powers of the Division of Emergency Management.

Part 3. Local Emergency Management.

- § 166A-19.15. County and municipal emergency management.

Part 4. Declarations of State of Emergency.

- § 166A-19.20. Gubernatorial or legislative declaration of state of emergency.
- § 166A-19.21. Gubernatorial disaster declaration.
- § 166A-19.22. Municipal or county declaration of state of emergency.
- § 166A-19.23. Excessive pricing prohibitions.

Part 5. Additional Powers During States of Emergency.

- § 166A-19.30. Additional powers of the Governor during state of emergency.
- § 166A-19.31. Power of municipalities and counties to enact ordinances to deal with states of emergency.

Part 6. Funding of Emergency Preparedness and Response.

- § 166A-19.40. Use of contingency and emergency funds.
- § 166A-19.41. State emergency assistance funds.
- § 166A-19.42. State Emergency Response Account.

Part 7. Immunity and Liability.

- § 166A-19.60. Immunity and exemption.
- § 166A-19.61. No private liability.
- § 166A-19.62. Civil liability of persons who willfully ignore a warning in an emergency.

Part 8. Miscellaneous Provisions.

- § 166A-19.70. Ensuring availability of emergency supplies and utility services.
- § 166A-19.71. Accept services, gifts, grants, and loans.
- § 166A 19.72. Establishment of mutual aid agreements.
- § 166A-19.73. Compensation.
- § 166A-19.74. Nondiscrimination in emergency management.
- § 166A 19.75. Emergency management personnel.
- § 166A-19.76. Leave options for voluntary firefighters, rescue squad workers, and emergency medical service personnel called into service.
- § 166A-19.77. Division of Forest Resources designated as emergency response agency.
- § 166A-19.78. Governor's power to order evacuation of public building.
- § 166A-19.79. Severability.

****Unofficial**** representative codification of S.L. 2012-12 (HB843) and S.L. 2012-90 (SB798) showing changes to existing law and statutory cross-references (technical, conforming, and grammatical changes are not shown)

I. CHANGES TO CHAPTER 166A

Article 1A. North Carolina Emergency Management Act.

Part 1. General Provisions.

§ 166A-19. Short title.

This Article may be cited as "North Carolina Emergency Management Act."

§ 166A-19.1. Purposes.

The purposes of this Article are to set forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to, and recovery from natural or man-made **emergencies** or hostile military or paramilitary action and to do the following:

- (1) Reduce vulnerability of people and property of this State to damage, injury, and loss of life and property.
- (2) Prepare for prompt and efficient rescue, care, and treatment of threatened or affected persons.
- (3) Provide for the rapid and orderly rehabilitation of persons and restoration of property.
- (4) Provide for cooperation and coordination of activities relating to emergency mitigation, preparedness, response, and recovery among agencies and officials of this State and with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with other private and quasi-official organizations.

§ 166A-19.2. Limitations.

Nothing in this Article shall be construed to do any of the following:

- (1) Interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers may be requested to transmit or print public service messages furnishing information or instructions in connection with an emergency, disaster, or war.

Repeals Article 1 and recodifies as Article 1A

§166A-19 recodifies §166A-1; deletes "of 1977" in current law

§166A-19.1 recodifies §166A-2

Changes term "disaster" in current law to "emergency" to reflect new distinction between these terms throughout new Article 1A ("emergency" being the event itself that triggers emergency authorities, and "disaster" being the declaration issued by the Governor based on the impact of the emergency)

§166A-19.2 recodifies §166A-3

- (2) Limit, modify, or abridge the authority of the Governor to **declare** martial law or exercise any other powers vested in the Governor under the North Carolina Constitution, statutes, or common law of this State independent of, or in conjunction with, any provisions of this Article.

Changes term from “proclaim” to “declare” to provide consistent terminology throughout new Article 1A

§ 166A-19.3. Definitions.

The following definitions apply in this Article:

- (1) Account. – The State Emergency Response Account established in G.S. 166A-19.42.
- (2) **Chair of the board of county commissioners**. – The chair of the board of county commissioners or, in case of the chair's absence or disability, the person authorized to act in the chair's stead. Unless the governing body of the county has specified who is to act in lieu of the chair with respect to a particular power or duty set out in this Article, this term shall mean the person generally authorized to act in lieu of the chair.
- (3) **Disaster declaration**. – A gubernatorial declaration that the impact or anticipated impact of an emergency constitutes a disaster of one of the types enumerated in G.S. 166A-19.21(b).
- (4) Division. – The Division of Emergency Management established in Subpart A of Part 5 of Article 13 of Chapter 143B of the General Statutes.
- (5) Eligible entity. – Any political subdivision. The term also includes an owner or operator of a private nonprofit utility that meets the eligibility criteria set out in this Article.
- (6) **Emergency**. – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause.
- (7) Emergency area. – The geographical area covered by a state of emergency.
- (8) Emergency management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type emergency, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.
- (9) Emergency management agency. – A State or

§166A-19.3 recodifies §166A-4; incorporates some definitions in §14-288.1

Recodifies §14-288.1(1)

New definition to distinguish between an emergency (the event itself) and a gubernatorial disaster declaration based on the impact of the emergency

Changes term from “disaster” to “emergency to reflect new distinction between the two terms; adds “weather-related or riot-related” to definition

local governmental agency charged with coordination of all emergency management activities for its jurisdiction.

- (10) Hazard risk management. – The systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources.
- (11) **Mayor**. – The mayor or other chief executive official of a municipality or, in case of that person's absence or disability, the person authorized to act in that person's stead. Unless the governing body of the municipality has specified who is to act in lieu of the mayor with respect to a particular power or duty set out in this Article, the term shall mean the person generally authorized to act in lieu of the mayor.
- (12) Political subdivision. – Counties and incorporated cities, towns, and villages.
- (13) Preliminary damage assessment. – The initial estimate prepared by State, local, or federal emergency management workers used to determine the severity and magnitude of damage caused by an emergency.
- (14) Private nonprofit utility. – A utility that would be eligible for federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.
- (15) Secretary. – The Secretary of the Department of Public Safety.
- (16) Stafford Act. – The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, 88 Stat. 143, codified generally at 42 U.S.C. § 5121, et seq., as amended.
- (17) State Acquisition and Relocation Fund. – State funding for supplemental grants to homeowners participating in a **federal** Hazard Mitigation Grant Program Acquisition and Relocation Program. These grants are used to acquire safe, decent, and sanitary housing by paying the difference between the cost of the home acquired under the federal Hazard Mitigation Grant Program Acquisition and Relocation Program and the cost of a comparable home located outside the 100-year floodplain.

Recodifies §14-288.1(6)

Clarifies that program is a federal program

- (18) **State of emergency**. – A finding and declaration by any of the following authorities that an emergency exists:
- The Governor, acting under the authority of G.S. 166A-19.20.
 - The General Assembly, acting under the authority of G.S. 166A-19.20.
 - The governing body of a municipality or the mayor of a municipality, acting under the authority of G.S. 166A-19.22.
 - The governing body of a county or the chair of the board of commissioners of a county, acting under the authority of G.S. 166A-19.22.
- (19) **State Emergency Response Team**. – The representative group of State agency personnel designated to carry out the emergency management support functions identified in the Plan. The State Emergency Response Team leader shall be the Director of the Division, who shall have authority to manage the Team pursuant to G.S. 166A-5(3)a., as delegated by the Governor. The Team shall consist of the following State agencies:
- Department of Public Safety.
 - Department of Transportation.
 - Department of Health and Human Services.
 - Department of Environment and Natural Resources.
 - Department of Agriculture and Consumer Services.
 - Any other agency identified in the North Carolina Emergency Operations Plan.

Recodifies and modifies current definition in §14-288.1(10) to include authorities for Governor, General Assembly, and cities and counties to declare a state of emergency with statutory cross-references to these authorities within new Article 1A

New definition establishing the SERT

Part 2. State Emergency Management.

§ 166A-19.10. Powers of the Governor.

(a) State Emergency Management Program. – The State Emergency Management Program includes all aspects of preparations for, response to, recovery from, and mitigation against war or peacetime emergencies.

(b) Powers of the Governor. – The Governor is authorized and empowered to do the following:

- To exercise general direction and control of the State Emergency Management Program and to be responsible for carrying out the provisions of this Article, **other than those provisions that confer powers and duties exclusively on local**

§166A-19.10 recodifies and reorganizes §166A-5 to establish separate statutory sections for the powers of the Governor, Secretary of DPS, and the Division of Emergency Management

Clarifies that local governments are conferred specific emergency management powers and duties

governments.

- (2) To make, amend, or rescind the necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor herein, with due consideration of the policies of the federal government.
- (3) To delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority.
- (4) To cooperate and coordinate with the President and the heads of the departments and agencies of the federal government, and with other appropriate federal officers and agencies, and with the officers and agencies of other states and local units of government in matters pertaining to the emergency management of the State and nation.
- (5) To enter into agreements with the American National Red Cross, Salvation Army, Mennonite Disaster Service, and other disaster relief organizations.
- (6) To make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-19.72.
- (7) To utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the State and of the political subdivisions thereof. The officers and personnel of all such departments, offices, and agencies are required to cooperate with and extend such services and facilities to the Governor upon request. This authority shall extend to a state of emergency declared pursuant to G.S. 166A-19.20, to the imminent threat of an emergency that will likely require an emergency to be declared pursuant to G.S. 166A-19.20, or to emergency management planning and training purposes.
- (8) To agree, when required to obtain federal assistance in debris removal, that the State will indemnify the federal government against any claim arising from the removal of the debris.
- (9) To sell, lend, lease, give, transfer, or deliver materials or perform services for emergency purposes on such terms and conditions as may be prescribed by any existing law, and to account to the State Treasurer for any funds received for such property.
- (10) In an emergency, or when requested by the governing body of a political subdivision in the

State, to assume operational control over all or any part of the emergency management functions within this State.

§ 166A-19.11. Powers of the Secretary of Public Safety.

The Secretary shall be responsible to the Governor for State emergency management activities. The Secretary shall have the following powers and duties as delegated by the Governor:

- (1) To activate the State and local plans applicable to the areas in question and to authorize and direct the deployment and use of any personnel and forces to which the plan or plans apply, and the use or distribution of any supplies, equipment, materials, and facilities available pursuant to this Article or any other provision of law.
- (2) To adopt the rules to implement those provisions of this Article that deal with matters **other than those that are exclusively local**.
- (3) To develop a system to produce a preliminary damage assessment from which the Secretary will recommend the appropriate level of disaster declaration to the Governor. The system shall, at a minimum, consider whether the damage involved and its effects are of such a severity and magnitude as to be beyond the response capabilities of the local government or political subdivision.
- (4) Additional authority, duties, and responsibilities as may be prescribed by the Governor. The Secretary may subdelegate his authority to the appropriate member of the Secretary's department.

§166A-19.11 recodifies §166A-5(2) to set out responsibilities of the Secretary in separate statutory section

Clarifies that local governments are conferred specific emergency management powers and duties

§ 166A-19.12. Powers of the Division of Emergency Management.

The Division of Emergency Management shall have the following powers and duties as delegated by the Governor and Secretary of Public Safety:

- (1) Coordination of the activities of all State agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and activating and **managing the State Emergency Response Team** and emergency management programs.
- (2) Preparation and maintenance of State plans for emergencies. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.

§166A-19.12 recodifies §166A-5(3) to set out responsibilities of the Division in separate statutory section

Adds managing the SERT to Division's powers and duties

- (3) Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:
 - a. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
 - b. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
 - c. The procurement and allocation of immunizing agents and prophylactic antibiotics.
 - d. The allocation of the Strategic National Stockpile.
 - e. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
 - f. Immunization procedures.
 - g. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.
- (4) Establishment of a voluntary model registry for use by political subdivisions in identifying functionally and medically fragile persons in need of assistance during an emergency. All records, data, information, correspondence, and communications relating to the registration of persons with special needs or of functionally and medically fragile persons obtained pursuant to this subdivision are confidential and are not a public record pursuant to G.S. 132-1 or any other applicable statute, except that this information shall be available to emergency response agencies, as determined by the local emergency management director. This information shall be used only for the purposes set forth in this subdivision.
- (5) Promulgation of standards and requirements for local plans and programs consistent with federal and State laws and regulations, determination of eligibility for State financial assistance provided for in G.S. 166A-19.15, and provision of technical assistance to local governments. Standards and requirements for local plans and programs promulgated under this subdivision shall be reviewed by the Division at least biennially and updated as necessary.

- (6) Development and presentation of training programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.
- (7) Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.
- (8) Coordination of the use of any private facilities, services, and property.
- (9) Preparation for issuance by the Governor of executive orders, declarations, and regulations as necessary or appropriate.
- (10) Cooperation and maintenance of liaison with the other states, the federal government, and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency or war prevention, preparation, response, and recovery.
- (11) Making recommendations, as appropriate, for zoning, building, and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of an emergency.
- (12) Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network.
- (13) Administration of federal and State grant funds provided for emergency management purposes, including those funds provided for planning and preparedness activities by emergency management agencies.
- (14) Serving as the lead State agency for the coordination of information and resources for hazard risk management, which shall include the following responsibilities:
 - a. Coordinating with other State agencies and county governments in conducting hazard risk analysis. To the extent another State agency has primary responsibility for the adoption of hazard

- mitigation standards, those standards shall be applied in conducting a hazard risk analysis.
- b. Establishing and maintaining a hazard risk management information system and tools to display natural hazards and vulnerabilities and conducting risk assessment.
 - c. Acquiring and leveraging all natural hazard data generated or maintained by State agencies and county governments.
 - d. Acquiring and leveraging all vulnerability data generated or maintained by State agencies and county governments.
 - e. Maintaining a clearinghouse for methodologies and metrics for calculating and communicating hazard probability and loss estimation.
- (15) Utilizing and maintaining technology that enables efficient and effective communication and management of resources between political subdivisions, State agencies, and other governmental entities involved in emergency management activities.
- (16)** Establishing and operating a 24-hour Operations Center to serve as a single point of contact for local governments to report the occurrence of emergency and disaster events and to coordinate local and State response assets.
- (17)** Developing, maintaining, and implementing plans for response to any emergency occurring at a fixed nuclear power generating facility located in or near the borders of the State of North Carolina.
- (18)** Maintaining the State Emergency Operations Center as the facility to house the State Emergency Response Team whenever it is activated for disaster response.
- (19)** Serving as the agency responsible for the management of intrastate and interstate mutual aid planning, implementation, and resource procurement necessary for supporting emergency response and recovery.
- (20)** Coordination with the Commissioner of Agriculture, or the Commissioner's designee, to amend or revise the North Carolina Emergency Operations Plan regarding agricultural matters. At a minimum, the revisions to the Plan shall provide for the following:

§166A-19.12(16), (17), (18), (19), and (20) establish new responsibilities and authorities for the Division

- a. The examination and testing of animals that may have been exposed to a nuclear, biological, or chemical agent.
- b. The appropriate conditions for quarantine and isolation of animals in order to prevent further transmission of disease.

Part 3. Local Emergency Management.

§ 166A-19.15. County and municipal emergency management.

(a) **Governing Body of Counties Responsible for Emergency Management.** – The governing body of each county is responsible for emergency management within the geographical limits of such county. All emergency management efforts within the county will be coordinated by the county, including activities of the municipalities within the county.

(b) **Counties May Establish and Maintain Emergency Management Agencies.** – The governing body of each county is hereby authorized to establish and maintain an emergency management agency for the purposes contained in G.S. 166A-19.1. The governing body of each county which establishes an emergency management agency pursuant to this authorization shall appoint a coordinator who will have a direct responsibility for the organization, administration, and operation of the county program and will be subject to the direction and guidance of such governing body. In the event that any county fails to establish an emergency management agency, and the Governor, in the Governor's discretion, determines that a need exists for such an emergency management agency, then the Governor is hereby empowered to establish an emergency management agency within that county.

(c) **Municipalities May Establish and Maintain Emergency Management Agencies.** – All incorporated municipalities are authorized to establish and maintain emergency management agencies subject to coordination by the county.

(d) **Joint Agencies Authorized.** – Counties and incorporated municipalities are authorized to form joint emergency management agencies composed of a county and one or more municipalities within the county's borders, between two or more counties, or between two or more counties and one or more municipalities within the borders of those counties.

(e) **Local Appropriations Authorized.** – Each county and incorporated municipality in this State is authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues, use of which is not otherwise restricted by law.

(f) **Additional Powers.** – In carrying out the provisions of this Article each political subdivision is authorized to do the following:

- (1) To appropriate and expend funds, make contracts, obtain and distribute equipment,

§166A-19.15 recodifies
§166A-7

materials, and supplies for emergency management purposes and to provide for the health and safety of persons and property, including emergency assistance, consistent with this Article.

- (2) To direct and coordinate the development of emergency management plans and programs in accordance with the policies and standards set by the Division, consistent with federal and State laws and regulations.
- (3) To assign and make available all available resources for emergency management purposes for service within or outside of the physical limits of the subdivision.
- (4) To delegate powers in a local state of emergency declared pursuant to G.S. 166A-19.22.
- (5) To coordinate the voluntary registration of functionally and medically fragile persons in need of assistance during an emergency either through a registry established by this subdivision or by the State. All records, data, information, correspondence, and communications relating to the registration of persons with special needs or of functionally and medically fragile persons obtained pursuant to this subdivision are confidential and are not a public record pursuant to G.S. 132-1 or any other applicable statute, except that this information shall be available to emergency response agencies, as determined by the local emergency management director. This information shall be used only for the purposes set forth in this subdivision.

(g) County Eligibility for State and Federal Financial Assistance. – Each county which establishes an emergency management agency pursuant to State standards and which meets requirements for local plans and programs may be eligible to receive State and federal financial assistance, including State and federal funding appropriated for emergency management planning and preparedness, and for the maintenance and operation of a county emergency management program. Such financial assistance is subject to an appropriation being made for this purpose. Where the appropriation does not allocate appropriated funds among counties, the amount allocated to each county shall be determined annually by the Division. The size of this allocation shall be based in part on the degree to which local plans and programs meet State standards and requirements promulgated by the Division, including those relating to professional competencies of local emergency management personnel. However, in making an allocation determination, the Division shall, where appropriate, take into account the fact that a particular county may lack sufficient

resources to meet the standards and requirements promulgated by the Division.

Part 4. Declarations of State of Emergency.

§ 166A-19.20. Gubernatorial or legislative declaration of state of emergency.

(a) Declaration. – A state of emergency may be declared by the Governor or by a resolution of the General Assembly, if either of these finds that an emergency exists.

(b) **Emergency Area**. – An executive order or resolution declaring a state of emergency shall include a definition of the area constituting the emergency area.

(c) **Expiration of States of Emergency**. – A state of emergency declared pursuant to this section shall expire when it is rescinded by the authority that issued it.

(d) **Exercise of Powers Not Contingent on Declaration of Disaster Type**. – Once a state of emergency has been declared pursuant to this section, the fact that a declaration of disaster type has not been issued shall not preclude the exercise of powers otherwise conferred during a state of emergency.

§ 166A-19.21. Gubernatorial disaster declaration.

(a) Preliminary Damage Assessment. – When a state of emergency is declared pursuant to G.S. 166A-19.20, the Secretary shall provide the Governor and the General Assembly with a preliminary damage assessment as soon as the assessment is available.

(b) Declaration of Disaster. – Upon receipt of a preliminary damage assessment, the Governor is authorized to issue a disaster declaration declaring the impact or anticipated impact of the emergency to constitute a disaster of one of the following types:

- (1) Type I disaster. – A Type I disaster may be declared by the Governor prior to, and independently of, any action taken by the Small Business Administration, the Federal Emergency Management Agency, or any other federal agency, if all of the following criteria are met:
 - a. A local state of emergency has been declared pursuant to G.S. 166A-19.22 and a written copy of the declaration has been forwarded to the Governor.
 - b. The preliminary damage assessment meets or exceeds the criteria established for the Small Business Administration Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State infrastructure criteria set out in G.S. 166A-19.41(b)(2)a.
 - c. A major disaster declaration by the President of the United States pursuant to

§166A-19.20 recodifies §166A-6(a) to clarify distinction between a state of emergency declaration and a disaster declaration

New provision requiring a state of emergency define the area to which

New provision clarifying state of emergency expiration date

New provision clarifying emergency powers not contingent on disaster declaration

§166A-19.21 recodifies and reorganizes §166A-6(a1) and (a2); clarifies terminology throughout section to distinguish between state of emergency declaration and disaster declaration

the Stafford Act has not been declared.

- (2) Type II disaster. – A Type II disaster may be declared if the President of the United States has issued a major disaster declaration pursuant to the Stafford Act. The Governor may request federal disaster assistance under the Stafford Act without making a Type II disaster declaration.
- (3) Type III disaster. – A Type III disaster may be declared if the President of the United States has issued a major disaster declaration under the Stafford Act and either of the following is true:
 - a. The preliminary damage assessment indicates that the extent of damage is reasonably expected to meet the threshold established for an increased federal share of disaster assistance under applicable federal law and regulations.
 - b. The preliminary damage assessment prompts the Governor to call a special session of the General Assembly to establish programs to meet the unmet needs of individuals, businesses, or political subdivisions affected by the emergency.
- (c) **Expiration of Disaster Declarations.** –
 - (1) Expiration of Type I disaster declarations. – A Type I disaster declaration shall expire 60 days after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.
 - (2) Expiration of Type II disaster declarations. – A Type II disaster declaration shall expire twelve months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months each. A Type II disaster declaration and any renewals of that declaration shall not exceed a total of 24 months. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type II disaster declaration.
 - (3) Expiration of Type III disaster declarations. – A Type III disaster declaration shall expire 24 months after its issuance unless renewed by the General Assembly.

New subsection extending and recodifying expiration dates of disaster declarations under existing law into one subsection

- (4) Expiration of disaster declarations declared prior to July 1, 2001. – Any state of disaster declared or proclaimed before July 1, 2001, irrespective of type, shall terminate by a declaration of the Governor or resolution of the General Assembly. A declaration or resolution declaring or terminating a state of disaster shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the Secretary, the Secretary of State, and the clerks of superior court in the area to which it applies.

(d) **Effect of Disaster Declaration Expiration. – Expiration of a Type II or Type III disaster declaration shall not affect the State’s obligations under federal-State agreements entered into prior to expiration of the disaster declaration.**

New subsection preserving federal-State agreement obligations after disaster declaration expires

§ 166A-19.22. Municipal or county declaration of state of emergency.

(a) Declaration. – A state of emergency may be declared by the governing body of a municipality or county, if either of these finds that an emergency exists. Authority to declare a state of emergency under this section may also be delegated by ordinance to the mayor of a municipality or to the chair of the board of county commissioners of a county.

§166A-19.22 recodifies §14-288.12(a) (cities), §14-288.13(a) and (b) (counties), and §166A-8 providing authority for city and county governing boards to declare a state of emergency, and to delegate that authority by ordinance to mayor or board chair

(b) Emergency Area. – The emergency area shall be determined in accordance with the following:

- (1) Unless another subdivision of this subsection is applicable, the emergency area shall not exceed the area over which the municipality or county has jurisdiction to enact general police-power ordinances. **The governing body declaring the state of emergency may declare that the emergency area includes part or all of the governing body's jurisdiction. Unless the governing body declaring the state of emergency provides otherwise, the emergency area includes this entire jurisdiction, subject to the limitations contained in the other subdivisions in this subsection.**

Clarifies that state of emergency may be declared in part or all of the jurisdiction, and establishes entire jurisdiction as default emergency area if not otherwise specified

- (2) The emergency area of a state of emergency declared by a county shall not include any area within the corporate limits of any municipality, or within any area of the county over which a municipality has jurisdiction to enact general police-power ordinances, unless the

Recodifies §14-288.13(c)

municipality's governing body **or mayor** consents to or requests the state of emergency's application. Such an extension may be with respect to one or more of the prohibitions and restrictions imposed in that county pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section.

Clarifies that either the city governing body or the mayor may request application of some or all of county's emergency restrictions to the city

(3)

The board of commissioners or chair of the board of commissioners of any county who has been requested to do so by a mayor may by declaration extend the emergency area of a state of emergency declared by a municipality to any area within the county in which the board or chair determines it to be necessary to assist in the controlling of the emergency within the municipality. The extension may be with respect to one or more of the prohibitions and restrictions imposed in that mayor's municipality pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section. Extension of the emergency area pursuant to this subdivision shall be subject to the following additional limitations:

Recodifies §14-288.14

- a. The extension of the emergency area shall not include any area within the corporate limits of a municipality, or within any area of the county over which a municipality has jurisdiction to enact general police-power ordinances, unless the mayor or governing body of that other municipality consents to its application.
- b. A chair of a board of county commissioners extending the emergency area under the authority of this subdivision shall take reasonable steps to give notice of its terms to those likely to be affected.
- c. The chair of the board of commissioners shall declare the termination of any prohibitions and restrictions extended pursuant to this subdivision upon the earlier of the following:
 1. The chair's determination that they are no longer necessary.
 2. The determination of the board of county commissioners that they are no longer necessary.

- 3. The termination of the prohibitions and restrictions within the municipality.
- d. The powers authorized under this subdivision may be exercised whether or not the county has enacted ordinances under the authority of G.S. 166A-19.31. Exercise of this authority shall not preclude the imposition of prohibitions and restrictions under any ordinances enacted by the county under the authority of G.S. 166A-19.31.

(c) **Expiration of States of Emergency**. – Unless an ordinance adopted pursuant to G.S. 166A-19.31 provides otherwise, a state of emergency declared pursuant to this section shall expire when it is terminated by the official or governing body that declared it.

Recodifies and rewrites §166A-8(3) and §14-288.16(c) to clarify when a city or county state of emergency expires

(d) **Effect of Declaration**. – The declaration of a state of emergency pursuant to this section shall activate the local ordinances authorized in G.S. 166A-19.31 and any and all applicable local plans, mutual assistance compacts, and agreements and shall also authorize the furnishing of assistance thereunder.

Recodifies §166A-8(2)

§ 166A-19.23. Excessive pricing prohibitions.

A declaration issued pursuant to this Article shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency, or abnormal market disruptions pursuant to G.S. 75-37 and G.S. 75-38.

New section cross-referencing existing law (included in Article 1A for ease of reference)

Part 5. Additional Powers During States of Emergency.

§ 166A-19.30. Additional powers of the Governor during state of emergency.

(a) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, the Governor shall have the following powers:

- (1) To utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services.
- (2) To take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article and with the orders, rules, and regulations made pursuant thereto.
- (3) To take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing

§166A-19.30 recodifies §166A-6(b) and (c)

assistance from the federal government when that assistance is required to protect the public health, welfare, and safety.

- (4) Subject to the provisions of the State Constitution to relieve any public official having administrative responsibilities under this Article of such responsibilities for willful failure to obey an order, rule, or regulation adopted pursuant to this Article.

(b) During a gubernatorially or legislatively declared state of emergency, with the concurrence of the Council of State, the Governor has the following powers:

- (1) To direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, to prescribe routes, modes of transportation, and destinations in connection with evacuation; and to control ingress and egress of an emergency area, the movement of persons within the area, and the occupancy of premises therein.
- (2) To establish a system of economic controls over all resources, materials, and services to include food, clothing, shelter, fuel, rents, and wages, including the administration and enforcement of any rationing, price freezing, or similar federal order or regulation.
- (3) To regulate and control the flow of vehicular and pedestrian traffic, the congregation of persons in public places or buildings, lights and noises of all kinds, and the maintenance, extension, and operation of public utility and transportation services and facilities.
- (4) To waive a provision of any regulation or ordinance of a State agency or a political subdivision which restricts the immediate relief of human suffering.
- (5) To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population.
- (6) To appoint or remove an executive head of any State agency or institution, the executive head of which is regularly selected by a State board or commission.
 - a. Such an acting executive head will serve during the following:
 1. The physical or mental incapacity of the regular office holder, as determined by the Governor after such inquiry as the Governor

- deems appropriate.
- 2. The continued absence of the regular holder of the office.
- 3. A vacancy in the office pending selection of a new executive head.
- b. An acting executive head of a State agency or institution appointed in accordance with this subdivision may perform any act and exercise any power which a regularly selected holder of such office could lawfully perform and exercise.
- c. All powers granted to an acting executive head of a State agency or institution under this section shall expire immediately:
 - 1. Upon the termination of the incapacity as determined by the Governor of the officer in whose stead the Governor acts;
 - 2. Upon the return of the officer in whose stead the Governor acts; or
 - 3. Upon the selection and qualification of a person to serve for the unexpired term, or the selection of an acting executive head of the agency or institution by the board or commission authorized to make such selection, and the person's qualification.
- (7) To procure, by purchase, condemnation, seizure, or by other means to construct, lease, transport, store, maintain, renovate, or distribute materials and facilities for emergency management without regard to the limitation of any existing law.

(c) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, if the Governor determines that local control of the emergency is insufficient to assure adequate protection for lives and property because (i) needed control cannot be imposed locally because local authorities responsible for preservation of the public peace have not enacted appropriate ordinances or issued appropriate declarations as authorized by G.S. 166A-19.31; (ii) local authorities have not taken implementing steps under such ordinances or declarations, if enacted or declared, for effectual control of the emergency that has arisen; (iii) the area in which the emergency exists has spread across local jurisdictional boundaries, and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; or (iv) the scale of the emergency is so great that it exceeds the capability of local

Recodifies §14-288.15

authorities to cope with it, the Governor has the following powers:

- (1) To impose by declaration prohibitions and restrictions in the emergency area. These prohibitions and restrictions may, in the Governor's discretion, as appropriate to deal with the emergency, impose any of the types of prohibitions and restrictions enumerated in G.S. 166A-19.31(b), and may amend or rescind any prohibitions and restrictions imposed by local authorities. Prohibitions and restrictions imposed pursuant to this subdivision shall take effect in accordance with the provisions of G.S. 166A-19.31(d) and shall expire upon the earliest occurrence of either of the following: (i) the prohibition or restriction is terminated by the Governor or (ii) the state of emergency is terminated.
- (2) Give to all participating State and local agencies and officers such directions as may be necessary to assure coordination among them. These directions may include the designation of the officer or agency responsible for directing and controlling the participation of all public agencies and officers in the emergency. The Governor may make this designation in any manner which, in the Governor's discretion, seems most likely to be effective. Any law enforcement officer participating in the control of a state of emergency in which the Governor is exercising control under this section shall have the same power and authority as a sheriff throughout the territory to which the law enforcement officer is assigned.

(d) **Violation**. – Any person who violates any provision of a declaration or executive order issued pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A.

Clarifies that violation of gubernatorial declaration or executive order is a Class 2 misdemeanor (consistent with violation of local declaration)

§ 166A-19.31. Power of municipalities and counties to enact ordinances to deal with states of emergency.

(a) Authority to Enact Prohibitions and Restrictions. – The governing body of any municipality or county may enact ordinances designed to permit the imposition of prohibitions and restrictions within the emergency area during a state of emergency declared pursuant to G.S. 166A-19.22. Authority to impose by declaration prohibitions and restrictions under this section, and to impose those prohibitions and restrictions at a particular time as appropriate, may be delegated by ordinance to the mayor of a municipality or to the chair of the board of county commissioners of a county.

§166A-19.31 recodifies and combines §14-288.12, §14-288.13, §14-288.16, and §14-288.17

(b) Type of Prohibitions and Restrictions Authorized. – The

ordinances authorized by this section may permit prohibitions and restrictions:

- (1) Of movements of people in public places, including imposing a curfew; directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction; prescribing routes, modes of transportation, and destinations in connection with evacuation; and controlling ingress and egress of an emergency area, and the movement of persons within the area.
- (2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.
- (3) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages.
- (4) Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this subdivision does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this subdivision, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subdivision, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).
- (5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

The ordinances authorized by this section need not require or provide for the imposition of all of the types of prohibitions or restrictions, or any particular prohibition or restriction, authorized by this section during an emergency but may instead authorize the official or officials who impose those prohibitions or restrictions to determine and impose the prohibitions or restrictions deemed necessary or suitable to a particular state of emergency.

(c) **When Ordinances Take Effect.** – Notwithstanding any other provision of law, whether general or special, relating to the promulgation or publication of ordinances by any municipality or county, upon the declaration of a state of emergency by the mayor or chair of the board of county commissioners within the municipality or the county, any ordinance enacted under the authority of this section shall take effect immediately unless the

Clarifies authorization to impose a curfew, and establishes both voluntary and mandatory evacuations

In response to *Bateman v. Perdue*, prohibits restrictions on dangerous weapons and substances from applying to lawfully possessed firearms and ammunition; firearm defined as a handgun, rifle, or shotgun pursuant to G.S. 14-409.39(2)

Clarifies that officials may impose restrictions or prohibitions deemed necessary (i.e., all restrictions and prohibitions are not automatically triggered when a state of emergency is declared)

Recodifies §14-288.17(b)

ordinance sets a later time. If the effect of this section is to cause an ordinance to go into effect sooner than it otherwise could under the law applicable to the municipality or county, the mayor or chair of the board of county commissioners, as the case may be, shall take steps to cause reports of the substance of the ordinance to be disseminated in a fashion that its substance will likely be communicated to the public in general, or to those who may be particularly affected by the ordinance if it does not affect the public generally. As soon as practicable thereafter, appropriate distribution or publication of the full text of any such ordinance shall be made.

(d) **When Prohibitions and Restrictions Take Effect.** – All prohibitions and restrictions imposed by declaration pursuant to ordinances adopted under this section shall take effect in the emergency area immediately upon publication of the declaration unless the declaration sets a later time. For the purpose of requiring compliance, publication may consist of reports of the substance of the prohibitions and restrictions in the mass communications media serving the emergency area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of the full text of any declaration shall be made. This subsection shall not be governed by the provisions of G.S. 1-597.

Recodifies §14-288.16(b)

(e) **Expiration of Prohibitions and Restrictions.** – Prohibitions and restrictions imposed pursuant to this section shall expire upon the earliest occurrence of any of the following:

Recodifies and rewrites §14-288.16(c) to clarify expiration date of locally imposed restrictions and prohibitions

(1) The prohibition or restriction is terminated by the official or entity that imposed the prohibition or restriction.

(2) The state of emergency terminates.

(f) **Intent to Supplement Other Authority.** – This section is intended to supplement and confirm the powers conferred by G.S. 153A-121(a), G.S. 160A-174(a), and all other general and local laws authorizing municipalities and counties to enact ordinances for the protection of the public health and safety in times of riot or other grave civil disturbance or emergency.

Recodifies §14-288.12(c) and adds statutory cross-reference for counties

(g) **Previously Enacted Ordinances Remain in Effect.** – Any ordinance of a type authorized by this section promulgated prior to October 1, 2012, if otherwise valid, continue in full force and effect without reenactment.

New subsection to preserve validity of previously enacted local ordinances

(h) **Violation.** – Any person who violates any provision of an ordinance or a declaration enacted or declared pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A.

Recodifies §14-288.12(e) and §14-288.13(d); increases offense level to be consistent with penalty for violation of gubernatorial order

Part 6. Funding of Emergency Preparedness and Response.
§ 166A-19.40. Use of contingency and emergency funds.

(a) **Use of Funds for Relief and Assistance.** – The Governor may use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of an

Recodifies §166A-5(1)a.9

emergency and may reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of the emergency so requires and the contingency and emergency funds are insufficient or inappropriate.

(b) **Use of Funds for National Guard Training.** – In preparation for a state of emergency, with the concurrence of the Council of State, the Governor may use contingency and emergency funds as necessary and appropriate for National Guard training in preparation for emergencies.

Recodifies §166A-6(d)

§ 166A-19.41. State emergency assistance funds.

(a) Governor May Make Funds Available for Emergency Assistance. – In the event of a gubernatorially or legislatively declared state of emergency, the Governor may make State funds available for emergency assistance as authorized by this section. Any State funds made available by the Governor for emergency assistance may be administered through State emergency assistance programs which may be established by the Governor upon the declaration of a state of emergency. It is the intent of the General Assembly in authorizing the Governor to make State funds available for emergency assistance and in authorizing the Governor to establish State emergency assistance programs to provide State assistance for recovery from those emergencies for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

§166A-19.41 recodifies §166A-6.01

(b) Emergency Assistance in a Type I Disaster. – In the event that a Type I disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of individual assistance and public assistance as provided in this subsection.

(1) Individual assistance. – State emergency assistance in the form of grants to individuals and families may be made available when damage meets or exceeds the criteria set out in 13 C.F.R. Part 123 for the Small Business Administration Disaster Loan Program. Individual assistance grants shall include benefits comparable to those provided by the Stafford Act and may be provided for the following:

- a. Provision of temporary housing and rental assistance.
- b. Repair or replacement of dwellings. Grants for repair or replacement of housing may include amounts necessary to locate the individual or family in safe, decent, and sanitary housing.
- c. Replacement of personal property (including clothing, tools, and

- d. equipment).
 - d. Repair or replacement of privately owned vehicles.
 - e. Medical or dental expenses.
 - f. Funeral or burial expenses resulting from the emergency.
 - g. Funding for the cost of the first year's flood insurance premium to meet the requirements of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. § 4001, et seq.
- (2) Public assistance. – State emergency assistance in the form of public assistance grants may be made available to eligible entities located within the emergency area on the following terms and conditions:
- a. Eligible entities shall meet the following qualifications:
 - 1. The eligible entity suffers a minimum of ten thousand dollars (\$10,000) in uninsurable losses;
 - 2. The eligible entity suffers uninsurable losses in an amount equal to or exceeding one percent (1%) of the annual operating budget.
 - 3. For a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act.
 - 4. For a state of emergency declared pursuant to G.S. 166A-19.20(a), after August 1, 2002, the eligible entity shall be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage.
 - b. Eligible entities shall be required to provide non-State matching funds equal to twenty-five percent (25%) of the eligible costs of the public assistance grant.
 - c. An eligible entity that receives a public assistance grant pursuant to this subsection may use the grant for the

following purposes only:

1. Debris clearance.
2. Emergency protective measures.
3. Roads and bridges.
4. Crisis counseling.
5. Assistance with public transportation needs.

(c) Emergency Assistance in a Type II Disaster. – If a Type II disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of the following types of grants:

- (1) State Acquisition and Relocation Funds.
- (2) Supplemental repair and replacement housing grants available to individuals or families in an amount necessary to locate the individual or family in safe, decent, and sanitary housing, not to exceed twenty-five thousand dollars (\$25,000) per family.

(d) Emergency Assistance in a Type III Disaster. – If a Type III disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of the following types of grants:

- (1) State Acquisition and Relocation Funds.
- (2) Supplemental repair and replacement housing grants available to individuals or families in an amount necessary to locate the individual or family in safe, decent, and sanitary housing, not to exceed twenty-five thousand dollars (\$25,000) per family.
- (3) Any programs authorized by the General Assembly.

§ 166A-19.42. State Emergency Response Account.

(a) Account Established. – There is established a State Emergency Response Account as a reserve in the General Fund. Any funds appropriated to the Account shall remain available for expenditure as provided by this section, unless directed otherwise by the General Assembly.

(b) Use of Funds. – The Governor may spend funds from the Account for the following purposes:

- (1) To cover the start-up costs of State Emergency Response Team operations for an emergency that poses an imminent threat of a Type I, Type II, or Type III disaster.
- (2) To cover the cost of first responders to a Type I, Type II, or Type III disaster and any related supplies and equipment needed by first responders that are not provided for under subdivision (1) of this subsection.

All other types of emergency assistance authorized by this Part

§166A-19.42 recodifies
§166A-6.02

shall continue to be financed by the funds made available under G.S. 166A-19.41.

(c) Reporting Requirement. – The Governor shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and House of Representatives on any expenditures from the State Emergency Response Account no later than 30 days after making the expenditure. The report shall include a description of the emergency and type of action taken.

Part 7. Immunity and Liability.

§ 166A-19.60. Immunity and exemption.

(a) Generally. – All functions hereunder and all other activities relating to emergency management as provided for in this Chapter or elsewhere in the General Statutes are hereby declared to be governmental functions. Neither the State nor any political subdivision thereof, nor, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker, firm, partnership, association, or corporation complying with or reasonably attempting to comply with this Article or any order, rule, or regulation promulgated pursuant to the provisions of this Article or pursuant to any ordinance relating to any emergency management measures enacted by any political subdivision of the State, shall be liable for the death of or injury to persons, or for damage to property as a result of any such activity.

(b) Immunity. – The immunity provided to firms, partnerships, associations, or corporations, under subsection (a) of this section, is subject to all of the following conditions:

- (1) The immunity applies only when the firm, partnership, association, or corporation is acting without compensation or with compensation limited to no more than actual expenses and one of the following applies:
 - a. Emergency management services are provided at any place in this State during a state of emergency declared by the Governor or General Assembly pursuant to this Article, and the services are provided under the direction and control of the Secretary pursuant to G.S. 166A-19.10, 166A-19.11, 166A-19.12, 166A-19.20, 166A-19.30, and 143B-602, or the Governor.
 - b. Emergency management services are provided during a state of emergency declared pursuant to G.S. 166A-19.22, and the services are provided under the direction and control of the governing body of a municipality or county under G.S. 166A-19.31, or the chair of a board

§166A-19.60 recodifies
§166A-14

of county commissioners under G.S. 166A-19.22(b)(3).

- c. The firm, partnership, association, or corporation is engaged in planning, preparation, training, or exercises with the Division, the Division of Public Health, or the governing body of each county or municipality under G.S. 166A-19.15 related to the performance of emergency management services or measures.
 - (2) The immunity shall not apply to any firm, partnership, association, or corporation, or to any employee or agent thereof, whose act or omission caused in whole or in part the actual or imminent emergency or whose act or omission necessitated emergency management measures.
 - (3) To the extent that any firm, partnership, association, or corporation has liability insurance, that firm, partnership, association, or corporation shall be deemed to have waived the immunity to the extent of the indemnification by insurance for its negligence. An insurer shall not under a contract of insurance exclude from liability coverage the acts or omissions of a firm, partnership, association, or corporation for which the firm, partnership, association, or corporation would only be liable to the extent indemnified by insurance as provided by this subdivision.

(c) No Effect on Benefits. – The rights of any person to receive benefits to which the person would otherwise be entitled under this Article or under the Workers' Compensation Law or under any pension law and the right of any such person to receive any benefits or compensation under any act of Congress shall not be affected by performance of emergency management functions.

(d) License Requirements Suspended. – Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing the worker's duties as such, practice such professional, mechanical, or other skill during a state of emergency.

(e) Definition of Emergency Management Worker. – As used in this section, the term "emergency management worker" shall include any full- or part-time paid, volunteer, or auxiliary employee of this State or other states, territories, possessions, or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof, or of any agency or organization performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. The term "emergency management worker" under this section shall also

include any health care worker performing health care services as a member of a hospital-based or county-based State Medical Assistance Team designated by the North Carolina Office of Emergency Medical Services and any person performing emergency health care services under G.S. 90-12.2.

(f) Powers of Individuals Operating Pursuant to Mutual Aid Agreements. – Any emergency management worker, as defined in this section, performing emergency management services at any place in this State pursuant to agreements, compacts, or arrangements for mutual aid and assistance to which the State or a political subdivision thereof is a party, shall possess the same powers, duties, immunities, and privileges the person would ordinarily possess if performing duties in the State, or political subdivision thereof, in which normally employed or rendering services.

§ 166A-19.61. No private liability.

Any person, firm, or corporation, together with any successors in interest, if any, owning or controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly, with or without compensation, grants a license or privilege or otherwise permits or allows the designation or use of the whole or any part or parts of such real or personal property **for the purpose activities or functions relating to emergency management as provided for in this Chapter or elsewhere in the General Statutes** shall not be civilly liable for the death of or injury to any person or the loss of or damage to the property of any persons where such death, injury, loss, or damage resulted from, through, or because of the use of the said real or personal property for any of the above purposes, **provided that the use of said property is subject to the order or control of or pursuant to a request of State government or any political subdivision thereof.**

§166A-19.61 recodifies §166A-6.15

Expands liability protection to include all emergency management activities and functions

Clarifies that liability protection is available when use is subject to order or control of government

§ 166A-19.62. Civil liability of persons who willfully ignore a warning in an emergency.

In an emergency, a person who willfully ignores a warning regarding personal safety issued by a federal, State, or local law enforcement agency, emergency management agency, or other governmental agency responsible for emergency management under this Article is civilly liable for the cost of a rescue effort to any governmental agency or nonprofit agency cooperating with a governmental agency conducting a rescue on the endangered person's behalf if all of the following are true:

- (1) The person ignores the warning and (i) engages in an activity or course of action that a reasonable person would not pursue or (ii) fails to take a course of action that a reasonable person would

§166A-19.62 recodifies §166A-6.15.1

- pursue.
- (2) As a result of ignoring the warning, the person places himself or herself or another in danger.
 - (3) A governmental rescue effort is undertaken on the endangered person's behalf.

Part 8. Miscellaneous Provisions.

§ 166A-19.70. Ensuring availability of emergency supplies and utility services.

(a) Executive Order. – In addition to any other powers conferred on the Governor by law, whenever a curfew has been imposed, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that persons transporting essentials in commerce to the curfew area, or assisting in ensuring their availability, and persons assisting in restoring utility services, be allowed to enter or remain in areas from which they would otherwise be excluded for the limited purpose of delivering the essentials, assisting in ensuring their availability, or assisting in restoring utility services.

(b) Maximum Hours of Service Waiver. – As part of an executive order issued pursuant to subsection (a) of this section, or independently of such an order, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service prescribed by the Department of Public Safety pursuant to G.S. 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services.

(c) Certification System. – The Secretary shall develop a system pursuant to which a person who transports essentials in commerce, or assists in ensuring their availability, and persons who assist in the restoring of utility services can be certified as such. The certification system shall allow for both preemergency declaration and postemergency declaration certification and may include an annually renewable precertification. The Secretary shall only allow those who routinely transport or distribute essentials or assist in the restoring of utility services to be certified. A certification of the employer shall constitute a certification of the employer's employees. The Secretary shall create an easily recognizable indicium of certification in order to assist local officials' efforts to determine which persons have received certification by the system established under this subsection.

(d) Presence in Curfew Area Permitted. – Notwithstanding the existence of any curfew, a person who is certified pursuant to the system established under subsection (c) of this section shall be allowed to enter or remain in the curfew area for the limited purpose of delivering or assisting in the distribution of essentials or assisting in the restoration of utility services and shall be allowed to provide service that exceeds otherwise applicable hours of service maximums, to the extent authorized by an executive order executed pursuant to subsection (a) of this section. Nothing in this section

§166A-19.70 recodifies
§166A-6.03

prohibits law enforcement or other local officials from specifying the permissible route of ingress or egress for persons with certifications.

(e) **Abnormal Market Disruptions with Respect to Petroleum.** – If the Governor declares the existence of an abnormal market disruption with respect to petroleum pursuant to G.S. 75-38(f), the Governor shall contemporaneously seek all applicable waivers under the federal Clean Air Act, 42 U.S.C. § 7401, et seq., and any other applicable federal law to facilitate the transportation of fuel within this State in order to address or prevent a fuel supply emergency in this State. Waiver requests shall be directed to the appropriate federal agencies and shall seek waivers of the following:

- (1) The Reformulated Gasoline requirements throughout the State.
- (2) The Federal and State Implementation Plan summertime gasoline requirements (low RVP) throughout the State.
- (3) Any other waiver that will, if obtained, facilitate the transportation of fuel within this State.

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

- (1) **Curfew.** – Any restriction on ingress and egress to the emergency area of a state of emergency or any restriction on the movement of persons within such an area.
- (2) **Curfew area.** – The area that is subject to a curfew.
- (3) **Essentials.** – Any goods that are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being of persons or their property. The Secretary shall determine what goods constitute essentials for purposes of this section.

§ 166A-19.71. Accept services, gifts, grants, and loans.

Whenever the federal government or any agency or officer thereof or of any person, firm, or corporation shall offer to the State, or through the State to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for emergency management purposes, the State acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its governing body, may accept such offer. Upon such acceptance the Governor of the State or governing body of such political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the State or of such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making

§166A-19.71 recodifies
§166A-9

the offer.

§ 166A-19.72. Establishment of mutual aid agreements.

(a) Governor Authorized to Enter Agreements with Other States and Federal Government. – The Governor may establish mutual aid agreements with other states and with the federal government provided that any special agreements so negotiated are within the Governor's authority.

(b) Governor Authorized to Enter Agreements with Political Subdivisions. – The Governor may establish mutual aid agreements with political subdivisions in the State with the concurrence of the subdivision's governing body.

(c) Political Subdivisions Authorized to Enter Agreements with Other Political Subdivisions. – The chief executive of each political subdivision, with the concurrence of the subdivision's governing body, may develop mutual aid agreements for reciprocal emergency management aid and assistance. Such agreements shall be consistent with the State emergency management program and plans.

(d) Political Subdivisions Authorized to Enter Agreements with Political Subdivisions in Other States. – The chief executive officer of each political subdivision, with the concurrence of the governing body and subject to the approval of the Governor, may enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance. These agreements shall be consistent with the State emergency management program and plans.

(e) Terms of Agreements. – Mutual aid agreements may include, but are not limited to, the furnishing or exchange of such supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items; and on such terms and conditions as deemed necessary.

§ 166A-19.73. Compensation.

(a) Extent of Compensation. – Compensation for services or for the taking or use of property shall be only to the extent that legal obligations of individual citizens are exceeded in a particular case and then only to the extent that the claimant has not been deemed to have volunteered his services or property without compensation.

(b) Limitation; Basis of Compensation. – Compensation for property shall be only if the property was commandeered, seized, taken, condemned, or otherwise used in coping with an emergency and this action was ordered by the Governor. The State shall make compensation for the property so seized, taken, or condemned on the following basis:

- (1) In case property is taken for temporary use, the Governor, within 30 days of the taking, shall fix the amount of compensation to be paid for such damage or failure to return. Whenever the

§166A-19.72 recodifies
§166A-6.10

§166A-19.73 recodifies
§166A-11

Governor shall deem it advisable for the State to take title to property taken under this section, the Governor shall forthwith cause the owner of such property to be notified thereof in writing by registered mail, postage prepaid, or by the best means available, and forthwith cause to be filed a copy of said notice with the Secretary of State.

- (2) If the person entitled to receive the amounts so determined by the Governor as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, the person shall be paid seventy-five percent (75%) of such amount and shall be entitled to recover from the State of North Carolina in an action brought in the superior court in the county of residence of claimant, or in Wake County, in the same manner as other condemnation claims are brought, within three years after the date of the Governor's award.

§ 166A-19.74. Nondiscrimination in emergency management.

State and local governmental bodies and other organizations and personnel who carry out emergency management functions under the provisions of this Article are required to do so in an equitable and impartial manner. Such State and local governmental bodies, organizations, and personnel shall not discriminate on the grounds of race, color, religion, nationality, sex, age, or economic status in the distribution of supplies, the processing of applications, and other relief and assistance activities.

§ 166A-19.75. Emergency management personnel.

(a) Limitation. – No person shall be employed or associated in any capacity in any emergency management agency established under this Article if that person does or has done any of the following:

- (1) Advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this State.
- (2) Advocates or has advocated the overthrow of any government in the United States by force or violence.
- (3) Has been convicted of any subversive act against the United States.
- (4) Is under indictment or information charging any subversive act against the United States.
- (5) Has ever been a member of the Communist Party.

(b) Oath. – Each person who is appointed to serve in any emergency management agency shall, before entering upon the person's duties, take a written oath before a person authorized to administer oaths in this State, which oath shall be substantially as

§166A-19.74 recodifies
§166A-12

§166A-19.75 recodifies
§166A-13

follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of North Carolina, against all enemies, foreign and domestic; and that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I ever knowingly been, a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence; and that during such time as I am a member of the State Emergency Management Agency I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence, so help me God."

(c) No Violation of Dual Office Holding Prohibition. – No position created by or pursuant to this Article shall be deemed an office within the meaning of Section 9 of Article 6 of the North Carolina Constitution.

§ 166A-19.76. Leave options for voluntary firefighters, rescue squad workers, and emergency medical service personnel called into service.

(a) Leave Without Pay. – A member of a volunteer fire department, rescue squad, or emergency medical services agency called into service of the State after a declaration of a state of emergency by the Governor or by the General Assembly, or upon the activation of the State Emergency Response Team in response to an emergency, shall have the right to take leave without pay from his or her civilian employment. No member of a volunteer fire department, rescue squad, or emergency medical services agency shall be forced to use or exhaust his or her vacation or other accrued leave from his or her civilian employment for a period of active service. The choice of leave shall be solely within the discretion of the member.

(b) Request in Writing Required. – For the volunteer member to be entitled to take leave without pay pursuant to this section, his or her services shall be requested in writing by the Director of the Division or by the head of a local emergency management agency. The request shall be directed to the Chief of the member's volunteer fire department, rescue squad, or emergency medical services agency, and a copy shall be provided to the member's employer. This section shall not apply to those members whose services have been certified by their employer to the Director of the Division, or to the head of a local emergency management agency, as essential to the employer's own ongoing emergency relief activities.

(c) Definition of an Emergency Requiring Activation of the State Emergency Response Team. – For purposes of this section, an

§166A-19.76 recodifies
§166A-17

emergency requiring the activation of the State Emergency Response Team means an emergency at Activation Level 2 or greater according to the North Carolina State Emergency Operations Plan of November 2002. Activation Level 2 requires the State Emergency Operations Center to be fully activated with 24-hour staffing from all State Emergency Response Team members.

(d) Enforcement. – The Commissioner of Labor shall enforce the provisions of this section pursuant to Chapter 95 of the General Statutes.

§ 166A-19.77. Division of Forest Resources designated as emergency response agency.

The Division of Forest Resources of the Department of Agriculture and Consumer Services is designated an emergency response agency of the State of North Carolina for purposes of the following:

- (1) Supporting the Division in responding to all-risk incidents.
- (2) Receipt of any applicable State or federal funding.
- (3) Training of other State and local agencies in emergency management.
- (4) Any other emergency response roles for which the Division has special training or qualifications.

§ 166A-19.78. Governor's power to order evacuation of public building.

When it is determined by the Governor that a great public crisis, disaster, riot, catastrophe, or any other similar public emergency exists, or the occurrence of any such condition is imminent, and, in the Governor's opinion it is necessary to evacuate any building owned or controlled by any department, agency, institution, school, college, board, division, commission, or subdivision of the State in order to maintain public order and safety or to afford adequate protection for lives or property, the Governor is hereby authorized to issue an order of evacuation directing all persons within the building to leave the building and its premises forthwith. The order shall be delivered to any law enforcement officer or officer of the National Guard, and such officer shall, by a suitable public address system, read the order to the occupants of the building and demand that the occupants forthwith evacuate said building within the time specified in the Governor's order.

§ 166A-19.79. Severability.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

§166A-19.77 recodifies §166A-18

§166A-19.78 recodifies §14-288.19(a)

§166A-19.79 recodifies §166A-16

Article 2.
Hazardous Materials Emergency Response.

...

§ 166A-29. Emergency planning; charge.

(a) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Public Safety an annual fee of at least thirty thousand dollars (\$30,000) for each fixed nuclear facility which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee is to be applied to the costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid no later than July 31 of each year. This minimum fee may be increased from time to time as the costs of such planning and implementation increase. Such increases shall be by agreement between the State and the licensees or operators of the fixed nuclear facilities.

(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Public Safety, for the use of the Radiation Protection Section of the Division of Public Health of the Department of Health and Human Services, an annual fee of thirty-six thousand dollars (\$36,000) for each fixed nuclear facility that is located within this State or that has a Plume Exposure Pathway Emergency Planning Zone any part of which is located within this State. This fee shall be applied only to the costs of planning and implementing emergency response activities as required by the Federal Emergency Management Agency for the operation of nuclear facilities. This fee is to be paid no later than July 31 of each year.

(c) The fees imposed by this section do not revert at the end of a fiscal year. The amount of fees carried forward from one fiscal year to the next shall be taken into consideration in determining the fee to be assessed each fixed nuclear facility under subsection (a) in that fiscal year.

§166A-29 recodifies
§166A-6.1

II. CHANGES TO ARTICLE 36A OF CHAPTER 14

Article 36A.
Riots, Civil Disorders, and **Emergencies**.

§ 14-288.20A. Violation of emergency prohibitions and restrictions.

Any person who does any of the following is guilty of a Class 2 misdemeanor:

- (1) Violates any provision of an ordinance or a declaration enacted or declared pursuant to G.S. 166A-19.31.
- (2) Violates any provision of a declaration or executive order issued pursuant to G.S. 166A-19.30.
- (3) Willfully refuses to leave the building as directed in a Governor's order issued pursuant to G.S. 166A-19.78.

G.S. 14-288.7 is repealed.

Title of Article amended to include "emergencies"

New section consolidating and making uniform as a Class 2 misdemeanor a violation of a local emergency ordinance or declaration, executive order or declaration, or willful failure to leave a public building ordered evacuated by the Governor.

Repeal automatic prohibition of off-premises possession or transportation of a dangerous weapon when a state of emergency is declared or within the vicinity of a riot

III. JOINT LEGISLATIVE EMERGENCY MANAGEMENT OVERSIGHT COMMITTEE *(Note: This provision has become effective)*

Article 12Q.

Joint Legislative Emergency Management Oversight Committee.

§ 120-70.150. Creation and membership of Joint Legislative Emergency Management Oversight Committee.

The Joint Legislative Emergency Management Oversight Committee is established. The Committee consists of 12 members as follows:

- (1) Six members of the Senate appointed by the President Pro Tempore of the Senate; and
- (2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2013 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until a successor is appointed. A vacancy shall be filled by the officer who made the original appointment.

§ 120-70.151. Purpose and powers of Committee.

(a) The Joint Legislative Emergency Management Oversight Committee shall examine, on a continuing basis, issues related to emergency management in North Carolina in order to make ongoing recommendations to the General Assembly on ways to promote effective emergency preparedness, management, response, and recovery. The Committee may examine:

- (1) Whether the State building code sufficiently addresses issues related to commercial and residential construction in hurricane and flood prone areas.
- (2) The public health infrastructure in place to respond to natural and nonnatural disasters.
- (3) Hurricane preparedness, evacuation, and response.
- (4) Energy security issues.
- (5) Terrorism preparedness and response, including bioterrorism.
- (6) Flood and natural disaster preparation and response.
- (7) Any other topic the Committee believes is related to its purpose.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

§ 120-70.152. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Emergency Management Oversight Committee. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is seven members. Only recommendations, including proposed legislation, receiving at least six affirmative votes may be included in a

Committee report to the General Assembly. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) The cochairs of the Committee may call upon other knowledgeable persons or experts to assist the Committee in its work.

(d) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

(e) In appointing members to the Committee, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall take into consideration the goal of having members appointed to the Committee who have knowledge and experience relating to areas that are most impacted by disasters and emergencies.