

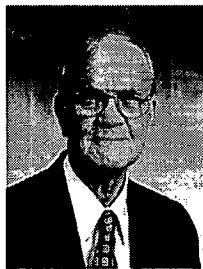
2005-2006

**HOUSE
AGRICULTURE**

**COMMITTEE
MINUTES**

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE NAME 2005 – 2006 SESSION



Representative Hill
Chair



Representative Bell
Vice chair



Representative Coates
Vice chair



Representative Langdon
Vice chair



Representative Tucker
Vice chair



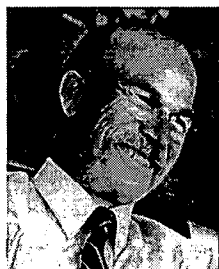
Representative West
Vice chair



Representative Williams
Vice chair



Representative Culp



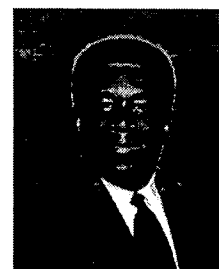
Representative Faison



Representative Kiser



Representative Pate



Representative Pierce



Representative Preston



Representative Tolson



Representative Underhill



Representative Walker



Representative Warren

NORTH CAROLINA GENERAL ASSEMBLY

**COMMITTEE NAME
2005 – 2006 SESSION**



Representative Wilson



Representative Wray



Representative Yongue



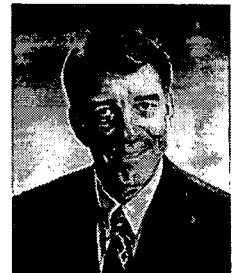
**Rep. Culpepper
Ex-officio**



**Rep. Cunningham
Ex-officio**



**Rep. Eddins
Ex-officio**



**Rep. Hackney
Ex-officio**

AGRICULTURE

(Name of Committee)

[illegible]

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

February 22, 2005

The House Committee on Agriculture met on Tuesday, February 22, 2005, in Room 1228 of the Legislative Building. The following members were present: Chair Dewey Hill; Vice Chairs Bell, Coates, Langdon, Tucker, West, and Williams; Representatives Culp, Faison, Kiser, Pate, Pierce, Preston, Underhill, Walker, Warren, Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 12:00 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The committee members introduced themselves and gave their district make-up. The Visitor Registration list is attached and made part of these minutes.

Speaker Morgan was recognized, and he made a few remarks.

Commissioner Steve Troxler was introduced by Chair Hill. The Commissioner acknowledged several of his staff and gave an overview of the North Carolina Department of Agriculture and Consumer Services. He opened the floor for questions from the committee members. A copy of his presentation is attached.

Chair Hill recognized Representative Faison and asked that he speak on his bill, House Bill 329, Limit Liability for Agritourism Activities.

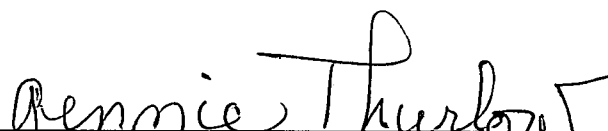
Some of the issues that may be considered by the Agriculture Committee were cited by Chair Hill.

Chair Hill made closing remarks.

The meeting was adjourned at 12:30 p.m.



Representative Dewey Hill, Chair



Jennie Thurlow, Committee Assistant

Agriculture Commissioner Steve Troxler's Remarks to House Agriculture Committee
Tuesday, Feb. 22, 2005
Noon

- Thank Chairman Hill and members of the committee.
- I would like to take just a few minutes to let you know where I see the N.C. Department of Agriculture and Consumer Services heading.
- Agriculture is our state's top industry, contributing about \$60 billion a year to the economy and employing 20 percent of our workforce.
- The majority of North Carolina remains rural, and agriculture is the economic bedrock for many small communities around the state. Small farms are small businesses, and their economic impact ripples throughout our towns.
- The industry is in transition, but that's nothing new. Dairy farms dwindling, tobacco farmers facing uncertainty. But the future of agriculture is promising, and I'm going to work hard to move the industry forward.
- My top priority will be working to preserve family farms. Not just preserving the farmland, but preserving the working farms. We can do this by returning profitability to family farms. We need to continue to develop value-added opportunities for farmers and recruit agribusinesses that will provide jobs to North Carolinians and provide a market for our producers.
- We also must not tax families off their farms. Currently, taxes on farmland are based on the land's agricultural use value instead of its development value. This enables families to continue farming. Repealing this method would saddle families with exorbitant taxes that would force them to quit farming and sell their land.
- North Carolina has a diverse agricultural base. We are in the top five in the country in the production of a variety of commodities: tobacco, sweet potatoes, Christmas trees, hogs, turkeys, cucumbers for pickles, trout, broiler chickens, nursery crops, and blueberries.
- But in the wake of the tobacco buyout, it's crucial that we do even more to diversify this base.
- North Carolina is still the largest tobacco-producing state in the country. The buyout will allow farmers to regain a competitive footing with overseas growers, and tobacco will still be a major agricultural commodity here. But we must continue to diversify our agricultural industry to ensure its long-term success.
- We must seek out and develop alternatives to the traditional practice of selling commodities wholesale. Adding value to farm products provides farmers with a much greater return on

their investment than selling raw commodities. We must help growers take that extra step. And we will.

- We also will continue to find and open international markets for our agricultural products. As Jim Graham said, our task is to find what the world wants, grow it and sell it to them. I've marketed my farm products directly to consumers, and I'll draw on that firsthand experience to help our state's farmers sell their products.
- The department will continue to help farmers sell directly to consumers here in North Carolina, too. Our five state-owned farmers markets are but one example of this effort.
- The most important issue facing our department is the responsibility to ensure that the people of North Carolina have a safe and adequate food supply. One way to achieve this goal is to make sure we have an ample supply of locally grown foods. This is a matter of strategic importance. If we can preserve our family farms, we will reduce our dependence on imported food products. And that will cut the risk of contaminated food getting into our food supply.
- We also must ensure that our animal agriculture industries are protected. We will be vigilant, constantly looking for the warning signs of diseases. And we will help producers take steps to reduce the risk of disease. The department has developed plans for dealing with diseases, and we have some of the brightest experts in the field to help protect against an outbreak.
- Earlier this month, we launched the N.C. Farm I.D. Program. We're now able to provide national premises I.D. numbers to those producers who request them. This is part of the National Animal I.D. Program. More than 400 North Carolina farms have filled out or requested applications for these I.D. numbers. This voluntary program will be of great use in helping us trace animals to their origin should an outbreak of an animal disease occur.
- To further protect our livestock and poultry industries, we will be asking the General Assembly to extend the foreign animal disease legislation that was passed in 2001. It's currently scheduled to expire in October. This legislation authorized the State Veterinarian to take emergency actions to prevent the spread of serious and contagious diseases, such as foot and mouth disease.
- Fortunately, we have not needed to use these emergency powers, but the threat of foreign animal disease is still there, as well as new threats from bioterrorism. So we will be asking for your help in continuing this important legislation.
- We will also work to protect consumer standards — to make sure that gas pumps, price scanners and scales are accurate, and that our motor fuel and LP gas are properly handled and labeled.
- And we will work to help the public better understand our role because our department affects every North Carolinian every day.

- I want to make the N.C. Department of Agriculture and Consumer Services the best in the country. We have a dedicated, hardworking staff, and I am looking forward to meeting all of my employees.
- I still have a lot to learn about the department's programs and services, but I have made a few changes that I believe will improve our efficiency.
- These changes reflect my common-sense approach to managing the department. I'm a farmer, not a bureaucrat. I came to Raleigh to serve the residents of this state, and I want our department to reflect that attitude.
- Members of the committee, I will be calling on you to ask for your help in protecting the department's budget so that we may continue to protect our food supply, promote the state's excellent agricultural products, and ensure that the tools of commerce are accurate.
- Whether they realize it or not, the people of North Carolina depend on our department for a variety of protections and services, and I intend to make sure we deliver.
- Again, thank you for this opportunity to speak to you today. If you have any questions, I'll be happy to answer them.

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

2/22/05
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jim Lowry	NC Utility Contractors Association
N. David Smith	Agriculture
Susan Morgan	Fiscal Research
Howard Joly	Agriculture
Reagan Sugg	Agriculture
David McLeod	Agri.
Zane Hedgescock	Agriculture
Erica Peterson	NC Agribusiness Council
David Mudduth	NC State Game
Dana Eller	GTCC Political Science Club
Mike Caery	Caery & Associates

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

2/22/05
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sheryl Stephens	OSBM
John McHugh	man office
Sharon Trotter	visitor
Johanna Reese	DENR
Will Cannon	visitor
Jon Trechow	VISITOR
C Dowell	Insider
Reid Wilson	Conservation Trust for NC
L.B. 2.	TTFCL
Wm. B. Brason	Capital Group
[Signature]	NRRA

VISITOR REGISTRATION SHEET

Agriculture

2-22-05

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Snitpa Seipal	UNC School of Law
Kelly Shurelyn	UNC School of Law
Barbara Wall	GTCC - Political Science Club
James Williams	
Ralph Souiero	
Kenny Crawford	
Roger Bone	Bone & Associates
John Bone	
DDP	NCFC
Erin Kinney	NC Conservation Network
John Lynch	NC State House
Henry Jones	Attorney Raleigh
Bob Ford	NC Poultry Fed
Donnie Beasley	Div of Forest Resources
Taylor McLawhorn	Clean Water Mgmt Trust Fund
Bob Spocum	NC Forestry Assoc
Greg Tappin	AARP NC
Richard K. Smith	NC L M
David Knight	TNC
Lee Hodge	KCLH
BILL HART	NC Asso. Soil & Water Cons. Districts
Talman Layton	Soil & Water Supervisor
Steve Harris	Soil & Water Supervisor
LEWIS A. BRANDON, III	SOIL & WATER SUPERVISOR
Dr. Holm	CUNTF

House Pages

2-22-05
Agriculture
Rm 1228

1. Name: DAVID CALDWELL
County: CATAWBA
Sponsor: Rep. SETZER
2. Name: _____
County: _____
Sponsor: _____
3. Name: _____
County: _____
Sponsor: _____
4. Name: _____
County: _____
Sponsor: _____
5. Name: _____
County: _____
Sponsor: _____

Sgt-At-Arms

1. Name: TOM WILDER
2. Name: FRANK PREVO PREVO
3. Name: TOUSSAINT AVENT
4. Name: TWO SAND ADAMS AVENT

To 4



AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Tuesday, February 22, 2005
1228 Legislative Building**

12:00 Noon

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**



AGENDA ITEMS

Guest Speaker

**Commission Steve Troxler
North Carolina Department of Agriculture and Consumer Services**

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT



Gennie Thurlow (Rep. Hill)

From: Gennie Thurlow (Rep. Hill)**Sent:** Thursday, February 17, 2005 1:33 PM**Cc:** Carolyn Edwards (Rep. Bell); Melissa Lennon (Rep. Coates); Jackson Stancil (Rep. Langdon); Sally Gillis (Rep. Tucker); Linda C. Johnson (Rep. West); Linda Uzzle (Rep. Arthur Williams); Waneta Lord (Rep. Culp); Katie Jackelen (Rep. Faison); Marilyn Holder (Rep. Kiser); Edna Pearce (Rep. Pate); Mildred Alston (Rep. Pierce); Suzanne Castleberry (Rep. Preston); Shirley Phillips (Rep. Tolson); Judy Veorse (Rep. Underhill); Barbara Powell (Rep. Walker); Nancy Willis (Rep. Warren); Rebecca Jones (Rep. G. Wilson); Mary Capps (Rep. Wray); Anne Cole (House Legislative Assistants Director); 'Kathy.Scott@ncmail.net'; Gennie Thurlow (Rep. Hill)**Subject:** Agriculture Committee Meeting

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **Agriculture** will meet as follows:

DAY & DATE: Tuesday, February 22, 2005**TIME:** 12:00 noon**LOCATION:** Room 1228 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

Keynote speaker for the meeting will be Agriculture Commissioner Steven W. Troxler.

Respectfully,

Rep. Dewey L. Hill
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **1:45 p.m.** on **February 17, 2005.**

x ___ Principal Clerk
x ___ Reading Clerk - House Chamber

Pearl Honeycutt for Gennie Thurlow (Committee Assistant)

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

March 16, 2005

The House Committee on Agriculture met on Wednesday, March 16, 2005, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Bell, Coates, Langdon, Tucker, West, and Williams; Representatives Culp, Faison, Kiser, Pate, Pierce, Preston, Tolson, Underhill, Walker, Warren, Wilson, Wray, and Yongue.

Chair Hill called the meeting to order at 12:00 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

Representatives Coates presented **House Bill 143, Exempt Agri-Tourism From Privilege Tax**. Discussion followed. Representative Culp made a motion to give the bill a favorable report. The motion carried.

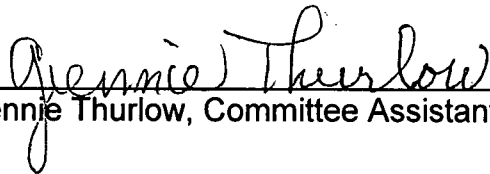
Vice Chair Bell was asked to chair while Chair Hill explained his bill, **House Bill 458, Extend Sunset/Animal Disease Prevention**. Discussion followed. Representative Tolson moved for a favorable report. The motion carried.

Associates from Biomass Marketing Associates Llc., S. L. Allen and David Mayer, gave a presentation. A copy of the presentation is attached.

The meeting adjourned at 12:40 P.M.



Representative Dewey Hill, Chair



Gennie Thurlow, Committee Assistant

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Dewey Hill**, (Chair) for the Committee on **AGRICULTURE**.

☐ Committee Substitute for

H.B. 143 A BILL TO BE ENTITLED AN ACT TO EXEMPT AGRI-TOURISM
ACTIVITIES FROM THE PRIVILEGE TAX ON AMUSEMENTS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

H

1

HOUSE BILL 143

Short Title: Exempt Agri-Tourism From Privilege Tax. (Public)

Sponsors: Representatives Coates; Alexander, B. Allen, Allred, Bell, Brubaker, Church, Cleveland, Cole, Coleman, Cunningham, Daughtridge, Faison, Farmer-Butterfield, Fisher, Frye, Glazier, Hill, Holliman, Holmes, Howard, Johnson, Justice, Justus, Kiser, Lewis, Lucas, Moore, Parmon, Preston, Rapp, Steen, Tucker, Underhill, Walker, Warren, Wilkins, Williams, and Wray.

Referred to: Agriculture, if favorable, Finance.

February 9, 2005

A BILL TO BE ENTITLED

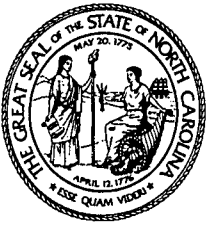
AN ACT TO EXEMPT AGRI-TOURISM ACTIVITIES FROM THE PRIVILEGE
TAX ON AMUSEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-40 is amended by adding a new subdivision to read:

"(12) All farm-related exhibitions, shows, attractions, or amusements offered on land used for bona fide farm purposes as defined in G.S. 153A-340, including hayrides, animal exhibitions, and farm pond fishing."

SECTION 2. This act becomes effective January 1, 2001, and applies to activities occurring on or after that date.



HB 143: Exempt Agri-Tourism From Privilege Tax

BILL ANALYSIS

Committee: House Agriculture
Date: March 9, 2005
Version: 1st Edition

Introduced by: Representative Coates
Summary by: Barbara Riley
Committee Counsel

SUMMARY:

House Bill 143 would exempt farm-related entertainment and activities from the privilege tax on amusements. The bill is retroactive to January 1, 2001.

CURRENT LAW:

Article 2 of Chapter 105 imposes a privilege tax on the right to carry on a business. The tax is imposed at the rate of 3% of the gross receipts from the activities of the business. G.S. 105-37.1. Businesses subject to the privilege tax include those offering entertainment, amusement, performances or exhibitions for which an admission fee is charged and that is not otherwise taxed under Article 2. (Such as movies, professionals, banks and newspapers). Some amusement activities are exempt from the payment of the tax. G.S. 105-40. These include exhibitions by local talent (unpaid) for charitable purposes, outdoor historical dramas, dances, movies and other amusements promoted and managed by a nonprofit corporation that operates a center for the performing and visual arts, and certain art and community festivals.

BILL ANALYSIS:

House Bill 143 would add farm-related amusement and entertainment activities to the list of those activities that are exempt from the privilege tax. The activities must be offered on land used for bona fide farm purposes; defined to include the production and activities relating or incidental to the production of crops livestock, poultry and other agricultural products. G.S. 153A-340.

The act is retroactive to January 1, 2001. This would allow persons who have engaged the business of providing farm-related entertainment and paid the tax to apply for a refund of the taxes paid.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Dewey Hill**, (Chair) for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 458 A BILL TO BE ENTITLED AN ACT TO EXTEND THE SUNSET PROVISION
OF THE ACT THAT STRENGTHENED THE AUTHORITY OF THE STATE
VETERINARIAN TO PREVENT AND CONTROL AN OUTBREAK OF FOOT-AND-
MOUTH DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE.

- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 458*

Short Title: Extend Sunset/Animal Disease Prevention.

(Public)

Sponsors: Representatives Hill; and Pate.

Referred to: Agriculture.

March 3, 2005

A BILL TO BE ENTITLED

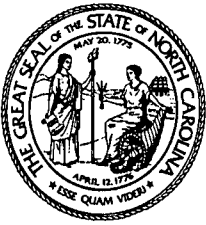
AN ACT TO EXTEND THE SUNSET PROVISION OF THE ACT THAT
STRENGTHENED THE AUTHORITY OF THE STATE VETERINARIAN TO
PREVENT AND CONTROL AN OUTBREAK OF FOOT-AND-MOUTH
DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 2001-12, as amended by S.L. 2003-6, reads
as rewritten:

"**SECTION 11.** This act is effective when it becomes law and expires ~~1 October~~
~~2005. October 1, 2009.~~"

SECTION 2. This act becomes effective October 1, 2005.



HB 458: Extend Sunset/Animal Disease Prevention

BILL ANALYSIS

Committee: House Agriculture
Date: March 9, 2005
Version: 1st Edition

Introduced by: Representative Hill
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *House Bill 458 would extend to October 1, 2009 the sunset provisions of S.L. 2001-12, which authorized the State Veterinarian, in consultation with the Commissioner of Agriculture and the approval of the Governor, to implement emergency procedures when necessary to combat the outbreak of an infectious animal disease. The sunset for the original bill was April 1, 2003. This was extended in S.L. 2003-6 to October 1, 2005.*

CURRENT LAW: S.L. 2002-12 was enacted during the 2001 General Assembly in response to the concerns raised by the severe hoof and mouth outbreak in Europe. The legislation gave authority to the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, to implement emergency procedures determined necessary to prevent an outbreak of an infectious animal disease having the potential for very serious and rapid spread, that is of serious economic and public health consequence, or is of major importance in the international trade of animals and animal products. The emergency measures that may be implemented include restrictions of the transportation of potentially infected animals, emergency disinfectant procedures at portals of entry into the State, the right to enter onto property to examine animals believed to be infected or exposed to disease, inspections without warrants of individuals and motor vehicles, quarantine of animals, and the destruction of animals where necessary to control a contagious disease outbreak.

Persons who willfully violate the statute are guilty of a Class 2 Misdemeanor. Further, the law prohibits the knowing or willful concealment of animals subject to quarantine and the failure to report the occurrence of a disease for which a quarantine is in effect. Knowing or willful concealment or failure to report may result in an administrative penalty not to exceed \$10,000 per violation.

BILL ANALYSIS: The original act, passed in April of 2001 contained a sunset provision effective April 1, 2003. S.L. 2003-6 extended the sunset provision of the act to October 1 of this year. House Bill 458 further extends the sunset to October 1, 2009.

BACKGROUND: S.L. 2001-12 was enacted in response to concerns about North Carolina's ability to respond to an outbreak of Foot and Mouth Disease similar to that which was occurring in Great Britain at the time. Foot and Mouth disease is considered one of the most devastating livestock diseases because it is extremely contagious and can infect multiple species.

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Wednesday, March 16, 2005
1228 Legislative Building**

12:00 Noon

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**

AGENDA ITEMS

HB 143 - Exempt Agri-Tourism From Privilege Tax - Representative Coates

HB 458 - Extend Sunset/Animal Disease Prevention - Representative Hill

Guest Speakers

**Presentation by Biomass Marketing Associates Llc. on Mortality Disposal
S. L. Allen, Benny Bunting, and David Mayer**

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

3/16/05
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jerry Munn	ACRA
Greg Radford	NC DOR
Charles Craven	NC DOR
Michael Nelson	CONSERVATION Council
Ken Melton	NC DOR
Zot Slocum	NC Forestry Assoc
Bill Daugherty	Legislature
David McLeod	NCDA + CS
David Marshall	NCDA + CS
Henry Jones	Attorney Raleigh
Conner Wilson	SSJ

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Steve Woodson

NC Farm Bureau

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

March 30, 2005

The House Committee on Agriculture met on Wednesday, March 30, 2005, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Langdon, Tucker, and West; Representatives, Faison, Kiser, Pate, Pierce, Tolson, Underhill, Walker, Warren, Wilson, and Yongue.

Chair Hill called the meeting to order at 12:05 p.m. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

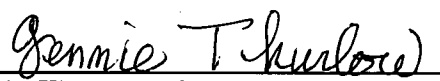
Representative Gibson presented **House Bill 685, Animal Shelters/Uniform Regulation**. Discussion followed. Representative Tucker offered an amendment (copy attached). Chair Hill called for a vote on Representative Tucker's amendment, and the amendment passed. Representative Tolson offered an amendment (copy attached). Chair Hill called for a vote on Representative Tolson's amendment, and the amendment passed. Chair Hill called for a vote on **House Bill 685**, as amended. A vote was taken. Chair Hill then called for division. The vote was six in favor of the bill, as amended, and four against. The bill, as amended, received a favorable report, and the bill was made into a Proposed Committee Substitute and re-referred to Appropriations.

Vice Chair Tucker was asked to chair while Chair Hill spoke on his bill, **House Bill 752, NCSU Dairy Sales.-AB**. Chair Hill asked Gary Cartwright from North Carolina State University to explained the bill. Discussion followed. Representative Tolson moved for a favorable report. Additional discussion followed. The motion carried.

The meeting adjourned at 12:55 p.m.



Representative Dewey Hill, Chair



Gennie Thurlow, Committee Assistant

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Hill**, (Chair) for the Committee on **AGRICULTURE**.

☐ Committee Substitute for

H.B. 685 A BILL TO BE ENTITLED AN ACT TO CREATE A UNIFORM SYSTEM FOR
THE REGULATION OF PRIVATE AND PUBLIC ANIMAL SHELTERS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (#), ☒ which changes the
title, unfavorable as to (the original bill) (~~Committee Substitute Bill #~~), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on Appropriations.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Hill**, (Chair) for the Committee on **AGRICULTURE**.

☐ Committee Substitute for

H.B. 752 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM THE UMSTEAD
ACT THE SALE BY NORTH CAROLINA STATE UNIVERSITY OF PRODUCTS
PRODUCED BY THE DAIRY AND PROCESS APPLICATION LABORATORY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

Amended

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.) _____

Sen.) _____

1 moves to amend the bill on page _____, line _____

2 () WHICH CHANGES THE TITLE

3 by _____

4 _____

5 "8 Dept of Agriculture upon consultation with the

6 State Veterinarian The Department

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. _____

Amendment No. 2

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) _____
Sen.) _____

1 moves to amend the bill on page 2, line 41

2 () WHICH CHANGES THE TITLE

3 by correcting the following as listed here.

4 _____

5 on page 3 lines 23-24 inserting the

6 following between lines 2

7 _____

8 "SECTION 4. _____ appropriated from the General

9 Fund the sum of five hundred fifty thousand dollars

10 (\$500,000) to the ~~Department~~ Animal Health Division

11 within the Department of Agriculture and the sum

12 of one hundred thousand dollars (\$100,000) to the

13 Attorney General's office for the purpose of implementing

14 this act.

15 _____

16 and amending the title accordingly

17 _____

18 and renumbering the remaining sections accordingly

19 _____

SIGNED Joe John

ADOPTED ☒ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 685

Short Title: Animal Shelters/Uniform Regulation.

(Public)

Sponsors: Representatives Gibson; and Martin.

Referred to: Agriculture.

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO CREATE A UNIFORM SYSTEM FOR THE REGULATION OF
PRIVATE AND PUBLIC ANIMAL SHELTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 19A-23 reads as rewritten:

"§ 19A-23. Definitions.

For the purposes of this Article, the following terms, when used in the Article or the rules or orders made pursuant thereto, shall be construed respectively to mean:

- (1) "Adequate feed" means the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a sanitized receptacle, dish, or container.
- (2) "Adequate water" means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.
- (3) "Ambient temperature" means the temperature surrounding the animal.
- (4) "Animal" means any domestic dog (*Canis familiaris*), domestic cat (*Felis domestica*).
- (5) "Animal shelter" means a facility which is used to house or contain animals and which is under contract with, owned, operated, or maintained by a county, city, town, or other municipality, or by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, ~~protection and~~ protection, rehabilitation, or humane treatment of animals.
- (5a) "Boarding kennel" means a facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing

shelter, food and water, offer grooming or other services for dogs and/or cats.

(6) "Commissioner" means the Commissioner of Agriculture of the State of North Carolina.

(7) "Dealer" means any person who sells, exchanges, or donates, or offers to sell, exchange, or donate animals to another dealer, pet shop, or research facility; provided, however, that an individual who breeds and raises on his own premises no more than the offspring of five canine or feline females per year, unless bred and raised specifically for research purposes shall not be considered to be a dealer for the purposes of this Article.

(8) "Director" means the Director of the Animal Welfare Section of the Animal Health Division of the Department of Agriculture and Consumer Services.

(9) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves rapid unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.

(10) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(11) "Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

(12) "Pet shop" means a person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.

(13) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage compartment or hutch.

(14) "Public auction" means any place or location where dogs or cats are sold at auction to the highest bidder regardless of whether such dogs or cats are offered as individuals, as a group, or by weight.

(15) "Research facility" means any place, laboratory, or institution at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

(16) "Sanitize" means to make physically clean and to remove and destroy to a practical minimum, agents injurious to health."

SECTION 2. G.S. 19A-24 reads as rewritten:

"§ 19A-24. Powers of Board of Agriculture.

The Board of Agriculture ~~may~~shall:

- (1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or

1 supervisors, or both employees and supervisors, of not more than 10 to
2 one, shall not as to such services be subject to any regulations that
3 restrict the number of dogs that are permitted within any primary
4 enclosure.

5 (2) Prescribe the manner in which animals may be transported to and from
6 registered or licensed premises.

7 (3) Require licensees and holders of certificates to keep records of the
8 purchase and sale of animals and to identify animals at their
9 establishments.

10 (4) Adopt rules to implement this Article, including federal regulations
11 promulgated under Title 7, Chapter 54, of the United States Code.

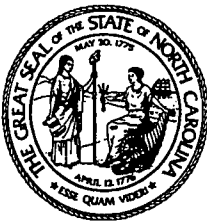
12 (5) Adopt rules on the euthanasia of animals in the possession or custody
13 of any person licensed under this Article. An animal shall only be put
14 to death by a method and delivery of method approved by the
15 American Veterinary Medical Association, the Humane Society of the
16 United States, or the American Humane Association. The Department
17 shall establish rules for the euthanasia process using any one or
18 combination of methods and standards prescribed by the three
19 mentioned organizations. The rules shall address the equipment,
20 the process, and the separation of animals, in addition to the animals'
21 age and condition. If the gas method of euthanasia is approved, rules
22 shall require (i) that only commercially compressed carbon monoxide
23 gas is approved for use, and (ii) that the gas must be delivered in a
24 commercially manufactured chamber that allows for the individual
25 separation of animals. Rules shall also mandate training for any person
26 who participates in the euthanasia process."

27 **SECTION 3.** Chapter 19A of the General Statutes is amended by adding a
28 new section to read:

29 **"§ 19A-41. Legal representation of the Department of Agriculture and Consumer**
30 **Services.**

31 It shall be the duty of the Attorney General to represent the Department of
32 Agriculture and Consumer Services or designate some member of his staff to represent
33 the Department in all actions or proceedings in connection with this Article."

34 **SECTION 4.** This act becomes effective October 1, 2005.



HOUSE BILL 685: Animal Shelters/Uniform Regulation.

BILL ANALYSIS

Committee: House Agriculture
Date: March 30, 2005
Version: 1ST Edition

Introduced by: Rep. Gibson and Martin
Summary by: R. Erika Churchill
Committee Counsel

SUMMARY: *The bill would create a uniform system of regulation of public and private animal shelters.*

CURRENT LAW: Within the Department of Agriculture is the Animal Health Division, commonly known as the Animal Welfare Section. Among other responsibilities, that division is charged with insuring that animals confined in animal shelters are provided humane care and treatment; and prohibiting the adoption of animals exhibiting physical signs of infection, communicable disease, or congenital abnormalities, unless veterinary care is assured subsequent to adoption. The Board of Agriculture has the authority to adopt rules establishing standards for the care of animals at animal shelters. An animal shelter is defined as "a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals." Animal shelters owned or operated by counties, cities or other governmental bodies are not covered the standards adopted by the Board of Agriculture and enforced by the Animal Welfare Section.

BILL ANALYSIS:

Section 1. The bill would amend the definition of animal shelter to include a facility under contract with, owned, operated or maintained by a county, city, town or other municipality. The bill would further amend the definition of animal shelter to include a facility that rehabilitates animals.

Section 2. The bill would make mandatory the currently optional responsibilities of the Board of Agriculture in G.S. 19A-24. The bill would also add the responsibility to adopt rules on the euthanasia of animals in the possession or custody of persons licensed by the Animal Welfare Section. Euthanasia may be only by a method approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Society. If gas is an approved method of euthanasia, only commercially compressed carbon monoxide may be used and the gas must be delivered in a commercially manufactured chamber that allows for the individual separation of animals. The rules shall also address training of persons participating in the euthanasia process.

Section 3. The bill would require the Attorney General's office to represent the Department of Agriculture in all actions and proceedings in connection with the Animal Welfare Act.

Section 4. The act would become effective October 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 752*

Short Title: NCSU Dairy Sales.-AB

(Public)

Sponsors: Representatives Hill; Brubaker, Ross, Alexander, Carney, Underhill,
Weiss, and Williams.

Referred to: Agriculture.

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM THE UMSTEAD ACT THE SALE BY NORTH
CAROLINA STATE UNIVERSITY OF PRODUCTS PRODUCED BY THE
DAIRY AND PROCESS APPLICATION LABORATORY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-58(c) reads as rewritten:

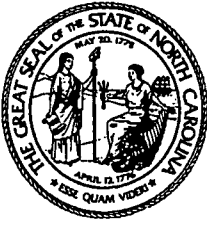
"(c) The provisions of subsection (a) shall not prohibit:

...

(1b) The sale by North Carolina State University at University-owned facilities of dairy products, including ice cream, cheeses, milk-based beverages, and the by-products of heavy cream, produced by the Dairy and Process Applications Laboratory, so long as any profits are used to support the Department of Food Science and College of Agriculture and Life Sciences at North Carolina State University.

...."

SECTION 2. This act is effective when it becomes law.



HOUSE BILL 752: NCSU Dairy Sales - AB

BILL ANALYSIS

Committee: House Agriculture
Date: March 30, 2005
Version: 1st Edition

Introduced by: Rep. Hill
Summary by: R. Erika Churchill
Committee Counsel

SUMMARY: *The bill would exempt the sale of products produced by the Dairy and Process Application Laboratory from the Umstead Act provided the sales are made by North Carolina State University at University owned facilities.*

CURRENT LAW: In order to prevent competition with private enterprise, G.S. 66-58, commonly referred to as the Umstead Act, prohibits the sale of merchandise or services by governmental units. In order to sell merchandise or services, a governmental unit must be exempted from the act.

BILL ANALYSIS: The bill would add to the list of exemptions to the Umstead Act the sale of dairy products produced by the Dairy and Process Applications Laboratory. The exemption applies only if the sale is by North Carolina State University at university owned facilities and the profits are used to support the Department of Food Science and College of Agriculture and Life Sciences at NCSU.

EFFECTIVE DATE: The act would become effective when it becomes law.

Department of Food Science Creamery Operation

The NCSU Creamery (Dairy & Process Applications Laboratory) is a self-supporting, revenue generating unit within the Department of Food Science that exists to leverage departmental research, teaching and extension functions.

- Allows faculty and staff to achieve high cost, high impact research with minimal funding.
- Provides students with modern “real world” dairy and food processing operations.
- Serves North Carolina industry as a conduit for new technology and extension support.

The Creamery operation within the Department of Food Science requests an exemption from the Umstead Act to:

- Allow the sale of food products produced by the operation directly to the general public on the premises of the University.
- Allow the establishment of a storefront for the purpose of such sales.

The Creamery desires to optimize the value-added nature of activities to achieve maximum impact for research, teaching and extension while maintaining a modern plant environment.

- Value-added products include, but are not limited to ice creams, cheeses and milk-based beverages which provide increased marketability and a more desirable pricing structure.
- Current product sales are to university dining services, state prisons and state hospitals.
- No demand for value-added product exists in current customer base.
- Current product line requires significant production costs but yields low value-added return.
- Shift of emphasis to value-added products will enable a more cost-effective operation.

Improved revenue stream will be used to enhance the mission of Food Science and raise agricultural awareness.

- New process capabilities will be established within the Creamery as dictated by departmental needs.
- Storefront operation will create on-campus student opportunities in agribusiness related areas of marketing, retailing, product development and entrepreneurship.
- Activities that support North Carolina economic development will be expanded such as the Farmstead Milk and Cheese program.

The Creamery has received widespread support from the North Carolina dairy processing industry.

- Carolina/Virginia Dairy Products Association (CVDPA), which represents all of the major dairy processors in North Carolina, supports this endeavor.
- CVDPA has authorized their legislative counsel, Sam Johnson, to support this initiative on their behalf.

Revenue estimates are based on current NCSU Creamery activities and models from similar universities such as Penn State.

- Maximum additional revenue from product sales to the public without a storefront market is estimated at \$20,000 per month.
- A storefront market would yield an estimated \$80,000 per month additional revenue initially.

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

3/30/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Stephanie Simpson

NCAR

Lu-Ann Goe

GIC

Steve Jernigan

Don. Alliance of N.C.

Sam Johnson

Ally

Joe Mc

N.C. Sporting Dg Inc

Pat Nancy

Speaker's Office

Kyle Britton

Charlotte Bobcats

Gary Cartwright

NCSU

Jennifer Williamson

NCSU

Andy White

NBSU

Edward Foley

NCDATCS

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

3-30-05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Cyrus	NCSG
David Merrill	NC State Orange
N. David Smith	NC Dept. of Agriculture
Jerry Haddock	NCRP
Deborah L. Bann	NCA & HD
Roger Bane	Bane & Assoc
Paula A. Wolf	El Pueblo
Richard S. Wolf	Richard S. Wolf & Assoc.
Paula Mann	NCA & C
Tomlin	NCR & A

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

3-30-05

Date

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NAME

FIRM OR AGENCY AND ADDRESS

John H. Comari	NCDOL
ERIN GOULD	NCDOL
Art Ditt	NCDOL
Michael Epperly	NCDOL
Henry Jones	Attorney - Raleigh
Eric Kinner	NC Conservation Network
Anita Watkins	NCLM
Ann Cox	QVDS
John Quintano	NCATL
PGP	NCFB
Mike Perry	U.S. Army

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

3/30/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

David Marshall

NCSA + CS

David M. Lovel

NCDA & CS

Bill Dickerson

WCTA + CS

Steve Woodson

NK From Bureau

Mitch Peeler

ARC Farm Bureau

LARRY WOOTEN

NC Farm Bureau

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Wednesday, March 30, 2005
1228 Legislative Building**

12:00 Noon

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**

AGENDA ITEMS

**HB 685 - Animal Shelters/Uniform Regulation - Representative Gibson
HB 752 - NCSU Dairy Sales.-AB - Representative Hill
HB 671 - Amend Plant Pest Law.-AB - Representative Hill**

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: Wednesday, March 30, 2005

TIME: 12:00 Noon

LOCATION: 1228 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 607 - Clarify Veterinary Urine Test Requirements - Representative Brubaker

HB 671 - Amend Plant Pest Law.-AB - Representative Hill

HB 685 - Animal Shelters/Uniform Regulation - Representative Gibson

HB 752 - NCSU Dairy Sales.-AB - Representative Hill

HB 767 - Enhance Migrant Housing Act.-AB - Representative Howard

Respectfully,
Representative Dewey Hill
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
2:30 p.m. on March 24, 2005.

____Principal Clerk
____Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

April 13, 2005

The House Committee on Agriculture met on Wednesday, April 13, 2005, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Bell, Langdon, West, and Williams; Representatives Culp, Faison, Pate, Pierce, Preston, Tolson, Underhill, Walker, Wilson, and Yongue.

Chair Hill called the meeting to order at 12:00 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

Senator Albertson presented **Senate Bill 210, Extend Sunset/Animal Disease Prevention**. Representative West moved to give the bill a favorable report. The motion passed.

Representative Howard presented **House Bill 767, Enhance Migrant Housing Act.-AB**. Representative Wilson moved to accept the Proposed Committee Substitute. The motion carried. Discussion followed. Representative Williams moved that the bill be given a favorable report to the committee substitute, unfavorable to the original bill. The motion passed.

The meeting adjourned at 12:15 p.m.



Representative Dewey Hill, Chair



Gennie Thurlow, Committee Assistant

minutes
4/13/05

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Hill**, (Chair) for the Committee on **AGRICULTURE**.

☐ Committee Substitute for

S.B. 210 A BILL TO BE ENTITLED AN ACT TO EXTEND THE SUNSET PROVISION OF THE ACT THAT STRENGTHENED THE AUTHORITY OF THE STATE VETERINARIAN TO PREVENT AND CONTROL AN OUTBREAK OF FOOT-AND-MOUTH DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

4/13/05
minutes

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Hill**, (Chair) for the Committee on **AGRICULTURE**.

☐ Committee Substitute for

H.B. 767 A BILL TO BE ENTITLED AN ACT ENHANCING THE MIGRANT HOUSING LAWS OF NORTH CAROLLINA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☒ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (~~Committee Substitute Bill #~~), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

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☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Wednesday, April 13, 2005
1228 Legislative Building**

12:00 Noon

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**

AGENDA ITEMS

**SB 210 – Extend Sunset/Animal Disease Prevention – Sen. Albertson
HB 607 – Clarify Veterinary Urine Test Requirements – Rep. Brubaker
HB 671 – Amend Plant Pest Law.-AB – Rep. Hill
HB 767 – Enhance Migrant Housing Act.-AB – Rep. Howard**

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

1

SENATE BILL 210

Short Title: Extend Sunset/Animal Disease Prevention.

(Public)

Sponsors: Senators Albertson; Jenkins and Kerr.

Referred to: Agriculture/Environment/Natural Resources.

February 24, 2005

A BILL TO BE ENTITLED

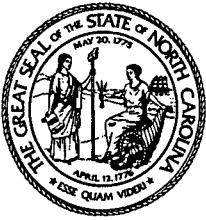
AN ACT TO EXTEND THE SUNSET PROVISION OF THE ACT THAT
STRENGTHENED THE AUTHORITY OF THE STATE VETERINARIAN TO
PREVENT AND CONTROL AN OUTBREAK OF FOOT-AND-MOUTH
DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 2001-12, as amended by S.L. 2003-6, reads
as rewritten:

"SECTION 11. This act is effective when it becomes law and expires ~~1-October~~
~~2005-October 1, 2009.~~"

SECTION 2. This act becomes effective October 1, 2005.



SB 210: Extend Sunset/Animal Disease Prevention

BILL ANALYSIS

Committee: House Agriculture
Date: April 13, 2005
Version: 1st Edition

Introduced by: Senator Albertson
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *Senate Bill 210 would extend to October 1, 2009 the sunset provisions of S.L. 2001-12, which authorized the State Veterinarian, in consultation with the Commissioner of Agriculture and the approval of the Governor, to implement emergency procedures when necessary to combat the outbreak of an infectious animal disease. The sunset for the original bill was April 1, 2003. This was extended in S.L. 2003-6 to October 1, 2005.*

CURRENT LAW: S.L. 2002-12 was enacted during the 2001 General Assembly in response to the concerns raised by the severe hoof and mouth outbreak in Europe. The legislation gave authority to the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, to implement emergency procedures determined necessary to prevent an outbreak of an infectious animal disease having the potential for very serious and rapid spread, that is of serious economic and public health consequence, or is of major importance in the international trade of animals and animal products. The emergency measures that may be implemented include restrictions of the transportation of potentially infected animals, emergency disinfectant procedures at portals of entry into the State, the right to enter onto property to examine animals believed to be infected or exposed to disease, inspections without warrants of individuals and motor vehicles, quarantine of animals, and the destruction of animals where necessary to control a contagious disease outbreak.

Persons who willfully violate the statute are guilty of a Class 2 Misdemeanor. Further, the law prohibits the knowing or willful concealment of animals subject to quarantine and the failure to report the occurrence of a disease for which a quarantine is in effect. Knowing or willful concealment or failure to report may result in an administrative penalty not to exceed \$10,000 per violation.

BILL ANALYSIS: The original act, passed in April of 2001 contained a sunset provision effective April 1, 2003. S.L. 2003-6 extended the sunset provision of the act to October 1 of this year. Senate Bill 210 further extends the sunset to October 1, 2009.

BACKGROUND: S.L. 2001-12 was enacted in response to concerns about North Carolina's ability to respond to an outbreak of Foot and Mouth Disease similar to that which was occurring in Great Britain at the time. Foot and Mouth disease is considered one of the most devastating livestock diseases because it is extremely contagious and can infect multiple species.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 767

PROPOSED COMMITTEE SUBSTITUTE H767-CSRF-6 [v.5]

4/13/2005 10:46:17 AM

Short Title: Enhance Migrant Housing Act.-AB

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT ENHANCING THE MIGRANT HOUSING LAWS OF NORTH
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 95-223 reads as rewritten:

6 "§ 95-223. Definitions.

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

- 8 (1) "Agricultural employment" means employment in any service or
9 activity included within the provisions of Section 3(f) of the Fair Labor
10 Standards Act of 1938, or section 3121(g) of the Internal Revenue
11 Code of 1986; and the handling, planting, drying, packing, packaging,
12 processing, freezing, or grading prior to delivery for storage of any
13 agricultural or horticultural commodity in its unmanufactured state and
14 including the harvesting of Christmas trees, and the harvesting of
15 saltwater erabs;crabs.
16 (2) "Commissioner" means the Commissioner of Labor of North
17 Carolina;Carolina.
18 (3) "Day" means a calendar ~~day~~day.
19 (3a) "Department" means the North Carolina Department of Labor.
20 (4) "~~Established federal standard~~" ~~means those standards as set out in, and~~
21 ~~interpretations issued by, the Secretary of the United States~~
22 ~~Department of Labor in 29 C.F.R. 1910.142, as amended;~~
23 (4a) "Director" means the Director of the Agricultural Safety and Health
24 Bureau, who is the agent designated by the Commissioner to assist in
25 the administration of this Article.
26 (5) "Migrant" means an individual, and his dependents, who is employed
27 in agricultural employment of a seasonal or other temporary nature,

and who is required to be absent overnight from his permanent place of ~~residence~~; residence.

(6) "Migrant housing" means any facility, structure, real property, or other unit that is established, operated, or used as living quarters for ~~migrants~~; migrants.

(7) "Operator" means any person who owns or controls migrant ~~housing~~; and housing.

(8) "Person" means an individual, partnership, association, joint stock company, corporation, trust, or legal ~~representative~~; representative.

(9) "Substantive violation" means a violation of a safety and health standard, including those that provide fire prevention, and adequate and sanitary supply of water, plumbing maintenance, structurally sound construction of buildings, effective maintenance of those buildings, provision of adequate heat as weather conditions require, and reasonable protection for inhabitants from insects and rodents. A substantive violation does not include technical or procedural violations of safety and health standards."

SECTION 2. Article 19 of the General Statutes is amended by adding a new section to read:

"§ 95-223.1. Powers and duties of the Commissioner.

The Commissioner shall have the following powers and duties:

(1) To delegate to the Director of the Agricultural Safety and Health Bureau the powers, duties, and responsibilities that the Commissioner determines will best ensure safe and healthy migrant housing conditions.

(2) To supervise the Director of the Agricultural Safety and Health Bureau.

(3) To adopt, modify, or revoke any rules that are necessary for the purpose of carrying out the provisions of this Article

(4) To enforce rules adopted pursuant to this Article.

(5) To issue preoccupancy certificates to certify that housing for migrant workers has been found to be in compliance with this Article and the rules adopted pursuant to this Article.

(6) To conduct periodic post-occupancy inspections of migrant housing sites in accordance with the provisions of G.S. 95-136 through G.S. 95-142 to ensure that they remain in compliance with this Article and the rules adopted pursuant to this Article.

SECTION 3. G.S. 95-225 is repealed.

SECTION 4. G.S. 95-226 reads as rewritten:

"§ 95-226. Application for inspection. Inspections; occupancy.

(a) Every operator shall request a preoccupancy inspection at least 45 days prior to the anticipated date of occupancy by applying directly to the Department of Labor of North Carolina or to the local health department. Upon receipt of an application by the Department of Labor of North Carolina, the Department of Labor of North Carolina

1 ~~Department, the Department~~ shall immediately notify, in writing, the appropriate local
2 health department; and the local health department shall inspect the migrant housing for
3 compliance with G.S. 95-225(c) and (d). ~~this Article and the rules adopted pursuant to~~
4 ~~this Article.~~ Upon receipt of the application by the local health department, the local
5 health department shall immediately ~~notify, in writing, the Department of Labor of~~
6 ~~North Carolina~~ notify the Department in writing and shall inspect the migrant housing
7 for compliance with G.S. 95-225(c) and (d). ~~this Article and the rules adopted pursuant~~
8 ~~to this Article.~~

9 The local health department shall forward the results of its inspection to the
10 ~~Department of Labor of North Carolina~~ and to the operator. The ~~Department of Labor of~~
11 ~~North Carolina~~ shall inspect the migrant housing and certify to the operator the results
12 of the inspection.

13 (b) ~~The Department of Labor of North Carolina~~ shall provide local health
14 departments and Agricultural Extension offices with blank copies of forms for applying
15 for preoccupancy inspections.

16 (c) The application for inspection shall ~~include~~ include all of the following:

17 (1) The name, address, and telephone number of the ~~operator~~ operator.

18 (2) The location of the migrant ~~housing~~ housing.

19 (3) The anticipated number of migrants to be housed in the migrant
20 ~~housing~~ and housing.

21 (4) The anticipated dates of occupancy of the migrant housing.

22 (d) ~~Except as provided in subsection (e) of this section, an~~ Occupancy.

23 (1) ~~Except as provided by subdivison (2) of this subsection, an~~ operator
24 may allow the migrant housing to be occupied only if the migrant
25 housing has been certified by the Department of Labor of North
26 Carolina or the United States Department of Labor to be in compliance
27 with all of the standards under this Article, except that an this Article
28 and the rules adopted pursuant to this Article.

29 (2) An operator may allow migrant housing to be occupied on a
30 provisional basis if the if:

31 a. The operator applied for a preoccupancy inspection at least 45
32 days prior to the expected occupancy date and the preoccupancy
33 inspection was not conducted by the Department of Labor of
34 North Carolina at least four days prior to the anticipated
35 occupancy. Upon subsequent inspection by the Department of
36 Labor of North Carolina, such provisional occupancy shall be
37 revoked if any deficiencies have not been corrected within the
38 period of time specified by the Department of Labor of North
39 Carolina, or within two days after receipt of written notice
40 provided on-site to the operator. No penalties may be assessed
41 for any violation of this Article which are found during the
42 preoccupancy inspection, unless substantive violations exist
43 during provisional occupancy. occupancy date; or

b. The operator has applied for an inspection pursuant to this Article and one or more migrants arrives in advance of the arrival date stated in the application. The operator shall notify the Department within two working days of the occupancy of the migrant housing.

(3) The provisional occupancy authorized in subdivision (2) of this subsection shall be revoked if, upon subsequent inspection by the Department, the migrant housing is found not to be in compliance with this Article and the rules adopted pursuant to this Article, and any deficiencies have not been corrected within the period of time specified by the Department, or within two days after receipt of written notice provided on-site to the operator.

(4) Penalties may be assessed for substantive violations of this Article found during the preoccupancy inspection of migrant housing which has been occupied on a provisional basis.

~~(e) If an operator has applied for an inspection pursuant to this Article and one or more migrants arrives in advance of the arrival date stated in the application, the operator shall notify the Department of Labor of North Carolina within two working days of the occupancy of the migrant housing. (1989, c. 91, s. 2.)"~~

SECTION 5. G.S. 95-227 reads as rewritten:

"§ 95-227. Enforcement.

(a) The rules adopted by the Commissioner pursuant to this Article shall include, at a minimum, but not be limited to, the following requirements:

(1) The provisions of 29 C.F.R. 1910.142, which is incorporated by reference, subject to the modifications provided in Paragraph (b) of this Rule. The Commissioner shall provide for publication in the North Carolina Register any modification by the federal government of 29 C.F.R. 1910.142 within 30 days of its adoption.

(2) The rules regarding fire safety and kitchen and dining facilities adopted by the Commission for Health Services and in effect on January 1, 1989.

(3) Whenever the outside temperature falls below 50 degrees Fahrenheit and the migrant housing is occupied, heating equipment shall be provided and operable. Regardless of outside temperature, this equipment must be capable of maintaining living areas of 65 degrees Fahrenheit. If housing is to be occupied from May 15 until September 1 only, no heating equipment shall be required at the time of preoccupancy inspection.

(b) The provisions of 29 C.F.R. 1910.142(i) shall be subject to the following modifications:

(1) Food preparation facilities and eating areas shall be provided and maintained in a clean and sanitary manner;

(2) A kitchen facility shall be provided with an operable stove with at least one burner per five people, and in no event with less than two burners;

1 an operable refrigerator with .75 cubic feet per person minimum; a
2 table; and a sink with running hot and cold water;

3 (3) Surfaces with which food or drink come in contact shall be easily
4 accessible for cleaning, and shall be nontoxic, resistant to corrosion,
5 nonabsorbent, and free of open crevices; and,

6 (4) Acceptable storage facilities shall be provided and shall be kept clean
7 and free of vermin.

8 (c) In addition to the rules adopted by the Commissioner pursuant to this Article, the
9 following provisions shall apply to migrant housing:

10 (1) The rules adopted by the Commission for Health Services and
11 enforced by the Department of Environment and Natural Resources
12 that establish water quality and water sanitation standards for migrant
13 housing.

14 (2) The requirements for the collection, treatment, and disposal of
15 wastewater, as provided in Article 11 of Chapter 130A, and the rules
16 adopted by the Commission for Health Services pursuant to that
17 Article.

18 (d) For the purpose of enforcing the standards provided by this Article, the
19 provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall
20 apply under this Article in a similar manner as they apply to places of employment
21 under OSHANC; however, G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to
22 migrant housing; the Occupational Safety and Health Act of North Carolina.

23 (e) For the purposes of this Article, the term: following terms contained in
24 G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed as
25 follows:

26 (1) "Employer" in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through
27 G.S. 95-142 shall be construed to mean an operator; operator.

28 (2) "Employee" shall be construed to mean a migrant; and migrant.

29 (3) "Director" shall mean the agent designated by the Commissioner to assist
30 in the administration of this Article. Director of the Agricultural Safety
31 and Health Bureau.

32 The Commissioner may establish a new division to enforce this Article."

33 **SECTION 6.** G.S. 95-228 reads as rewritten:

34 **"§ 95-228. Waiver of rights.**

35 Agreements entered into by migrants to waive or to modify their rights under this
36 Article shall be deemed void as contrary to public policy. A waiver or modification of
37 rights by the Department of Labor of North Carolina shall be valid under this Article."

38 **SECTION 7.** This act is effective when it becomes law, except that Section
39 3 of this act becomes effective upon the effective date of the rules adopted pursuant to
40 Section 2 of this act.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 767

Short Title: Enhance Migrant Housing Act.-AB

(Public)

Sponsors: Representatives Howard; and Jones.

Referred to: Agriculture.

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT ENHANCING THE MIGRANT HOUSING LAWS OF NORTH
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 95-223 reads as rewritten:

6 "§ 95-223. Definitions.

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

- 8 (1) "Agricultural employment" means employment in any service or
9 activity included within the provisions of Section 3(f) of the Fair Labor
10 Standards Act of 1938, or section 3121(g) of the Internal Revenue
11 Code of 1986; and the handling, planting, drying, packing, packaging,
12 processing, freezing, or grading prior to delivery for storage of any
13 agricultural or horticultural commodity in its unmanufactured state and
14 including the harvesting of Christmas trees, and the harvesting of
15 saltwater erabs;crabs.
- 16 (2) "Commissioner" means the Commissioner of Labor of North
17 Carolina;Carolina.
- 18 (3) "Day" means a calendar day;day.
- 19 (3a) "Department" means the North Carolina Department of Labor.
- 20 (4) ~~"Established federal standard" means those standards as set out in, and~~
21 ~~interpretations issued by, the Secretary of the United States~~
22 ~~Department of Labor in 29 C.F.R. 1910.142, as amended;~~
- 23 (4a) "Director" means the Director of the Agricultural Safety and Health
24 Bureau, who is the agent designated by the Commissioner to assist in
25 the administration of this Article.
- 26 (5) "Migrant" means an individual, and his dependents, who is employed
27 in agricultural employment of a seasonal or other temporary nature,
28 and who is required to be absent overnight from his permanent place
29 of residence;residence.

- 1 (6) "Migrant housing" means any facility, structure, real property, or other
2 unit that is established, operated, or used as living quarters for
3 migrants;migrants.
4 (7) "Operator" means any person who owns or controls migrant housing;
5 andhousing.
6 (8) "Person" means an individual, partnership, association, joint stock
7 company, corporation, trust, or legal representative;representative.
8 (9) "Substantive violation" means a violation of a safety and health
9 standard, including those that provide fire prevention, and adequate
10 and sanitary supply of water, plumbing maintenance, structurally
11 sound construction of buildings, effective maintenance of those
12 buildings, provision of adequate heat as weather conditions require,
13 and reasonable protection for inhabitants from insects and rodents. A
14 substantive violation does not include technical or procedural
15 violations of safety and health standards."

16 SECTION 2. Article 19 of the General Statutes is amended by adding a new
17 section to read:

18 "**§ 95-223.1. Powers and duties of the Commissioner.**

19 The Commissioner shall have the following powers and duties:

- 20 (1) To delegate to the Director of the Agricultural Safety and Health
21 Bureau the powers, duties, and responsibilities that the Commissioner
22 determines will best ensure safe and healthy migrant housing
23 conditions.
24 (2) To supervise the Director of the Agricultural Safety and Health
25 Bureau.
26 (3) To adopt, modify, or revoke any rules that are necessary for the
27 purpose of carrying out the provisions of this Article including, but not
28 limited to, fire safety and kitchen and dining facilities, which shall
29 conform, so far as practicable, to the rules regarding fire safety and
30 kitchen and dining facilities adopted by the Commission for Health
31 Services and in effect on January 1, 1989.
32 (4) To enforce rules adopted pursuant to this Article.
33 (5) To issue preoccupancy certificates to certify that housing for migrant
34 workers has been found to be in compliance with this Article and the
35 rules adopted pursuant to this Article.
36 (6) To conduct periodic post-occupancy inspections of migrant housing
37 sites in accordance with the provisions of G.S. 95-136 through
38 G.S. 95-142 to ensure that they remain in compliance with this Article
39 and the rules adopted pursuant to this Article.

40 SECTION 3. G.S. 95-225 is repealed.

41 SECTION 4. G.S. 95-226 reads as rewritten:

42 "**§ 95-226. Application for inspection. Inspections; occupancy.**

- 43 (a) Every operator shall request a preoccupancy inspection at least 45 days prior
44 to the anticipated date of occupancy by applying directly to the Department of Labor of

1 ~~North Carolina~~ or to the local health department. Upon receipt of an application by the
2 ~~Department of Labor of North Carolina, the Department of Labor of North Carolina~~
3 ~~Department, the Department~~ shall immediately notify, in writing, the appropriate local
4 health department; and the local health department shall inspect the migrant housing for
5 compliance with this Article and the rules adopted pursuant to this Article. Upon receipt
6 of the application by the local health department, the local health department shall
7 immediately ~~notify, in writing, the Department of Labor of North Carolina~~ notify the
8 Department in writing and shall inspect the migrant housing for compliance with
9 G.S. 95-225(e) and (d), this Article and the rules adopted pursuant to this Article.

10 The local health department shall forward the results of its inspection to the
11 ~~Department of Labor of North Carolina~~ and to the operator. The ~~Department of Labor of~~
12 ~~North Carolina~~ shall inspect the migrant housing and certify to the operator the results
13 of the inspection.

14 (b) ~~The Department of Labor of North Carolina~~ shall provide local health
15 departments and Agricultural Extension offices with blank copies of forms for applying
16 for preoccupancy inspections.

17 (c) The application for inspection shall ~~include~~ include all of the following:

18 (1) The name, address, and telephone number of the ~~operator~~ operator.

19 (2) The location of the migrant ~~housing~~ housing.

20 (3) The anticipated number of migrants to be housed in the migrant
21 ~~housing~~ and housing.

22 (4) The anticipated dates of occupancy of the migrant housing.

23 (d) ~~Except as provided in subsection (e) of this section, an~~ Occupancy.

24 (1) Except as provided by subdivision (2) of this subsection, an operator
25 may allow the migrant housing to be occupied only if the migrant
26 housing has been certified by the ~~Department of Labor of North~~
27 ~~Carolina~~ or the United States Department of Labor to be in compliance
28 with ~~all of the standards under this Article, except that an~~ this Article
29 and the rules adopted pursuant to this Article.

30 (2) An operator may allow migrant housing to be occupied on a
31 provisional basis ~~if the~~ if:

32 a. The operator applied for a preoccupancy inspection at least 45
33 days prior to the expected occupancy date and the preoccupancy
34 inspection was not conducted by the ~~Department of Labor of~~
35 ~~North Carolina~~ at least four days prior to the anticipated
36 occupancy. Upon ~~subsequent inspection by the Department of~~
37 ~~Labor of North Carolina, such provisional occupancy shall be~~
38 ~~revoked if any deficiencies have not been corrected within the~~
39 ~~period of time specified by the Department of Labor of North~~
40 ~~Carolina, or within two days after receipt of written notice~~
41 ~~provided on-site to the operator. No penalties may be assessed~~
42 ~~for any violation of this Article which are found during the~~
43 ~~preoccupancy inspection, unless substantive violations exist~~
44 ~~during provisional occupancy~~ occupancy date; or

b. The operator has applied for an inspection pursuant to this Article and one or more migrants arrives in advance of the arrival date stated in the application. The operator shall notify the Department within two working days of the occupancy of the migrant housing.

(3) The provisional occupancy authorized in subdivision (2) of this subsection shall be revoked if, upon subsequent inspection by the Department, the migrant housing is found not to be in compliance with this Article and the rules adopted pursuant to this Article, and any deficiencies have not been corrected within the period of time specified by the Department, or within two days after receipt of written notice provided on-site to the operator.

(4) Penalties may be assessed for substantive violations of this Article found during the preoccupancy inspection of migrant housing which has been occupied on a provisional basis.

~~(e) If an operator has applied for an inspection pursuant to this Article and one or more migrants arrives in advance of the arrival date stated in the application, the operator shall notify the Department of Labor of North Carolina within two working days of the occupancy of the migrant housing. (1989, c. 91, s. 2.)"~~

SECTION 5. G.S. 95-227 reads as rewritten:

"§ 95-227. Enforcement.

(a) In addition to the rules adopted by the Commissioner pursuant to this Article, the following provisions shall apply:

(1) For the protection of the public health, the Commission for Health Services shall adopt and the Department of Environment and Natural Resources shall enforce rules that establish water quality and water sanitation standards for migrant housing under this Article.

(2) The requirements for the collection, treatment, and disposal of sewage, as provided in Article 11 of Chapter 130A, and the rules adopted pursuant to that Article shall apply to migrant housing.

(b) For the purpose of enforcing the standards provided by this Article, the provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall apply under this Article in a similar manner as they apply to places of employment under OSHANC; however, G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to migrant housing. the Occupational Safety and Health Act of North Carolina.

(c) For the purposes of this Article, the ~~term:~~following terms contained in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed as follows:

(1) "Employer" in ~~G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed to~~ shall mean an operator; operator.

(2) "Employee" ~~shall be construed to mean a migrant; and migrant.~~

(3) "Director" shall mean the ~~agent designated by the Commissioner to assist in the administration of this Article.~~ Director of the Agricultural Safety and Health Bureau.

~~The Commissioner may establish a new division to enforce this Article."~~

SECTION 6. G.S. 95-228 reads as rewritten:

"§ 95-228. Waiver of rights.

Agreements entered into by migrants to waive or to modify their rights under this Article shall be deemed void as contrary to public policy. A waiver or modification of rights by the Department of Labor of North Carolina shall be valid under this Article."

SECTION 7. This act is effective when it becomes law, except that Section 3 of this act becomes effective upon the effective date of the rules adopted pursuant to Section 2 of this act.



PCS TO HOUSE BILL 767: ENHANCE MIGRANT HOUSING ACT. - AB

Committee: House Agriculture Committee

Introduced By: Representative Howard

Date: March 17, 2005

Summary By: John Hoomani, NCDOL
General Counsel

Version: PCS

SUMMARY: *House Bill 767 enhances laws related to Chapter 95, Article 19 of the N.C. General Statutes – the Migrant Housing Act of North Carolina.*

CURRENT

LAW:

The Migrant Housing Act of North Carolina (“the Act”) conforms migrant housing standards, as much as possible, to the Occupational Safety and Health Act of North Carolina, as well as “ensure safe and healthy migrant housing conditions. The Act sets certain minimum guidelines for migrant housing, including such items as fire safety, kitchen and dining facilities, shelter, toilet facilities, lighting, laundry, handwashing and bathing facilities, first aid and water quality standards.

BILL

ANALYSIS:

House Bill 767 enhances the Act by reorganizing the provisions contained within the Act. Currently, the Act does not give the Commissioner of Labor the authority to enact rules consistent with the purpose of the Act, but rather adopts certain standards, including rules that were originally promulgated by the Commission for Health Services (a Commission housed within the then N.C. Department of Environment and Health) and that were in effect on January 1, 1989. These rules were repealed by the Commissioner for Health Services on July 1, 1990, and thus are no longer available for the regulated community to access in the normal manner. House Bill 767 repeals those outdated rules and grants to the Commissioner of Labor the authority to enact rules pursuant to this Act, which is consistent with the authority the Commissioner of Labor is granted pursuant to the other Acts enforced by the Department.¹ The pertinent provisions of the Bill are as follows:

Powers and Duties of the Commissioner:

Grants to the Commissioner of Labor the authority to adopt, modify, or revoke rules and regulations that are necessary for the purpose of carrying out this Act, and to enforce such rules and regulations.

Effect of Proposed Committee Substitute:

The PCS does not change the intent of the initial Bill that was filed, but rather clarifies such intent. Specifically, the current Act contains certain standards for migrant housing in N.C. Gen. Stat. § 95-225. The original Bill repealed N.C. Gen. Stat. § 95-225 in

¹ N.C. Gen. Stat. § 95-126, et seq. - the Occupational Safety and Health Act; N.C. Gen. Stat. § 95-25.1, et seq. - the Wage and Hour Act; N.C. Gen. Stat. §§ 95-47.1, et seq., and 95-47.19, et seq. - the Private Personnel Services and Job Listing Services Acts; N.C. Gen. Stat. § 95-230, et seq. - the Controlled Substances Examination Regulation Act; N.C. Gen. Stat. § 95-240, et seq. - the Retaliatory Employment Discrimination Act; N.C. Gen. Stat. §§ 95-110.1, et seq., and 95-111.1, et seq. - the Elevator and Amusement Device Safety Acts; N.C. Gen. Stat. § 94-1, et seq. - the Apprenticeship Act; N.C. Gen. Stat. § 95-69.8, et seq. - the Uniform Boiler and Pressure Vessel Act; and, N.C. Gen. Stat. § 74-24.1, et seq. - the Mine Safety and Health Act.

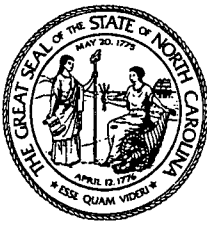
Section 3 of the Bill, but did not reference the fact that those particular standards would be adopted by the Commissioner pursuant to the rulemaking authority granted to her in Section 2 of the Bill. The intent of the original Bill was not to make the current Act any more or less stringent, but simply to reorganize the Act to bring it up-to-date, and to give the Commissioner the authority to enact rules to address any new issues which might arise in the area of migrant housing – thus ensuring that the Act stays up-to-date. The proposed PCS simply ensures that the rules that will be adopted by the Commissioner pursuant to this new rulemaking authority include the current standards that are contained in N.C. Gen. Stat. § 95-225 by adding language to that effect to N.C. Gen. Stat. § 95-227 (Section 5 of the Proposed PCS). The attached Addendum compares the language contained in the current N.C. Gen. Stat. § 95-225 with the language contained in the Proposed PCS.

**NC DEPARTMENT OF LABOR ADDENDUM TO BILL SUMMARY FOR
PROPOSED PCS TO HB 767**

**Comparison of Regulations Contained in N.C. Gen. Stat. § 95-225 of Current
Migrant Housing Act and Regulations Contained in Proposed PCS to HB 767**

<u>Current Law—N.C. Gen. Stat. § 95-225</u>	<u>Proposed PCS—N.C. Gen. Stat. § 95-227</u>
	(a) The rules adopted by the Commissioner pursuant to this Article shall include, at a minimum, but not be limited to, the following requirements:
(a) Unless otherwise provided, all established federal standards are adopted and shall be enforced by the Department of Labor of North Carolina. (b) The Commissioner shall provide for publication in the North Carolina Register any modification by the federal government of the established federal standards within 30 days of their adoption.	(a)(1) The provisions of 29 C.F.R. 1910.142, which is incorporated by reference, subject to the modifications provided in Paragraph (b) of this Rule. The Commissioner shall provide for publication in the North Carolina Register any modification by the federal government of 29 C.F.R. 1910.142 within 30 days of its adoption.
(c) For the protection of the public health, the Commission for Health Services shall adopt and the Department of Environment and Natural Resources shall enforce rules that establish water quality and water sanitation standards for migrant housing under this Article.	(c) In addition to the rules adopted by the Commissioner pursuant to this Article, the following provisions shall apply to migrant housing: (c)(1) The rules adopted by the Commission for Health Services and enforced by the Department of Environment and Natural Resources that establish water quality and water sanitation standards for migrant housing.
(d) The requirements for the collection, treatment, and disposal of sewage, as provided in Article 11 of Chapter 130A, and the rules adopted pursuant to that Article shall apply to migrant housing.	(c)(2) The requirements for the collection, treatment, and disposal of wastewater, as provided in Article 11 of Chapter 130A, and the rules adopted by the Commission for Health Services pursuant to that Article.
(e) Whenever the outside temperature falls below 50 degrees Fahrenheit and the migrant housing is occupied, heating equipment shall be provided and operable. Regardless of outside temperature, this equipment must be capable of maintaining living areas of 65 degrees Fahrenheit. If housing is to be occupied from May 15 until September 1 only, no heating equipment shall be required at the time of preoccupancy inspection.	(a)(3) Whenever the outside temperature falls below 50 degrees Fahrenheit and the migrant housing is occupied, heating equipment shall be provided and operable. Regardless of outside temperature, this equipment must be capable of maintaining living areas of 65 degrees Fahrenheit. If housing is to be occupied from May 15 until September 1 only, no heating equipment shall be required at the time of preoccupancy inspection.
(f) All migrant housing shall comply with the standards regarding fire safety for migrant housing as adopted by the Commission for Health Services and in effect on January 1, 1989.	(a)(2) The fire safety and kitchen and dining facilities adopted by the Commission for Health Services and in effect on January 1, 1989.
(g) For purposes of this Article, the established	(b) The provisions of 29 C.F.R. 1910.142(i) shall

federal standard provided in 29 C.F.R. 1910.142(i) does not apply. The following standards shall apply to migrant housing: (1) Food preparation facilities and eating areas shall be provided and maintained in a clean and sanitary manner; (2) A kitchen facility shall be provided with an operable stove with at least one burner per five people, and in no event with less than two burners; an operable refrigerator with .75 cubic feet per person minimum; a table; and a sink with running hot and cold water; (3) Surfaces with which food or drink come in contact shall be easily accessible for cleaning, and shall be nontoxic, resistant to corrosion, nonabsorbent, and free of open crevices; (4) Acceptable storage facilities shall be provided and shall be kept clean and free of vermin; and	be subject to the following modifications: (b)(1) Food preparation facilities and eating areas shall be provided and maintained in a clean and sanitary manner; (b)(2) A kitchen facility shall be provided with an operable stove with at least one burner per five people, and in no event with less than two burners; an operable refrigerator with .75 cubic feet per person minimum; a table; and a sink with running hot and cold water; (b)(3) Surfaces with which food or drink come in contact shall be easily accessible for cleaning, and shall be nontoxic, resistant to corrosion, nonabsorbent, and free of open crevices; and, (b)(4) Acceptable storage facilities shall be provided and shall be kept clean and free of vermin.
(5) All food service facilities, other than those where migrants procure and prepare food for their own or their family's consumption, shall comply with the standards regarding kitchen and dining room facilities for migrant housing, as adopted by the Commission for Health Services and in effect on January 1, 1989.	(a)(2) So far as practicable, the fire safety and kitchen and dining facilities adopted by the Commission for Health Services and in effect on January 1, 1989.



HB 767: Enhance Migrant Housing Act

BILL ANALYSIS

Committee: House Agriculture

Date: April 13, 2005

Version: Proposed Committee Sub

Introduced by: Representative Howard

Summary by: Barbara Riley

Committee Counsel

SUMMARY:

House Bill 767 provides specific authority for the Commissioner of Labor to adopt rules for standards and enforcement of the Migrant Housing Act. The bill also reorganizes and clarifies several of the sections of the Act.

CURRENT LAW:

The Migrant Housing Act was first enacted in 1989. The purpose of the act was to conform migrant housing standards to the Occupational Safety and Health Act of North Carolina (OSHANC) and to ensure that migrants were provided safe and healthy housing. The act provided specific standards for kitchen and food preparation areas and facilities and also adopted the rules of the Commission for Health Services regarding water quality, water sanitation, and fire safety. The statutory standards and rules for the collection and treatment of sewage were also specifically adopted in the Act. The provisions of the Act did not authorize the Commissioner of Labor to adopt standards and rules under the act.

BILL ANALYSIS:

The heart of House Bill 767 is contained in Section 2 of the Act. That section creates a new G.S. 95-223.1 that sets forth the powers and duties of the Commissioner under the Migrant Housing Act. The Commissioner is given specific authority to adopt rules as necessary to carry out the provisions of the Act, and to enforce those rules. G.S. 95-223.1 also expressly provides the Commissioner the authority to issue preoccupancy certificates, to certify that migrant housing is in compliance with the provisions of the article, and to conduct periodic post-occupancy inspections to ensure continued compliance. Section 2 also clarifies that the Commissioner may delegate his authority under the Act to the Director of the Agricultural Safety and Health Director.

THE PROPOSED COMMITTEE SUBSTITUTE

The 1st Edition of House Bill 767 repealed the provisions of G.S. 95-225, which set out the specific standards for migrant housing and adopted the rules of the Commission on Health Services. The proposed committee substitute updates the standards that were contained in G.S. 95-225 and places them in G.S. 95-227. The standards cover cleanliness in food preparation facilities and eating areas, adequate cooking facilities, including refrigeration, sink with running hot and cold water, and a table, vermin free storage areas, and the provision of heating equipment when the outside temperature falls below 50 degrees Fahrenheit. The section also includes as standards the rules adopted by the Commission for Health Services regarding water quality and sanitation and the requirements for the collection, treatment and disposal of wastewater contained in Article 11 of Chapter 130A of the General Statutes.

The act is effective when it becomes law, except that the provisions of Section 3, repealing G.S. 95-225 do not become effective until the effective date of the rules adopted by the Commissioner pursuant to Section 2 of the Act.

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

April 13, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Anita Watkin	NCLM
Kim Hibbard	NCLM
Bill Holmes	AP
Erin Kinney	NC Conservation Network
Jim Wilder	NC Soybean Assoc.
F. Carlyle Teague	Cooperative Comm: 'd' NC
Terry Herdley	NCR
John Cyrus	NCSG
Roger Bone	Bone Assoc
Lee Ann Coe	BIC

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

April 13, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Michael Eppahy	NC Dept. of Labor
John Hoonani	NC DOL
Erin Gould	NC DOL
Regina Lyjilset	NC DOL
Cameron Kuntich	NMPL
Mike Okun	NC State AFL-CIO
Bill Rowe	NC Justice Center
Paula A. Stief	El Pueblo
Patricia G. Jones	ACCCE/LLPP
Therese Rader	NCVMA
Blaine Young	Agricultural Alliance of N.C.
Art Britt	NC DOL

House Pages

Name Of Committee: Agriculture Date: 04/12/05

1. Name: Kelsey McDaniel

County: Davie

Sponsor: Julia Howard

2. Name: Shelby Green

County: Guilford

Sponsor: LAURA Wiley

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

Sgt.-At-Arms

1. Name: Toussaint - Auent

2. Name: Jim Womack

3. Name: _____

4. Name: _____

5. Name: _____

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: Wednesday, April 13, 2005

TIME: 12:00 Noon

LOCATION: 1228 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 607 – Clarify Veterinary Urine Test Requirements – Rep. Brubaker

HB 671 – Amend Plant Pest Law.-AB – Rep. Hill

HB 767 – Enhance Migrant Housing Act.-AB – Rep. Howard

SB 210 – Extend Sunset/Animal Disease Prevention – Sen. Albertson

Respectfully,
Representative Dewey Hill
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
2:15 p.m. on April 11, 2005.

x ___ Principal Clerk
x ___ Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

April 27, 2005

The House Committee on Agriculture met on Wednesday, April 27, 2005, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Bell, Coates, Langdon, Tucker, West, and Williams; Representatives Faison, Pierce, Preston, Tolson, Walker, Warren, Wilson, Wray, and Yongue.

Chair Hill called the meeting to order at 12:05 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

Vice Chair Langdon was asked to conduct the meeting so Chair Hill could speak on his bill, **House Bill 671, Amend Plant Pest Law.-AB**. Representative Walker made a motion to accept the Proposed Committee Substitute for **House Bill 671**. Chair Hill asked David McLeod, Legislative Liaison, Department of Agriculture and Consumer Services, to explain the bill. Several other individuals spoke on the Proposed Committee Substitute. Discussion followed. Representative Coates moved to give the Proposed Committee Substitute a favorable report, unfavorable to the original bill. The motion passed.

Representative Howard was asked to speak on **House Bill 767, Enhance Migrant Housing Act.-AB**. The Proposed Committee Substitute was accepted. Representative Howard explained the Proposed Committee Substitute for **House Bill 767, Enhance Migrant Housing Act.-AB**. Representative Bell made a motion to form a subcommittee; no vote was taken. Representative Tolson moved to give the Proposed Committee Substitute a favorable report, unfavorable to the original bill. Representative Tucker offered an amendment to the motion that the Proposed Committee Substitute go to a subcommittee. The amendment failed. Chair Hill asked for a hand vote on the motion that the Proposed Committee Substitute be given a favorable report, unfavorable to the original bill. The motion passed.

The meeting adjourned at 12:25 p.m.



Representative Dewey Hill, Chair



Gennie Thurlow, Committee Assistant

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Hill**, (Chair) for the Committee on **AGRICULTURE**.

☐ Committee Substitute for

H.B. 671 A BILL TO BE ENTITLED AN ACT TO AMEND THE PLANT PEST LAW TO
PREEMPT LOCAL REGULATION OF PLANTS AND PLANT PESTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#~~), ☒ which changes the
title, unfavorable as to (the original bill), ~~Committee Substitute Bill #~~, (and
~~recommendation that the committee substitute bill #~~) be re-referred to the Committee
~~on~~.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Hill**, (Chair) for the Committee on **AGRICULTURE**.

☒ Committee Substitute for
H.B. 767 A BILL TO BE ENTITLED AN ACT ENHANCING THE MIGRANT HOUSING
LAWS OF NORTH CAROLINA.

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report as to the committee substitute bill (# 2), ☐ which changes the
~~title, unfavorable as to (the original bill) (Committee Substitute Bill # 1), (and~~
~~recommendation that the committee substitute bill # _____) be re-referred to the Committee~~
~~on _____)~~
- ☐ With a favorable report as to House committee substitute bill (# _____), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

4/27/05
— 62

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 671
PROPOSED COMMITTEE SUBSTITUTE H671-PCS10287-ST-13

Short Title: Plant Regulation.

(Public)

Sponsors:

Referred to:

March 16, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY REGULATION OF PLANTS.

3 The General Assembly of North Carolina enacts:

4 SECTION 1. Chapter 106 of the General Statutes is amended by adding a
5 new Article to read:

6 "Article 36B.

7 "Regulation of Plants.

8 "§ 106-423.10. Regulation of plants.

9 The Board of Agriculture shall have sole authority for the banning of plants as
10 defined in G.S. 106-202.12(7)."

11 SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 671
PROPOSED COMMITTEE SUBSTITUTE H671-CSST-13 [v.10]

4/15/2005 1:58:40 PM

Short Title: Plant Regulation.

(Public)

Sponsors:

Referred to:

March 16, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY REGULATION OF PLANTS.
3 The General Assembly of North Carolina enacts:

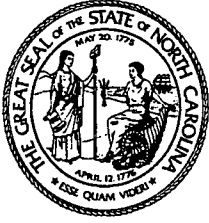
4 SECTION 1. Chapter 106 of the General Statutes is amended by adding a
5 new Article 36B to read:

6 "Article 36B
7 "Regulation of Plants.

8
9 "§ 106-423.10. Regulation of plants.

10 The Board of Agriculture shall have sole authority for the banning of plants as
11 defined in G.S. 106-202.12(7)."

12 SECTION 2. This act is effective when it becomes law.



HOUSE BILL HB 671: Plant Regulation

BILL ANALYSIS

Committee: House Agriculture
Introduced by: Rep. Hill
Version: H671-CSST-13

Date: April 22, 2005
Summary by: Erika Churchill
Committee Counsel

SUMMARY: *The proposed committee substitute would grant authority to the Board of Agriculture to ban plants.*

CURRENT LAW:

Plant. A plant is defined in G.S. 106-202-12(7) as any member of the plant kingdom, including seeds, roots and other parts or their propagules.

Plant Protection. The North Carolina Plant Conservation Board is within the Department of Agriculture and has the authority adopt regulations to protect, conserve and enhance resident and exotic species of plants.

Plant Pests. A plant pest is any insect, mite, nematode other invertebrate animal, disease, noxious weed, plant or animal parasite in any stage of development which is injurious to plants and plant products. G.S. 106-419. Any plant that has been infected with a plant pest may be treated as a plant pest. G.S. 106-419.1. No person may knowingly and willfully keep any plant or plant product infested or infected by any dangerous plant pest, except under regulations prescribed by the Board of Agriculture. G.S. 106-421. The Board of Agriculture has the ability to adopt reasonable regulations to eradicate, repress, and prevent the spread of plant pests in North Carolina. Those regulations can include inspections, quarantine of areas, and governance of transporting items liable to harbor plant pests. G.S. 106-420.

BILL ANALYSIS: The proposed committee substitute would grant sole authority for the banning of plants in North Carolina to the Board of Agriculture.

EFFECTIVE DATE: The act would become effective when it becomes law.

HB 671e1-SMST-CSST-13

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 671

Short Title: Amend Plant Pest Law.-AB

(Public)

Sponsors: Representative Hill.

Referred to: Agriculture.

March 16, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PLANT PEST LAW TO PREEMPT LOCAL
3 REGULATION OF PLANTS AND PLANT PESTS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 36 of Chapter 106 of the General Statutes is amended
6 by adding a new section to read:
7 "**§ 106-420.2. Local regulation of plants preempted.**

8 No county, city, or other political subdivision of the State shall adopt or continue in
9 effect any ordinance, rule, regulation, or resolution regulating the use, sale, distribution,
10 storage, transportation, disposal, labeling, registration, or handling of any plant or plant
11 pest. Nothing in this section shall prohibit a city, county, or other political subdivision
12 of the State from exercising its planning and zoning authority under Article 19 of
13 Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General
14 Statutes, or from exercising its fire prevention or inspection authority."

15 SECTION 2. This act is effective when it becomes law.

PUBLIC BILL

H.B. 0671

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PLANT PEST LAW TO PREEMPT LOCAL REGULATION OF PLANTS AND PLANT PESTS.

Introduced by Representative(s): Hill.

Principal Clerk's Use Only

PASSED 1st READING
R 18 2005
AND REFERRED TO COMMITTEE
ON... Agriculture

4/27/05
meeting
#2.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 767
Committee Substitute Favorable 4/18/05
PROPOSED COMMITTEE SUBSTITUTE H767-PCS60403-RF-9

Short Title: Enhance Migrant Housing Act.-AB

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT ENHANCING THE MIGRANT HOUSING LAWS OF NORTH
CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 95-223 reads as rewritten:

"§ 95-223. Definitions.

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

- (1) "Agricultural employment" means employment in any service or activity included within the provisions of Section 3(f) of the Fair Labor Standards Act of 1938, or section 3121(g) of the Internal Revenue Code of 1986; and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state and including the harvesting of Christmas trees, and the harvesting of saltwater ~~erabs;~~ crabs.
- (2) "Commissioner" means the Commissioner of Labor of North ~~Carolina;~~ Carolina.
- (3) "Day" means a calendar ~~day;~~ day.
- (3a) "Department" means the North Carolina Department of Labor.
- (4) ~~"Established federal standard" means those standards as set out in, and interpretations issued by, the Secretary of the United States Department of Labor in 29 C.F.R. 1910.142, as amended;~~
- (4a) "Director" means the Director of the Agricultural Safety and Health Bureau, who is the agent designated by the Commissioner to assist in the administration of this Article.
- (5) "Migrant" means an individual, and his dependents, who is employed in agricultural employment of a seasonal or other temporary nature,

- 1 and who is required to be absent overnight from his permanent place
2 of ~~residence~~; residence.
- 3 (6) "Migrant housing" means any facility, structure, real property, or other
4 unit that is established, operated, or used as living quarters for
5 ~~migrants~~; migrants.
- 6 (7) "Operator" means any person who owns or controls migrant ~~housing~~;
7 and housing.
- 8 (8) "Person" means an individual, partnership, association, joint stock
9 company, corporation, trust, or legal ~~representative~~; representative.
- 10 (9) "Substantive violation" means a violation of a safety and health
11 standard, including those that provide fire prevention, and adequate
12 and sanitary supply of water, plumbing maintenance, structurally
13 sound construction of buildings, effective maintenance of those
14 buildings, provision of adequate heat as weather conditions require,
15 and reasonable protection for inhabitants from insects and rodents. A
16 substantive violation does not include technical or procedural
17 violations of safety and health standards."
- 18 (10) "Stakeholder" means any person or group of persons of common
19 interest directly or indirectly affected in his or its person, property, or
20 employment by the Commissioner's adoption of rules pursuant to this
21 Article, and who has submitted a written request to be notified of any
22 proposed rule-making activity initiated by the Commissioner pursuant
23 to this Article. The Department shall maintain a list of such
24 stakeholders and shall notify the stakeholders in accordance with this
25 Article."

26 SECTION 2. Article 19 of the General Statutes is amended by adding a new
27 section to read:

28 **"§ 95-223.1. Powers and duties of the Commissioner.**

29 The Commissioner shall have the following powers and duties:

- 30 (1) To delegate to the Director of the Agricultural Safety and Health
31 Bureau the powers, duties, and responsibilities necessary to ensure safe
32 and healthy migrant housing conditions.
- 33 (2) To supervise the Director of the Agricultural Safety and Health
34 Bureau.
- 35 (3) To adopt, modify, or revoke any rules that are necessary for the
36 purpose of carrying out the provisions of this Article, or are based
37 upon recommendations by stakeholders in accordance with this
38 Article.
- 39 (4) To enforce rules adopted pursuant to this Article.
- 40 (5) To issue preoccupancy certificates to certify that housing for migrant
41 workers has been found to be in compliance with this Article and the
42 rules adopted pursuant to this Article.
- 43 (6) To conduct periodic postoccupancy inspections of migrant housing
44 sites in accordance with the provisions of G.S. 95-136 through

G.S. 95-142 to ensure that they remain in compliance with this Article and the rules adopted pursuant to this Article."

SECTION 3. G.S. 95-225 reads as rewritten:

"§ 95-225. Adoption of standards and interpretations; standards; rule-making authority of Commissioner.

(a) The following standards are adopted and shall be enforced by the Commissioner:

(1) The provisions of 29 C.F.R. § 1910.142 and the interpretations issued by the Secretary of the United States Department of Labor, subject to the modifications provided below. The Commissioner shall provide for the publication in the North Carolina Register of any modification by the federal government of 29 C.F.R. § 1910.142 within 30 days of its adoption. Unless otherwise provided, all established federal standards are adopted and shall be enforced by the Department of Labor of North Carolina.

~~(b) The Commissioner shall provide for publication in the North Carolina Register any modification by the federal government of the established federal standards within 30 days of their adoption.~~

~~(c) For the protection of the public health, the Commission for Health Services shall adopt and the Department of Environment and Natural Resources shall enforce rules that establish water quality and water sanitation standards for migrant housing under this Article.~~

~~(d) The requirements for the collection, treatment, and disposal of sewage, as provided in Article 11 of Chapter 130A, and the rules adopted pursuant to that Article shall apply to migrant housing.~~

(e) (2) Whenever the outside temperature falls below 50 degrees Fahrenheit and the migrant housing is occupied, heating equipment shall be provided and operable. Regardless of outside temperature, this equipment must be capable of maintaining living areas of 65 degrees Fahrenheit. If housing is to be occupied from May 15 until September 1 only, no heating equipment shall be required at the time of preoccupation inspection.

(f) (3) ~~All migrant housing shall comply with the~~ The standards regarding fire safety for migrant housing as adopted by the Commission for Health Services and in effect on January 1, 1989. The Commissioner shall adopt rules pursuant to this Article that incorporate the provisions of these standards.

(g) (4) For purposes of this Article, the provisions in 29 C.F.R. § 1910.142(i) shall be replaced by the following standards: established federal standard provided in 29 C.F.R. 1910.142(i) does not apply. The following standards shall apply to migrant housing:

(1) a. Food preparation facilities and eating areas shall be provided and maintained in a clean and sanitary manner;

- 1 (2) b. A kitchen facility shall be provided with an operable stove with
2 at least one burner per five people, and in no event with less
3 than two burners; an operable refrigerator with .75 cubic feet
4 per person minimum; a table; and a sink with running hot and
5 cold water;
- 6 (3) c. Surfaces with which food or drink come in contact shall be
7 easily accessible for cleaning, and shall be nontoxic, resistant to
8 corrosion, nonabsorbent, and free of open crevices;
- 9 (4) d. Acceptable storage facilities shall be provided and shall be kept
10 clean and free of vermin; and
- 11 (5) e. All food service facilities, other than those where migrants
12 procure and prepare food for their own or their family's
13 consumption, shall comply with the standards regarding kitchen
14 and dining room facilities for migrant housing, as adopted by
15 the Commission for Health Services and in effect on January 1,
16 1989. The Commissioner shall adopt rules pursuant to this
17 Article that incorporate the provisions of these standards.

18 (b) In addition to the standards referenced above and the rules adopted by the
19 Commissioner pursuant to this Article, the following provisions shall apply to migrant
20 housing:

- 21 (1) For the protection of the public health, the rules adopted by the
22 Commission for Health Services and enforced by the Department of
23 Environment and Natural Resources that establish water quality and
24 water sanitation standards for migrant housing.
- 25 (2) The requirements for the collection, treatment, and disposal of
26 wastewater, as provided in Article 11 of Chapter 130A of the General
27 Statutes and the rules adopted by the Commission for Health Services
28 pursuant to that Article.

29 (c) Prior to initiating rule-making activity pursuant to this Article in accordance-
30 with Chapter 150B of the General Statutes, the Commissioner shall notify and consult
31 with stakeholders who may have an interest in the proposed rules. The purpose of this
32 notification and consultation is to ensure that the stakeholders have an opportunity to
33 inform the Commissioner of their concerns with the proposed rules and to make
34 recommendations to the Commissioner on changes or additions to the proposed rules."

35 SECTION 4. G.S. 95-226 reads as rewritten:

36 "**§ 95-226. ~~Application for inspection.~~Inspections; occupancy.**

37 (a) Every operator shall request a preoccupancy inspection at least 45 days prior
38 to the anticipated date of occupancy by applying directly to the Department of Labor of
39 North Carolina or to the local health department. Upon receipt of an application by the
40 Department of Labor of North Carolina, the Department of Labor of North Carolina
41 Department, the Department shall immediately notify, in writing, the appropriate local
42 health department; and the local health department shall inspect the migrant housing for
43 compliance with G.S. 95-225(e) and (d) this Article and the rules adopted pursuant to
44 this Article. Upon receipt of the application by the local health department, the local

1 health department shall immediately ~~notify, in writing, the Department of Labor of~~
2 ~~North Carolina~~ notify the Department in writing and shall inspect the migrant housing
3 for compliance with G.S. 95-225(c) and (d) this Article and the rules adopted pursuant
4 to this Article.

5 The local health department shall forward the results of its inspection to the
6 ~~Department of Labor of North Carolina~~ and to the operator. The ~~Department of Labor of~~
7 ~~North Carolina~~ shall inspect the migrant housing and certify to the operator the results
8 of the inspection.

9 (b) ~~The Department of Labor of North Carolina~~ shall provide local health
10 departments and Agricultural Extension offices with blank copies of forms for applying
11 for preoccupancy inspections.

12 (c) The application for inspection shall ~~include~~ include all of the following:

13 (1) The name, address, and telephone number of the ~~operator; operator.~~

14 (2) The location of the migrant ~~housing; housing.~~

15 (3) The anticipated number of migrants to be housed in the migrant
16 ~~housing; and housing.~~

17 (4) The anticipated dates of occupancy of the migrant housing.

18 (d) ~~Except as provided in subsection (e) of this section, an Occupancy. -~~

19 (1) Except as provided by subdivison (2) of this subsection, an operator
20 may allow the migrant housing to be occupied only if the migrant
21 housing has been certified by the Department of Labor of North
22 Carolina or the United States Department of Labor to be in compliance
23 with all of the standards under this Article, except that an this Article
24 and the rules adopted pursuant to this Article.

25 (2) An operator may allow migrant housing to be occupied on a
26 provisional basis if the if:

27 a. The operator applied for a preoccupancy inspection at least 45
28 days prior to the expected occupancy date, and the
29 preoccupancy inspection was not conducted by the Department
30 of Labor of North Carolina at least four days prior to the
31 anticipated occupancy. Upon subsequent inspection by the
32 Department of Labor of North Carolina, such provisional
33 occupancy shall be revoked if any deficiencies have not been
34 corrected within the period of time specified by the Department
35 of Labor of North Carolina, or within two days after receipt of
36 written notice provided on-site to the operator. No penalties
37 may be assessed for any violation of this Article which are
38 found during the preoccupancy inspection, unless substantive
39 violations exist during provisional occupancy-occupancy date;
40 or

41 b. The operator has applied for an inspection pursuant to this
42 Article, and one or more migrants arrives in advance of the
43 arrival date stated in the application. The operator shall notify

the Department within two working days of the occupancy of the migrant housing.

(3) The provisional occupancy authorized in subdivision (2) of this subsection shall be revoked if, upon subsequent inspection by the Department, the migrant housing is found not to be in compliance with this Article and the rules adopted pursuant to this Article, and any deficiencies have not been corrected within the period of time specified by the Department, or within two days after receipt of written notice provided on-site to the operator.

(4) Penalties may be assessed for substantive violations of this Article found during the preoccupancy inspection of migrant housing which has been occupied on a provisional basis.

~~(e) If an operator has applied for an inspection pursuant to this Article and one or more migrants arrives in advance of the arrival date stated in the application, the operator shall notify the Department of Labor of North Carolina within two working days of the occupancy of the migrant housing. (1989, c. 91, s. 2.)"~~

SECTION 5. G.S. 95-227 reads as rewritten:

"§ 95-227. Enforcement.

(a) For the purpose of enforcing the standards provided by this Article, the provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall apply under this Article in a similar manner as they apply to places of employment under OSHANC; ~~however, G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to migrant housing.~~ the Occupational Safety and Health Act of North Carolina.

(b) For the purposes of this Article, the ~~term:terms~~ contained in G.S. 95-129, G.S. 95-130, and G.S. 95-136 through G.S. 95-142 shall be construed as follows:

- (1) ~~"Employer" in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed to mean an operator; operator.~~
- (2) ~~"Employee" shall be construed to mean a migrant; and migrant.~~
- (3) ~~"Director" shall mean the agent designated by the Commissioner to assist in the administration of this Article.~~ Director of the Agricultural Safety and Health Bureau.

~~The Commissioner may establish a new division to enforce this Article.~~

SECTION 6. G.S. 95-228 reads as rewritten:

"§ 95-228. Waiver of rights.

Agreements entered into by migrants to waive or to modify their rights under this Article shall be deemed void as contrary to public policy. A waiver or modification of rights by the Department of Labor of North Carolina shall be valid under this Article."

SECTION 7. This act becomes effective October 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 767
Committee Substitute Favorable 4/18/05
PROPOSED COMMITTEE SUBSTITUTE H767-CSRF-9 [v.3]

4/27/2005 10:36:16 AM

Short Title: Enhance Migrant Housing Act.-AB

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT ENHANCING THE MIGRANT HOUSING LAWS OF NORTH
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 95-223 reads as rewritten:

6 "§ 95-223. Definitions.

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

- 8 (1) "Agricultural employment" means employment in any service or
9 activity included within the provisions of Section 3(f) of the Fair Labor
10 Standards Act of 1938, or section 3121(g) of the Internal Revenue
11 Code of 1986; and the handling, planting, drying, packing, packaging,
12 processing, freezing, or grading prior to delivery for storage of any
13 agricultural or horticultural commodity in its unmanufactured state and
14 including the harvesting of Christmas trees, and the harvesting of
15 saltwater erabs;crabs.
- 16 (2) "Commissioner" means the Commissioner of Labor of North
17 Carolina;Carolina.
- 18 (3) "Day" means a calendar ~~day~~day.
- 19 (3a) "Department" means the North Carolina Department of Labor.
- 20 (4) "~~Established federal standard~~" means ~~those standards as set out in, and~~
21 ~~interpretations issued by, the Secretary of the United States~~
22 ~~Department of Labor in 29 C.F.R. 1910.142, as amended;~~
- 23 (4a) "Director" means the Director of the Agricultural Safety and Health
24 Bureau, who is the agent designated by the Commissioner to assist in
25 the administration of this Article.
- 26 (5) "Migrant" means an individual, and his dependents, who is employed
27 in agricultural employment of a seasonal or other temporary nature,

and who is required to be absent overnight from his permanent place of ~~residence~~residence.

(6) "Migrant housing" means any facility, structure, real property, or other unit that is established, operated, or used as living quarters for ~~migrants~~migrants.

(7) "Operator" means any person who owns or controls migrant ~~housing~~and housing.

(8) "Person" means an individual, partnership, association, joint stock company, corporation, trust, or legal ~~representative~~representative.

(9) "Substantive violation" means a violation of a safety and health standard, including those that provide fire prevention, and adequate and sanitary supply of water, plumbing maintenance, structurally sound construction of buildings, effective maintenance of those buildings, provision of adequate heat as weather conditions require, and reasonable protection for inhabitants from insects and rodents. A substantive violation does not include technical or procedural violations of safety and health standards."

(10) "Stakeholder" means any person or group of persons of common interest directly or indirectly affected in his or its person, property, or employment by the Commissioner's adoption of rules pursuant to this Article, and who has submitted a written request to be notified of any proposed rulemaking activity initiated by the Commissioner pursuant to this Article. The Department shall maintain a list of such stakeholders and shall notify the stakeholders in accordance with this Article.

SECTION 2. Article 19 of the General Statutes is amended by adding a new section to read:

"§ 95-223.1. Powers and duties of the Commissioner.

The Commissioner shall have the following powers and duties:

(1) To delegate to the Director of the Agricultural Safety and Health Bureau the powers, duties, and responsibilities necessary to ensure safe and healthy migrant housing conditions.

(2) To supervise the Director of the Agricultural Safety and Health Bureau.

(3) To adopt, modify, or revoke any rules that are necessary for the purpose of carrying out the provisions of this Article, or are based upon recommendations by stakeholders in accordance with this Article.

(4) To enforce rules adopted pursuant to this Article.

(5) To issue preoccupancy certificates to certify that housing for migrant workers has been found to be in compliance with this Article and the rules adopted pursuant to this Article.

(6) To conduct periodic postoccupancy inspections of migrant housing sites in accordance with the provisions of G.S. 95-136 through

1 G.S. 95-142 to ensure that they remain in compliance with this Article
2 and the rules adopted pursuant to this Article."

3 **SECTION 3. G.S. 95-225 reads as rewritten:**

4 **"§ 95-225. Adoption of standards and interpretations; standards; Rulemaking**
5 **authority of Commissioner.**

6 (a) The following standards are adopted and shall be enforced by the
7 Commissioner:

8 (1) The provisions of 29 C.F.R. § 1910.142, and the interpretations issued
9 by the Secretary of the United States Department of Labor, subject to the modifications
10 provided below. The Commissioner shall provide for the publication in the North
11 Carolina Register of any modification by the federal government of 29 C.F.R. §
12 1910.142 within 30 days of its adoption. Unless otherwise provided, all established
13 federal standards are adopted and shall be enforced by the Department of Labor of
14 North Carolina.

15 (b) ~~The Commissioner shall provide for publication in the North Carolina~~
16 ~~Register any modification by the federal government of the established federal~~
17 ~~standards within 30 days of their adoption.~~

18 (c) ~~For the protection of the public health, the Commission for Health Services~~
19 ~~shall adopt and the Department of Environment and Natural Resources shall enforce~~
20 ~~rules that establish water quality and water sanitation standards for migrant housing~~
21 ~~under this Article.~~

22 (d) ~~The requirements for the collection, treatment, and disposal of sewage, as~~
23 ~~provided in Article 11 of Chapter 130A, and the rules adopted pursuant to that Article~~
24 ~~shall apply to migrant housing.~~

25 (e) (2) Whenever the outside temperature falls below 50 degrees Fahrenheit and the
26 migrant housing is occupied, heating equipment shall be provided and operable.
27 Regardless of outside temperature, this equipment must be capable of maintaining living
28 areas of 65 degrees Fahrenheit. If housing is to be occupied from May 15 until
29 September 1 only, no heating equipment shall be required at the time of preoccupancy
30 inspection.

31 (f) (3) ~~All migrant housing shall comply with the~~ The standards regarding fire safety
32 for migrant housing as adopted by the Commission for Health Services and in effect on
33 January 1, 1989. The Commissioner shall adopt rules pursuant to this Article that
34 incorporate the provisions of these standards.

35 (g) (4) For purposes of this Article, the provisions in 29 C.F.R. § 1910.142(i) shall be
36 replaced by the following standards: established federal standard provided in 29 C.F.R.
37 1910.142(i) does not apply. The following standards shall apply to migrant housing:

38 (1) a. Food preparation facilities and eating areas shall be provided and
39 maintained in a clean and sanitary manner;

40 (2) b. A kitchen facility shall be provided with an operable stove with at least
41 one burner per five people, and in no event with less than two burners;
42 an operable refrigerator with .75 cubic feet per person minimum; a
43 table; and a sink with running hot and cold water;

- 1 | (3)c. Surfaces with which food or drink come in contact shall be easily
2 | accessible for cleaning, and shall be nontoxic, resistant to corrosion,
3 | nonabsorbent, and free of open crevices;
4 | (4)d. Acceptable storage facilities shall be provided and shall be kept clean
5 | and free of vermin; and
6 | (5)e. All food service facilities, other than those where migrants procure and
7 | prepare food for their own or their family's consumption, shall comply
8 | with the standards regarding kitchen and dining room facilities for
9 | migrant housing, as adopted by the Commission for Health Services
10 | and in effect on January 1, 1989. The Commissioner shall adopt rules
11 | pursuant to this Article that incorporate the provisions of these
12 | standards.

13 | (b) In addition to the standards referenced above and the Rules adopted by the
14 | Commissioner pursuant to this Article, the following provisions shall apply to migrant
15 | housing:

16 | (1) For the protection of the public health, the rules adopted by the
17 | Commission for Health Services and enforced by the department of Environment and
18 | Natural Resources that establish water quality and water sanitation standards for
19 | migrant housing.

20 | (2) The requirements for the collection, treatment, and disposal of
21 | wastewater, as provided in Article 11 of Chapter 130A, and the rules adopted by the
22 | Commission for Health Services pursuant to that Article.

23 | (c) Prior to initiating rulemaking activity pursuant to this Article in accordance
24 | with Chapter 150B, the Commissioner shall notify and consult with stakeholders who
25 | may have an interest in the proposed rules. The purpose of this notification and
26 | consultation is to ensure that the stakeholders have an opportunity to inform the
27 | Commissioner of their concerns with the proposed rules, and to make recommendations
28 | to the Commissioner on changes or additions to the proposed rules."

29 | SECTION 4. G.S. 95-226 reads as rewritten:

30 | "~~§ 95-226. Application for inspection.~~ Inspections; occupancy.

31 | (a) Every operator shall request a preoccupancy inspection at least 45 days prior
32 | to the anticipated date of occupancy by applying directly to the Department of Labor of
33 | North Carolina or to the local health department. Upon receipt of an application by the
34 | Department of Labor of North Carolina, the Department of Labor of North Carolina
35 | Department, the Department shall immediately notify, in writing, the appropriate local
36 | health department; and the local health department shall inspect the migrant housing for
37 | compliance with ~~G.S. 95-225(e) and (d).~~ this Article and the rules adopted pursuant to
38 | this Article. Upon receipt of the application by the local health department, the local
39 | health department shall immediately notify, in writing, the Department of Labor of
40 | North Carolina notify the Department in writing and shall inspect the migrant housing
41 | for compliance with G.S. 95-225(e) and (d). this Article and the rules adopted pursuant
42 | to this Article.

43 | The local health department shall forward the results of its inspection to the
44 | Department of Labor of North Carolina and to the operator. The Department of Labor of

1 North Carolina shall inspect the migrant housing and certify to the operator the results
2 of the inspection.

3 (b) The Department of Labor of North Carolina shall provide local health
4 departments and Agricultural Extension offices with blank copies of forms for applying
5 for preoccupancy inspections.

6 (c) The application for inspection shall ~~include~~ include all of the following:

7 (1) The name, address, and telephone number of the ~~operator~~ operator.

8 (2) The location of the migrant ~~housing~~ housing.

9 (3) The anticipated number of migrants to be housed in the migrant
10 ~~housing~~ and housing.

11 (4) The anticipated dates of occupancy of the migrant housing.

12 (d) ~~Except as provided in subsection (e) of this section, an Occupancy.~~

13 (1) Except as provided by subdivision (2) of this subsection, an operator
14 may allow the migrant housing to be occupied only if the migrant
15 housing has been certified by the Department of Labor of North
16 Carolina or the United States Department of Labor to be in compliance
17 with all of the standards under this Article, except that an this Article
18 and the rules adopted pursuant to this Article.

19 (2) An operator may allow migrant housing to be occupied on a
20 provisional basis if the if:

21 a. The operator applied for a preoccupancy inspection at least 45
22 days prior to the expected occupancy date and the preoccupancy
23 inspection was not conducted by the Department of Labor of
24 North Carolina at least four days prior to the anticipated
25 occupancy. Upon subsequent inspection by the Department of
26 Labor of North Carolina, such provisional occupancy shall be
27 revoked if any deficiencies have not been corrected within the
28 period of time specified by the Department of Labor of North
29 Carolina, or within two days after receipt of written notice
30 provided on-site to the operator. No penalties may be assessed
31 for any violation of this Article which are found during the
32 preoccupancy inspection, unless substantive violations exist
33 during provisional occupancy. occupancy date; or

34 b. The operator has applied for an inspection pursuant to this
35 Article and one or more migrants arrives in advance of the
36 arrival date stated in the application. The operator shall notify
37 the Department within two working days of the occupancy of
38 the migrant housing.

39 (3) The provisional occupancy authorized in subdivision (2) of this
40 subsection shall be revoked if, upon subsequent inspection by the
41 Department, the migrant housing is found not to be in compliance with
42 this Article and the rules adopted pursuant to this Article, and any
43 deficiencies have not been corrected within the period of time

1 specified by the Department, or within two days after receipt of written
2 notice provided on-site to the operator.

3 (4) Penalties may be assessed for substantive violations of this Article
4 found during the preoccupancy inspection of migrant housing which
5 has been occupied on a provisional basis.

6 (e) ~~If an operator has applied for an inspection pursuant to this Article and one or~~
7 ~~more migrants arrives in advance of the arrival date stated in the application, the~~
8 ~~operator shall notify the Department of Labor of North Carolina within two working~~
9 ~~days of the occupancy of the migrant housing. (1989, c. 91, s. 2.)"~~

10 SECTION 5. G.S. 95-227 reads as rewritten:

11 "§ 95-227. Enforcement.

12 (a) / For the purpose of enforcing the standards provided by this Article, the
13 provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall
14 apply under this Article in a similar manner as they apply to places of employment
15 under OSHANC; however, G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to
16 migrant housing. the Occupational Safety and Health Act of North Carolina.

17 (b) For the purposes of this Article, the ~~term~~ terms contained in G.S. 95-129,
18 G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed as follows:

19 (1) "Employer" in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S.
20 95-142 shall be construed to mean an operator; operator.

21 (2) "Employee" shall be construed to mean a migrant; and migrant.

22 (3) "Director" shall mean the agent designated by the Commissioner to
23 assist in the administration of this Article. Director of the Agricultural
24 Safety and Health Bureau.

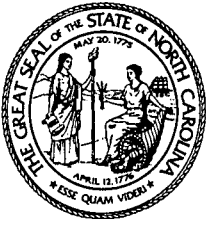
25 The Commissioner may establish a new division to enforce this Article.

26 SECTION 6. G.S. 95-228 reads as rewritten:

27 "§ 95-228. Waiver of rights.

28 Agreements entered into by migrants to waive or to modify their rights under this
29 Article shall be deemed void as contrary to public policy. A waiver or modification of
30 rights by the Department of Labor of North Carolina shall be valid under this Article."

31 SECTION 7. This act becomes effective October 1, 2005.



HB 767: Enhance Migrant Housing Act

BILL ANALYSIS

Committee: House Agriculture
Date: April 27, 2005
Version: H767-CSRF-09

Introduced by: Representative Howard
Summary by: Barbara Riley
Committee Counsel

SUMMARY:

House Bill 767 received a favorable report from the House Agriculture Committee on April 18, 2005. It was rereferred to Committee on April 20. The bill provides specific authority for the Commissioner of Labor to adopt rules for standards and enforcement of the Migrant Housing Act. The bill also reorganizes and clarifies several of the sections of the Act, however it does not change the standards for migrant housing currently in effect. H767-CSRF-09 makes some additional organizational changes and provides for a stakeholder group to have input in the development of the rules by the Commissioner implementing the Migrant Housing Act

CURRENT LAW:

The Migrant Housing Act was first enacted in 1989. The purpose of the act was to conform migrant housing standards to the Occupational Safety and Health Act of North Carolina (OSHANC) and to ensure that migrants were provided safe and healthy housing. The act provided specific standards for kitchen and food preparation areas and facilities and also adopted the rules of the Commission for Health Services regarding water quality, water sanitation, and fire safety. The statutory standards and rules for the collection and treatment of sewage were also specifically adopted in the Act. The provisions of the Act did not authorize the Commissioner of Labor to adopt standards and rules under the act.

BILL ANALYSIS:

The heart of House Bill 767 is contained in Section 2 of the Act. That section creates a new G.S. 95-223.1 that sets forth the powers and duties of the Commissioner under the Migrant Housing Act. The Commissioner is given specific authority to adopt rules as necessary to carry out the provisions of the Act, and to enforce those rules. G.S. 95-223.1 also expressly provides the Commissioner the authority to issue preoccupancy certificates, to certify that migrant housing is in compliance with the provisions of the article, and to conduct periodic post-occupancy inspections to ensure continued compliance. Section 2 also clarifies that the Commissioner may delegate his authority under the Act to the Director of the Agricultural Safety and Health Director.

H767-CSRF-09

The 1st Edition of House Bill 767 repealed the provisions of G.S. 95-225, which set out the specific standards for migrant housing and adopted the rules of the Commission on Health Services. The proposed committee substitute returns and reorganizes G.S. 95-225. The standards cover cleanliness in food preparation facilities and eating areas, adequate cooking facilities, including refrigeration, sink with running hot and cold water, and a table, vermin free storage areas, and the provision of heating equipment when the outside temperature falls below 50 degrees Fahrenheit. The section also includes as standards the rules adopted by the Commission for Health Services regarding water quality and sanitation and the requirements for the collection, treatment and disposal of wastewater contained in Article 11 of Chapter 130A of the General Statutes.

HB 767

Page 2

The committee substitute also defines a "stakeholder" to mean a person or group that is directly or indirectly affected by the adoption of rules and provides for notification of and consultation with stakeholders in the rulemaking process.

The act becomes effective October 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 767
Committee Substitute Favorable 4/18/05

Short Title: Enhance Migrant Housing Act.-AB

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED
AN ACT ENHANCING THE MIGRANT HOUSING LAWS OF NORTH
CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 95-223 reads as rewritten:

"§ 95-223. Definitions.

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

- (1) "Agricultural employment" means employment in any service or activity included within the provisions of Section 3(f) of the Fair Labor Standards Act of 1938, or section 3121(g) of the Internal Revenue Code of 1986; and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state and including the harvesting of Christmas trees, and the harvesting of saltwater ~~erabs;~~crabs.
- (2) "Commissioner" means the Commissioner of Labor of North ~~Carolina;~~Carolina.
- (3) "Day" means a calendar ~~day;~~day.
- (3a) "Department" means the North Carolina Department of Labor.
- (4) "~~Established federal standard~~" ~~means those standards as set out in, and interpretations issued by, the Secretary of the United States Department of Labor in 29 C.F.R. 1910.142, as amended;~~
- (4a) "Director" means the Director of the Agricultural Safety and Health Bureau, who is the agent designated by the Commissioner to assist in the administration of this Article.
- (5) "Migrant" means an individual, and his dependents, who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of ~~residence;~~residence.

- 1 (6) "Migrant housing" means any facility, structure, real property, or other
2 unit that is established, operated, or used as living quarters for
3 ~~migrants;migrants.~~
4 (7) "Operator" means any person who owns or controls migrant housing;
5 ~~andhousing.~~
6 (8) "Person" means an individual, partnership, association, joint stock
7 company, corporation, trust, or legal ~~representative;representative.~~
8 (9) "Substantive violation" means a violation of a safety and health
9 standard, including those that provide fire prevention, and adequate
10 and sanitary supply of water, plumbing maintenance, structurally
11 sound construction of buildings, effective maintenance of those
12 buildings, provision of adequate heat as weather conditions require,
13 and reasonable protection for inhabitants from insects and rodents. A
14 substantive violation does not include technical or procedural
15 violations of safety and health standards."

16 SECTION 2. Article 19 of the General Statutes is amended by adding a new
17 section to read:

18 "**§ 95-223.1. Powers and duties of the Commissioner.**

19 The Commissioner shall have the following powers and duties:

- 20 (1) To delegate to the Director of the Agricultural Safety and Health
21 Bureau the powers, duties, and responsibilities that the Commissioner
22 determines will best ensure safe and healthy migrant housing
23 conditions.
24 (2) To supervise the Director of the Agricultural Safety and Health
25 Bureau.
26 (3) To adopt, modify, or revoke any rules that are necessary for the
27 purpose of carrying out the provisions of this Article.
28 (4) To enforce rules adopted pursuant to this Article.
29 (5) To issue preoccupancy certificates to certify that housing for migrant
30 workers has been found to be in compliance with this Article and the
31 rules adopted pursuant to this Article.
32 (6) To conduct periodic postoccupancy inspections of migrant housing
33 sites in accordance with the provisions of G.S. 95-136 through
34 G.S. 95-142 to ensure that they remain in compliance with this Article
35 and the rules adopted pursuant to this Article."

36 SECTION 3. G.S. 95-225 is repealed.

37 SECTION 4. G.S. 95-226 reads as rewritten:

38 "**§ 95-226. Application for inspection. Inspections; occupancy.**

39 (a) Every operator shall request a preoccupancy inspection at least 45 days prior
40 to the anticipated date of occupancy by applying directly to the Department of Labor of
41 ~~North Carolina~~ or to the local health department. Upon receipt of an application by the
42 ~~Department of Labor of North Carolina, the Department of Labor of North Carolina~~
43 Department, the Department shall immediately notify, in writing, the appropriate local
44 health department; and the local health department shall inspect the migrant housing for

1 compliance with ~~G.S. 95-225(e) and (d).~~ this Article and the rules adopted pursuant to
2 this Article. Upon receipt of the application by the local health department, the local
3 health department shall immediately ~~notify, in writing, the Department of Labor of~~
4 ~~North Carolina~~ notify the Department in writing and shall inspect the migrant housing
5 for compliance with ~~G.S. 95-225(e) and (d).~~ this Article and the rules adopted pursuant
6 to this Article.

7 The local health department shall forward the results of its inspection to the
8 ~~Department of Labor of North Carolina~~ and to the operator. The ~~Department of Labor of~~
9 ~~North Carolina~~ shall inspect the migrant housing and certify to the operator the results
10 of the inspection.

11 (b) ~~The Department of Labor of North Carolina~~ shall provide local health
12 departments and Agricultural Extension offices with blank copies of forms for applying
13 for preoccupancy inspections.

14 (c) The application for inspection shall ~~include~~ include all of the following:

15 (1) The name, address, and telephone number of the ~~operator;~~ operator.

16 (2) The location of the migrant ~~housing;~~ housing.

17 (3) The anticipated number of migrants to be housed in the migrant
18 ~~housing;~~ and housing.

19 (4) The anticipated dates of occupancy of the migrant housing.

20 (d) ~~Except as provided in subsection (e) of this section, an~~ Occupancy.

21 (1) Except as provided by subdivison (2) of this subsection, an operator
22 may allow the migrant housing to be occupied only if the migrant
23 housing has been certified by the Department of Labor of North
24 Carolina or the United States Department of Labor to be in compliance
25 with all of the standards under this Article, except that an this Article
26 and the rules adopted pursuant to this Article.

27 (2) An operator may allow migrant housing to be occupied on a
28 provisional basis if the if:

29 a. The operator applied for a preoccupancy inspection at least 45
30 days prior to the expected occupancy date and the preoccupancy
31 inspection was not conducted by the Department of Labor of
32 North Carolina at least four days prior to the anticipated
33 occupancy. Upon subsequent inspection by the Department of
34 Labor of North Carolina, such provisional occupancy shall be
35 revoked if any deficiencies have not been corrected within the
36 period of time specified by the Department of Labor of North
37 Carolina, or within two days after receipt of written notice
38 provided on-site to the operator. No penalties may be assessed
39 for any violation of this Article which are found during the
40 preoccupancy inspection, unless substantive violations exist
41 during provisional occupancy. occupancy date; or

42 b. The operator has applied for an inspection pursuant to this
43 Article and one or more migrants arrives in advance of the
44 arrival date stated in the application. The operator shall notify

the Department within two working days of the occupancy of the migrant housing.

(3) The provisional occupancy authorized in subdivision (2) of this subsection shall be revoked if, upon subsequent inspection by the Department, the migrant housing is found not to be in compliance with this Article and the rules adopted pursuant to this Article, and any deficiencies have not been corrected within the period of time specified by the Department, or within two days after receipt of written notice provided on-site to the operator.

(4) Penalties may be assessed for substantive violations of this Article found during the preoccupancy inspection of migrant housing which has been occupied on a provisional basis.

~~(e) If an operator has applied for an inspection pursuant to this Article and one or more migrants arrives in advance of the arrival date stated in the application, the operator shall notify the Department of Labor of North Carolina within two working days of the occupancy of the migrant housing. (1989, c. 91, s. 2.)"~~

SECTION 5. G.S. 95-227 reads as rewritten:

"§ 95-227. Enforcement.

(a) The rules adopted by the Commissioner pursuant to this Article shall include, at a minimum, but not be limited to, the following requirements:

(1) The provisions of 29 C.F.R. § 1910.142, which is incorporated by reference, subject to the modifications provided in Paragraph (b) of this Rule. The Commissioner shall provide for publication in the North Carolina Register any modification by the federal government of 29 C.F.R. § 1910.142 within 30 days of its adoption.

(2) The rules regarding fire safety and kitchen and dining facilities adopted by the Commission for Health Services and in effect on January 1, 1989.

(3) Whenever the outside temperature falls below 50 degrees Fahrenheit and the migrant housing is occupied, heating equipment shall be provided and operable. Regardless of outside temperature, this equipment must be capable of maintaining living areas of 65 degrees Fahrenheit. If housing is to be occupied from May 15 until September 1 only, no heating equipment shall be required at the time of preoccupancy inspection.

(b) The provisions of 29 C.F.R. § 1910.142(i) shall be subject to the following modifications:

(1) Food preparation facilities and eating areas shall be provided and maintained in a clean and sanitary manner;

(2) A kitchen facility shall be provided with an operable stove with at least one burner per five people, and in no event with less than two burners; an operable refrigerator with .75 cubic feet per person minimum; a table; and a sink with running hot and cold water;

(3) Surfaces with which food or drink come in contact shall be easily accessible for cleaning and shall be nontoxic, resistant to corrosion, nonabsorbent, and free of open crevices; and

(4) Acceptable storage facilities shall be provided and shall be kept clean and free of vermin.

(c) In addition to the rules adopted by the Commissioner pursuant to this Article, the following provisions shall apply to migrant housing:

(1) The rules adopted by the Commission for Health Services and enforced by the Department of Environment and Natural Resources that establish water quality and water sanitation standards for migrant housing.

(2) The requirements for the collection, treatment, and disposal of wastewater, as provided in Article 11 of Chapter 130A, and the rules adopted by the Commission for Health Services pursuant to that Article.

(d) For the purpose of enforcing the standards provided by this Article, the provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall apply under this Article in a similar manner as they apply to places of employment under OSHANC; however, ~~G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to migrant housing, the Occupational Safety and Health Act of North Carolina.~~

(e) For the purposes of this Article, the ~~term~~following terms contained in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed as follows:

(1) ~~"Employer" in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed to~~ shall mean an operator; operator.

(2) ~~"Employee" shall be construed to mean a migrant; and migrant.~~

(3) ~~"Director" shall mean the agent designated by the Commissioner to assist in the administration of this Article.~~ Director of the Agricultural Safety and Health Bureau.

~~The Commissioner may establish a new division to enforce this Article."~~

SECTION 6. G.S. 95-228 reads as rewritten:

"§ 95-228. Waiver of rights.

Agreements entered into by migrants to waive or to modify their rights under this Article shall be deemed void as contrary to public policy. A waiver or modification of rights by the Department of Labor of North Carolina shall be valid under this Article."

SECTION 7. This act is effective when it becomes law, except that Section 3 of this act becomes effective upon the effective date of the rules adopted pursuant to Section 2 of this act.

PUBLIC BILL

~~Proposed~~ Committee Substitute For
H.B. 767

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT ENHANCING THE MIGRANT HOUSING LAWS OF NORTH CAROLINA.

Introduced by Representative(s): Howard

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Principal Clerk's Use Only

Committee on Agriculture
Majority being present, having considered
bill, recommend that it do ☒ pass.
Rep. Hill
For the Committee

FAVORABLE TO COMM. SUB.
UNFAVORABLE TO BILL

APR 18 2005

AND PLACED ON
CALENDAR FOR

366

4-20-05

ON MOTION OF REP. <u>Howard</u> WITHDRAWN FROM <u>calendar</u> APR 20 2005 RECOMMITTED TO <u>Agriculture</u>
--

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Wednesday, April 27, 2005
1228 Legislative Building**

12:00 Noon

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**

AGENDA ITEMS

**HB 671 – Amend Plant Pest Law.-AB – Rep. Hill
HB 767 – Enhance Migrant Housing Act.-AB – Rep. Howard**

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

Julie Woodson	NCPC
Tommy Stevens	NCPC
Jan Lane	Bone & Ass.
Michael Eppert	NCDOL
Orville Carlton	GIC
BOB SUTTER	NC PEANUT GROWERS ASSOC
Billy Carter	NC Cotton Producers Association
Gene Cross	NC DEPT. OF AGRICULTURE
Roger Brown	Bone & Ass.
JD	AK F&S
Mike Duke	NCPB
Peter Daniel	NCFB
Paul Meyer	NCAU
Steve Woodson	NC Farm Bureau
F. Carlyle Teague	Co-op Council of NC
Jimmy Gentry	NC STATE GRANGE
David Meredith	NC STATE GRANGE
Jim Wilber	NC SOYBEAN PRODUCERS ASSN.
Erin Kinney	NC Conservation Network
Deann Jamison	Non Potomac Grower Co. N. C.
Gayle Wadkins	Corn Growers Assoc.
Erica Petusa	NC Agribusiness Council
Bill Rowe	NC Justice Center
Art Britt	NCDOL
Regina Luginbuhl	"
John Hosman	"
Ann Carpenter	NCPC

House Pages

Name Of Committee: Ag Date: 04/27/05

1. Name: Florence Hamrick
County: Rowan
Sponsor: Lorene Coates
2. Name: Tasha Murray
County: Harnett
Sponsor: Rep. David Lewis
3. Name: Ben Calhoun Colburn
County: Davie
Sponsor: Lorene Coates
4. Name: Alyssa Klaus Klaus
County: Rowan
Sponsor: Lorene Coates
5. Name: Isaac Davis
County: Duplin
Sponsor: Representative Tucker

Sgt-At-Arms

1. Name: Jim Wornack
2. Name: Russell Auer
3. Name: Tay Callaway
4. Name: _____
5. Name: _____

Agriculture

House Pages

Name Of Committee:

Ag

Date:

04/27/05

1. Name:

Antonio Sunday

County:

Forsyth County

Sponsor:

Larry Womble

2. Name:

Marquis Echelberger

County:

Forsyth County

Sponsor:

Larry Womble

3. Name:

County:

Sponsor:

4. Name:

County:

Sponsor:

5. Name:

County:

Sponsor:

Sgt-At-Arms

1. Name:

2. Name:

3. Name:

4. Name:

5. Name:

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: Wednesday, April 27, 2005

TIME: 12:00 Noon

LOCATION: 1228 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 671 – Amend Plant Pest Law.-AB – Rep. Hill

HB 767 – Enhance Migrant Housing Act.-AB – Rep. Howard

Respectfully,
Representative Dewey Hill
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **4:00 p.m. on April 21, 2005.**

x ☐ Principal Clerk
x ☐ Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

May 26, 2005

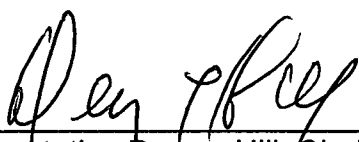
The House Committee on Agriculture met on Thursday, May 26, 2005, in Room 1425 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Bell, Coates, Langdon, West, and Williams; Representatives Faison, Kiser, Pate, Walker, Warren, Wilson, Wray, and Yongue.

Chair Hill called the meeting to order at 12:26 p.m. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

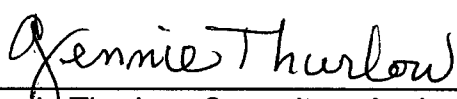
House Bill 347, Punishment for Failure to Yield Causing Death, Proposed Committee Substitute Ag Development/Farmland Preservation, was accepted for discussion after Representative Bell made a motion to accept the Proposed Committee Substitute for **House Bill 347**. Barbara Riley, Legislative Staff Attorney for the Agriculture Committee, explained the Proposed Committee Substitute. Discussion followed. Representative Bell offered a motion to give the Proposed Committee Substitute a favorable report, unfavorable as to the original bill. The motion passed.

Representative Bell made a motion to accept the **Proposed Committee Substitute Enhanced Voluntary Agricultural Districts for House Bill 607 Clarify Veterinary Urine Test Requirements** for discussion. The Proposed Committee Substitute was accepted. Representative L. Allen presented the Proposed Committee Substitute. Barbara Riley spoke on the Proposed Committee Substitute. Discussion followed. Representative Faison offered an amendment. Discussion followed. Chair Hill asked for a vote on the amendment. A division was called by the Chair. The amendment passed. Representative Bell moved to roll the amendment into the Proposed Committee Substitute and to give the Proposed Committee Substitute a favorable report, unfavorable as to the original bill. The motion passed.

The meeting adjourned at 12:58 p.m.



Representative Dewey Hill, Chair



Gennie Thurlow, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H D
HOUSE BILL 607*
PROPOSED COMMITTEE SUBSTITUTE H607-CSRF-22 [v.3]

5/26/2005 9:52:11 AM

Short Title: Enhanced Voluntary Agricultural Districts. (Public)

Sponsors:

Referred to:

March 14, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE FARMLAND PRESERVATION ENABLING ACT TO
3 ESTABLISH A CATEGORY OF ENHANCED VOLUNTARY AGRICULTURAL
4 DISTRICTS THAT OFFERS ADDITIONAL PROTECTION OF FARMLAND
5 FROM NONFARM DEVELOPMENT AND ADDITIONAL BENEFITS FOR
6 FARMLAND WHEN THE OWNER OF THE FARMLAND IS WILLING TO
7 ENTER INTO AN IRREVOCABLE CONSERVATION AGREEMENT FOR TEN
8 YEARS OR LONGER.

9 Whereas, North Carolina's 53,000 farms provide food, fiber, economic
10 activity, wildlife habitat, natural resource protection, open spaces, cultural heritage, and
11 fiscal savings to the citizens of the State; and

12 Whereas, a productive and stable agricultural sector is important to farm
13 families, rural communities, local economies, and the State of North Carolina; and

14 Whereas, the Voluntary Agricultural Districts program is a popular, low cost,
15 locally driven option that links farmers, elected officials, county staff, and the general
16 public in understanding and supporting the needs of agriculture; and

17 Whereas, landowners are looking for a wider range of options to help them
18 protect their farming operations from the potential impacts of nonfarm development and
19 pass them along to future generations; and

20 Whereas, to expand the Farmland Preservation Enabling Act and to authorize
21 counties and cities to establish a new category of agricultural district, an enhanced
22 agricultural district, will provide counties and cities with a wider range of options to
23 protect farmland from nonfarm development within their jurisdictions; Now, therefore,
24 The General Assembly of North Carolina enacts:

25 **SECTION 1.** G.S. 106-735 and G.S. 106-736 is recodified as Part 1 of
26 Article 61 of Chapter 106 of the General Statutes, to be entitled "General Provisions."

1 **SECTION 2.** G.S. 106-737 through G.S. 106-743 is recodified as Part 2 of
2 Article 61 of Chapter 106 of the General Statutes, to be entitled "Voluntary Agricultural
3 Districts."

4 **SECTION 3.** G.S. 106-744 is recodified as Part 4 of Article 61 of Chapter
5 106 of the General Statutes, to be entitled "Agricultural Conservation Easements."

6 **SECTION 4.** Article 61 of Chapter 106 of the General Statutes is amended
7 by adding a new Part to read:

8 "Part 3. Enhanced Voluntary Agricultural Districts.

9 **"§ 106-743A. Enhanced voluntary agricultural districts.**

10 (a) A county or a municipality may adopt an ordinance that provides all of the
11 following:

12 (1) The ordinance provides for the establishment of enhanced voluntary
13 agricultural districts that initially consist of at least the number of
14 contiguous acres of farmland that is qualifying farmland under G.S.
15 106-737 or the number of qualifying farms deemed appropriate by the
16 board of county commissioners.

17 (2) The ordinance provides for the formation of these enhanced voluntary
18 agricultural districts upon the execution of a conservation agreement
19 by the landowners of the requisite acreage to sustain agriculture in the
20 enhanced voluntary agricultural district.

21 (3) The ordinance provides that the form of the agreement under
22 subdivision (2) of this subsection must be reviewed and approved by
23 an agricultural advisory board established under G.S. 106-739 or some
24 other governing board of the county or city that adopted the ordinance,
25 and provides that the agreement must comply with G.S. 106-743B.

26 (4) The ordinance provides that each enhanced voluntary agricultural
27 district must have a representative on the agricultural advisory board
28 established under G.S. 106-739.

29 (b) The purpose of establishing an enhanced voluntary agricultural district is to
30 provide a county or a city with the option of offering more protection for farmland from
31 nonfarm development and additional benefits for farmland than are available under a
32 voluntary agricultural district established under Part 2 of this Article when the owner of
33 the farmland is willing to agree to the additional limitation imposed under G.S. 106-
34 743B. The county or city that adopted the ordinance may take any action it deems
35 appropriate to encourage the formation of these districts and to further their purposes
36 and objectives.

37 **"§ 106-743B. Conservation agreements for farmland in enhanced voluntary**
38 **agricultural districts; limitation.**

39 When a landowner enters into a conservation agreement, as defined in G.S. 121-35
40 and as provided for under G.S. 106-743A(a)(2), with the county or the city that adopted
41 the ordinance to establish an enhanced voluntary agricultural district, the farmland that
42 is subject to the conservation agreement receives benefits under this Part for the
43 duration of the conservation agreement only if the agreement is irrevocable for at least
44 10 years from the date the agreement is executed.

1 **"§106-743C. Enhanced voluntary agricultural districts entitled to all benefits of**
2 **voluntary agricultural districts.**

3 All of the provisions of G.S. 106-739 through G.S. 106-741 and G.S. 106-743 apply
4 to an enhanced voluntary agricultural district under this Part, to an ordinance adopted
5 under this Part, and to any person, entity, or farmland subject to this Part in the same
6 manner as they apply under Part 2 of this Article.

7 **"§ 106-743D. Enhanced voluntary agricultural districts; additional benefits.**

8 (a) Subject to G.S. 153A-340(b)(3) for swine farms, property that is subject to a
9 conservation agreement under G.S. 106-743B that remains in effect may receive up to
10 twenty-five percent of its gross sales from the sale of nonfarm products and still qualify
11 as a bona fide farm that is exempt from zoning regulations under G.S. 153A-340(b). For
12 purposes of G.S. 153A-340(b), the production of any nonfarm product that the
13 Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in
14 North Carolina" product that is produced on a farm that is subject to a conservation
15 agreement under G.S. 106-743B is a bona fide farm purpose.

16 (b) If an owner of farmland is a party to a farm nuisance dispute, as defined in
17 G.S. 7A-38.3, and the farmland is both the subject of the dispute and the subject of a
18 conservation agreement under G.S. 106-743B that remains in effect, the plaintiff shall
19 pay any mediation costs of the prevailing owner of farmland. If an owner of farmland is
20 a party to a civil action involving a farm nuisance dispute, and the farmland is both the
21 subject of the dispute and the subject of a conservation agreement under G.S. 106-743B
22 that remains in effect, the plaintiff shall pay the attorney's fees of the prevailing owner
23 of farmland.

24 (c) No city may extend its extraterritorial powers under Article 19 of Chapter
25 160A of the General Statutes into an enhanced voluntary agricultural district established
26 under this Part.

27 (d) In order to reduce the impact of nonfarm development on adjacent farms, a
28 county that has established an enhanced voluntary agricultural district under this Part
29 may modify its subdivision ordinance under G.S. 153A-331 to provide that new
30 adjoining nonfarm development is required to erect and maintain adequate buffers. A
31 city that has established an enhanced voluntary agricultural district under this Part may
32 modify its subdivision ordinance under G.S. 160A-372 331 to provide that new
33 adjoining nonfarm development is required to erect and maintain adequate buffers. As
34 used in this subsection, 'buffer' includes fences, wells, vegetation, and any other buffer
35 approved by the governing board of the county or city in its ordinance adopted under
36 this Part.

37 (e) A county that has established an enhanced voluntary agricultural district
38 under this Part shall, in any comprehensive land use plan hereinafter adopted or
39 amended by the county by ordinance under Article 18 of Chapter 153A of the General
40 Statutes, address and provide for the needs of agricultural, horticultural, and forestry
41 operations located in that county and shall provide that any other county ordinances
42 thereafter adopted and decisions of local planning boards thereafter made are consistent
43 with these needs. A city that has established an enhanced voluntary agricultural district
44 under this Part shall, in any comprehensive land use plan hereinafter adopted by the city

by ordinance under Article 19 of Chapter 160A of the General Statutes, address and provide for the needs of agricultural, horticultural, and forestry operations located in that city and shall provide that any other city ordinances thereafter adopted and decisions of local planning boards thereafter made are consistent with these needs.

(f) A county or a city that has established an enhanced voluntary agricultural district under this Part may, pursuant to G.S. 106-743E, waive utility assessments for farms until improvements on the property are connected to the utility.

(g) When farmland is subject to a conservation agreement under G.S. 106-743B that remains in effect, the person who farms that farmland is eligible under G.S. 143-215.74(b) to receive a higher percentage of cost share funds under the Agriculture Cost Share Program under Part 9 of Article 21 of Chapter 143 of the General Statutes for funds to benefit that farmland.

(h) Any State department, institution, or agency that awards grants to farmers is encouraged to give priority consideration to any farmer who farms farmland that is subject to a conservation agreement under G.S. 106-743B that remains in effect.

"§ 106-743E. Waiver of utility assessments.

(a) In the ordinance establishing an enhanced voluntary agricultural district under this Part, a county or a city may provide that all assessments for utilities provided by either public or private entities operating the utility are held in abeyance, with or without interest, for farmland subject to a conservation agreement under G.S. 106-743B that remains in effect until improvements on the farmland property are connected to the utility for which the assessment was made.

(b) The ordinance may provide that, when the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

(c) Statutes of limitations are suspended during the time that any assessment is held in abeyance under this section without interest.

(d) If an ordinance is adopted by a county or a city under this section, then the assessment procedures followed under Article 9 of Chapter 153A or Article 10 of Chapter 160A of the General Statutes, respectively, shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.

(e) Nothing in this section is intended to diminish the authority of counties or cities to hold assessments in abeyance under G.S. 153A-201 and G.S. 160A-237."

SECTION 5. G.S. 153A-340(b)(2) reads as rewritten:

"(2) ~~Bona~~ Except as provided in G.S. 106-743D for farms that are subject to a conservation agreement under G.S. 106-743B that remains in effect, bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. For purposes of this subdivision, the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743B is a bona fide farm purpose."

1 **SECTION 6.** G.S. 160A-360 is amended by adding a new subsection to
2 read:

3 "(e1) No city may hereafter extend its extraterritorial powers under this Article into
4 any area for which the county at that time has adopted and is enforcing an ordinance
5 that establishes an enhanced voluntary agricultural district established under Part 3 of
6 Article 61 of Chapter 106 of the General Statutes."

7 **SECTION 7.** G.S. 153A-331 reads as rewritten:
8 **"§ 153A-331. Contents and requirements of ordinance.**

9 A subdivision control ordinance may provide for the orderly growth and
10 development of the county; for the coordination of streets and highways within
11 proposed subdivisions with existing or planned streets and highways and with other
12 public facilities; for the dedication or reservation of recreation areas serving residents of
13 the immediate neighborhood within the subdivision and of rights-of-way or easements
14 for street and utility purposes including the dedication of rights-of-way pursuant to G.S.
15 136-66.10 or G.S. 136-66.11; and for the distribution of population and traffic in a
16 manner that will avoid congestion and overcrowding and will create conditions essential
17 to public health, safety, and the general welfare. The ordinance may include
18 requirements that the final plat show sufficient data to determine readily and reproduce
19 accurately on the ground the location, bearing, and length of every street and alley line,
20 lot line, easement boundary line, and other property boundaries, including the radius
21 and other data for curved property lines, to an appropriate accuracy and in conformity
22 with good surveying practice. A subdivision control ordinance may provide that a
23 developer may provide funds to the county whereby the county may acquire recreational
24 land or areas to serve the development or subdivision, including the purchase of land
25 which may be used to serve more than one subdivision or development within the
26 immediate area.

27 The ordinance may provide that in lieu of required street construction, a developer
28 may provide funds to be used for the development of roads to serve the occupants,
29 residents, or invitees of the subdivision or development. All funds received by the
30 county under this section shall be transferred to the municipality to be used solely for
31 the development of roads, including design, land acquisition, and construction. Any
32 municipality receiving funds from a county under this section is authorized to expend
33 such funds outside its corporate limits for the purposes specified in the agreement
34 between the municipality and the county. Any formula adopted to determine the
35 amount of funds the developer is to pay in lieu of required street construction shall be
36 based on the trips generated from the subdivision or development. The ordinance may
37 require a combination of partial payment of funds and partial dedication of constructed
38 streets when the governing body of the county determines that a combination is in the
39 best interest of the citizens of the area to be served.

40 The ordinance may provide for the more orderly development of subdivisions by
41 requiring the construction of community service facilities in accordance with county
42 policies and standards, and, to assure compliance with these requirements, the ordinance
43 may provide for the posting of bond or any other method that will offer guarantee of
44 compliance.

1 The ordinance may provide for the reservation of school sites in accordance with
2 comprehensive land use plans approved by the board of commissioners or the planning
3 agency. For the authorization to reserve school sites to be effective, the board of
4 commissioners or planning agency, before approving a comprehensive land use plan,
5 shall determine jointly with the board of education with jurisdiction over the area the
6 specific location and size of each school site to be reserved, and this information shall
7 appear in the plan. Whenever a subdivision that includes part or all of a school site to be
8 reserved under the plan is submitted for approval, the board of commissioners or the
9 planning agency shall immediately notify the board of education. That board shall
10 promptly decide whether it still wishes the site to be reserved and shall notify the board
11 of commissioners or planning agency of its decision. If the board of education does not
12 wish the site to be reserved, no site may be reserved. If the board of education does wish
13 the site to be reserved, the subdivision may not be approved without the reservation.
14 The board of education must acquire the site within 18 months after the date the site is
15 reserved, either by purchase or by exercise of the power of eminent domain. If the board
16 of education has not purchased the site or begun proceedings to condemn the site within
17 the 18 months, the subdivider may treat the land as freed of the reservation.

18 For a county that has adopted an ordinance establishing an enhanced voluntary
19 agricultural district under Part 3 of Article 61 of Chapter 106 of the General Statutes,
20 the subdivision ordinance under this section may provide that new adjoining nonfarm
21 development is required to erect and maintain adequate buffers under G.S. 106-743D(d)
22 in order to reduce the impact of the nonfarm development on adjacent farms.

23 The ordinance may require that a plat be prepared, approved, and recorded pursuant
24 to its provisions whenever a subdivision of land takes place."

25 **SECTION 8.** G.S. 160A-372 reads as rewritten:

26 **"§ 160A-372. Contents and requirements of ordinance.**

27 A subdivision control ordinance may provide for the orderly growth and
28 development of the city; for the coordination of streets and highways within proposed
29 subdivisions with existing or planned streets and highways and with other public
30 facilities; for the dedication or reservation of recreation areas serving residents of the
31 immediate neighborhood within the subdivision or, alternatively, for provision of funds
32 to be used to acquire recreation areas serving residents of the development or
33 subdivision or more than one subdivision or development within the immediate area,
34 and rights-of-way or easements for street and utility purposes including the dedication
35 of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; and for the distribution
36 of population and traffic in a manner that will avoid congestion and overcrowding and
37 will create conditions essential to public health, safety, and the general welfare. The
38 ordinance may include requirements that the final plat show sufficient data to determine
39 readily and reproduce accurately on the ground the location, bearing, and length of
40 every street and alley line, lot line, easement boundary line, and other property
41 boundaries, including the radius and other data for curved property lines, to an
42 appropriate accuracy and in conformance with good surveying practice.

43 The ordinance may provide for the more orderly development of subdivisions by
44 requiring the construction of community service facilities in accordance with municipal

1 policies and standards and, to assure compliance with these requirements, the ordinance
2 may provide for the posting of bond or any other method that will offer guarantee of
3 compliance.

4 The ordinance may provide for the reservation of school sites in accordance with
5 comprehensive land use plans approved by the council or the planning agency. In order
6 for this authorization to become effective, before approving such plans the council or
7 planning agency and the board of education with jurisdiction over the area shall jointly
8 determine the specific location and size of any school sites to be reserved, which
9 information shall appear in the comprehensive land use plan. Whenever a subdivision is
10 submitted for approval which includes part or all of a school site to be reserved under
11 the plan, the council or planning agency shall immediately notify the board of education
12 and the board shall promptly decide whether it still wishes the site to be reserved. If the
13 board of education does not wish to reserve the site, it shall so notify the council or
14 planning agency and no site shall be reserved. If the board does wish to reserve the site,
15 the subdivision shall not be approved without such reservation. The board of education
16 shall then have 18 months beginning on the date of final approval of the subdivision
17 within which to acquire the site by purchase or by initiating condemnation proceedings.
18 If the board of education has not purchased or begun proceedings to condemn the site
19 within 18 months, the subdivider may treat the land as freed of the reservation.

20 The ordinance may require that a plat be prepared, approved, and recorded pursuant
21 to its provisions whenever any subdivision of land takes place.

22 The ordinance may provide that a developer may provide funds to the city whereby
23 the city may acquire recreational land or areas to serve the development or subdivision,
24 including the purchase of land which may be used to serve more than one subdivision or
25 development within the immediate area. All funds received by the city pursuant to this
26 paragraph shall be used only for the acquisition or development of recreation, park, or
27 open space sites. Any formula enacted to determine the amount of funds that are to be
28 provided under this paragraph shall be based on the value of the development or
29 subdivision for property tax purposes. The ordinance may allow a combination or
30 partial payment of funds and partial dedication of land when the governing body of the
31 city determines that this combination is in the best interests of the citizens of the area to
32 be served.

33 The ordinance may provide that in lieu of required street construction, a developer
34 may be required to provide funds that the city may use for the construction of roads to
35 serve the occupants, residents, or invitees of the subdivision or development and these
36 funds may be used for roads which serve more than one subdivision or development
37 within the area. All funds received by the city pursuant to this paragraph shall be used
38 only for development of roads, including design, land acquisition, and construction.
39 However, a city may undertake these activities in conjunction with the Department of
40 Transportation under an agreement between the city and the Department of
41 Transportation. Any formula adopted to determine the amount of funds the developer is
42 to pay in lieu of required street construction shall be based on the trips generated from
43 the subdivision or development. The ordinance may require a combination of partial
44 payment of funds and partial dedication of constructed streets when the governing body

1 of the city determines that a combination is in the best interests of the citizens of the
2 area to be served.

3 For a city that has adopted an ordinance establishing an enhanced voluntary
4 agricultural district under Part 3 of Article 61 of Chapter 106 of the General Statutes,
5 the subdivision ordinance under this section may provide that new adjoining nonfarm
6 development is required to erect and maintain adequate buffers under G.S. 106-743D(d)
7 in order to reduce the impact of the nonfarm development on adjacent farms."

8 **SECTION 9.** G.S. 143-215.74(b)(9) reads as rewritten:

9 (9) When the applicant is either a limited-resource ~~farmer or farmer~~, a
10 beginning farmer, or, when the farmland is located in an enhanced
11 voluntary agricultural district and is subject to a conservation
12 agreement under G.S. 106-743B that remains in effect, the person who
13 farms that farmland, State funding shall be limited to ninety percent
14 (90%) of the average cost for each practice with the assisted farmer
15 providing ten percent (10%) of the cost, which may include in-kind
16 support of the practice, with a maximum of one hundred thousand
17 dollars (\$100,000) per year to each applicant. The following
18 definitions apply in this subdivision:

19 a. Beginning farmer. – A farmer who has not operated a farm or
20 who has operated a farm for not more than 10 years and who
21 will materially and substantially participate in the operation of
22 the farm.

23 a1. Enhanced voluntary agricultural district. – A district established
24 by a county or a city by ordinance under Part 3 of Article 61 of
25 Chapter 106 of the General Statutes.

26 b. Limited-resource farmer. – A farmer with direct and indirect
27 annual gross farm sales that do not exceed one hundred
28 thousand dollars (\$100,000) and with an adjusted household
29 income in each of the previous two years that is at or below the
30 greater of the county median household income, as determined
31 by the United States Department of Housing and Urban
32 Development, or two times the national poverty level based on
33 the federal poverty guidelines established by the United States
34 Department of Health and Human Services and revised each
35 April 1.

36 c. Materially and substantially participate. –

37 1. In the case of an individual, for the individual, including
38 members of the immediate family of the individual, to
39 provide substantial day-to-day labor and management of
40 the farm, consistent with the practices in the county in
41 which the farm is located.

42 2. In the case of an entity, for all members of the entity, to
43 participate in the operation of the farm, with some
44 members providing management and some members

1 providing labor and management necessary for
2 day-to-day activities such that if the members did not
3 provide the management and labor, the operation of the
4 farm would be seriously impaired."

5 **SECTION 10.** G.S. 106-736, as recodified by Section 1 of this act, reads as
6 rewritten:

7 **"§ 106-736. Farmland preservation programs authorized.**

8 A county or a city may by ordinance establish a farmland preservation program
9 under this Article. The ordinance may authorize qualifying farms, as defined in G.S.
10 106-737, to take advantage of one or more of the benefits authorized by the remaining
11 sections of this Article."

12 **SECTION 11.** G.S.106-737, as recodified by Section 2 of this act, reads as
13 rewritten:

14 **"§ 106-737. Qualifying farmland.**

15 In order for farmland to qualify under Part 1 or Part 2 of this Article, it must be real
16 property that:

- 17 (1) Is participating in the farm present-use-value taxation program
18 established by G.S. 105-277.2 through 105-277.7 or is otherwise
19 determined by the county to meet all the qualifications of this program
20 set forth in G.S. 105-277.3;
- 21 (2) Is certified by the Soil Conservation Service of the United States
22 Department of Agriculture as being a farm on which at least two-thirds
23 of the land is composed of soils that (i) are best suited for providing
24 food, seed, fiber, forage, timber, and oil seed crops, (ii) have good soil
25 qualities, (iii) are favorable for all major crops common to the county
26 where the land is located, (iv) have a favorable growing season, and
27 (v) receive the available moisture needed to produce high yields an
28 average of eight out of 10 years; or on which at least two-thirds of the
29 land has been actively used in agricultural, horticultural or forestry
30 operations as defined in G.S. 105-277.2(1), (2), and (3) during each of
31 the five previous years, measured from the date on which the
32 determination must be made as to whether the land in question
33 qualifies;
- 34 (3) Is managed in accordance with the Soil Conservation Service defined
35 erosion control practices that are addressed to highly erodable land;
36 and
- 37 (4) Is the subject of a conservation agreement, as defined in G.S. 121-35,
38 between the county and the owner of such land that prohibits nonfarm
39 use or development of such land for a period of at least 10 years,
40 except for the creation of not more than three lots that meet applicable
41 county zoning and subdivision regulations."

42 **SECTION 12.** G.S. 106-738, as recodified by Section 2 of this act, reads as
43 rewritten:

44 **"§ 106-738. Voluntary agricultural districts.**

(a) An ordinance adopted under this ~~Article~~ Part shall provide:

- (1) For the establishment of voluntary agricultural districts consisting initially of at least the number of contiguous acres of qualifying farmland or the number of qualifying farms deemed appropriate by the ~~board of county commissioners; governing board of the county or city adopting the ordinance.~~
- (2) For the formation of such districts upon the execution by the owners of the requisite acreage of an agreement to sustain agriculture in the district;
- (3) That the form of this agreement must be reviewed and approved by an agricultural advisory board established under G.S. 106-739 or some other county board or official;
- (4) That each such district have a representative on the agricultural advisory board established under G.S. 106-739.

(b) The purpose of such agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to increase protection from nuisance suits and other negative impacts on properly managed farms. The county or city that adopted an ordinance under this Part may take such action as it deems appropriate to encourage the formation of such districts and to further their purposes and objectives."

SECTION 13. G.S. 106-739, as recodified by Section 2 of this act, reads as rewritten:

"§ 106-739. Agricultural advisory board.

An ordinance adopted under this Part or Part 3 of this Article shall provide for the establishment of an agricultural advisory board, organized and appointed as the county or city that adopted the ordinance shall deem appropriate. The county or city that adopted the ordinance may confer upon this advisory board authority to:

- (1) Review and make recommendations concerning the establishment and modification of agricultural districts;
- (2) Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under this Part or Part 3 of this Article;
- (3) Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm;
- (4) Advise the governing board of the county commissioners or city that adopted the ordinance on projects, programs, or issues affecting the agricultural economy or way of life within the county;
- (5) Perform other related tasks or duties assigned by the governing board of the county commissioners or city that adopted the ordinance."

SECTION 14. G.S. 106-740, as recodified by Section 2 of this act, reads as rewritten:

"§ 106-740. Public hearings on condemnation of farmland.

1 An ordinance adopted under this Part or Part 3 of this Article may provide that no
2 State or local public agency or governmental unit may formally initiate any action to
3 condemn any interest in qualifying farmland within a voluntary agricultural district
4 under this Part or an enhanced voluntary agricultural district under Part 3 of this Article
5 until such agency has requested the local agricultural advisory board established under
6 G.S. 106-739 to hold a public hearing on the proposed condemnation.

7 (1) Following a public hearing held pursuant to this section, the board
8 shall prepare and submit written findings and a recommendation to the
9 decision-making body of the agency proposing acquisition.

10 (2) The board designated to hold the hearing shall have 30 days after
11 receiving a request under this section to hold the public hearing and
12 submit its findings and recommendations to the agency.

13 (3) The agency may not formally initiate a condemnation action while the
14 proposed condemnation is properly before the advisory board within
15 these time limitations."

16 **SECTION 15.** G.S. 106-742, as recodified by Section 2 of this act, reads as
17 rewritten:

18 **§ 106-742. Waiver of water and sewer assessments.**

19 (a) A county or a city that has adopted an ordinance under this Part may provide
20 by ordinance that its water and sewer assessments be held in abeyance, with or without
21 interest, for farms, whether inside or outside of a voluntary agricultural district, until
22 improvements on such property are connected to the water or sewer system for which
23 the assessment was made.

24 (b) The ordinance may provide that, when the period of abeyance ends, the
25 assessment is payable in accordance with the terms set out in the assessment resolution.

26 (c) Statutes of limitations are suspended during the time that any assessment is
27 held in abeyance without interest.

28 (d) If an ordinance is adopted under this section, then the assessment procedures
29 followed under Article 9 of Chapter 153A of the General Statutes or Article 10 of
30 Chapter 160A of the General Statutes, whichever applies, shall conform to the terms of
31 this ordinance with respect to qualifying farms that entered into conservation
32 agreements while such ordinance was in effect.

33 (e) Nothing in this section is intended to diminish the authority of counties or
34 cities to hold assessments in abeyance under ~~G.S. 153A-201~~ G.S. 153A-201 or G.S.
35 160A-237."

36 **SECTION 16.** G.S. 106-743, as recodified by Section 2 of this act, reads as
37 rewritten:

38 **"§ 106-743. County-Local ordinances.**

39 A county or a city adopting an ordinance under this Part or Part 3 of this Article may
40 consult with the North Carolina Commissioner of Agriculture or his staff before
41 adoption, and shall record the ordinance with the Commissioner's office after adoption.
42 Thereafter, the county or city shall submit to the Commissioner at least once a year, a
43 written report including the status, progress and activities of ~~the county's~~ sits farmland
44 preservation program under this Part or Part 3 of this Article."

1 **SECTION 17.** This act becomes is effective when it becomes law.

Roy Allen

1st Bill

HB 607

Voluntary Agricultural Districts Enhancement

Gerry Cohn
American Farmland Trust
Gcohn@farmland.org
336-221-0707



Voluntary Agricultural Districts

- 43 of 100 counties have passed ordinance
- 200,000 acres on 2675 farms (July 2004)
- Administered by local appointed board
- Benefits chosen by individual counties
- Farmers limit development for 10 years



North Carolina's Voluntary Agricultural Districts Programs - Dec. 2004




Handwritten: 33H

VAD - Benefits of Enrollment

- Notification to buyers of neighboring properties
- Stronger Right-to-Farm case
- Abeyance of water and sewer assessment
- Public hearing for eminent domain
- 10 year intention, can withdraw any time



VAD Enhancement

- Creates another tier of potential benefits for counties to add to their program
- Landowners could sign 10 year agreement, *without immediate withdrawal option*, to get these new benefits.
- Gives landowners an additional choice, but wouldn't impact those that prefer the current program
- **WOULD NOT CHANGE THE CURRENT PROGRAM**



Landowner Benefits

- Allows on-farm sales of some non-farm and Goodness Grows products, and retains ag zoning exemption
- Plaintiff pays mediation costs and attorney fees if farmer prevails in a nuisance suit
- Increased Ag Conservation Cost Share percentage
- Encourages priority for other state funding



City/County Benefits

- Gives cities statutory authority to recognize county VAD program
- Allows (*but does not require*) cities/counties to:
 - Modify subdivision ordinance to place buffer requirements on encroaching land uses
 - Include VAD's in comprehensive land use plans
 - Waive ETJ zoning on enrolled farms
 - Hold all public and private utility assessments in abeyance



Partners

- NCDA & CS
- NCSU Cooperative Extension
- Division of Soil and Water Conservation
- One NC Naturally
- Farm Bureau
- Land for Tomorrow Coalition
- Association of County Commissioners
- League of Municipalities
- American Farmland Trust



The Goals

- To increase collaboration between farmers, elected officials, and city and county government to create a stable investment climate for agriculture and promote future agricultural land use
- To give landowners an additional option in their efforts to maintain the family farm



PUBLIC BILL

H.B.

0607

SESSION LAW

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A VETERINARIAN WHO OPERATES A MOBILE FACILITY MAY ENTER INTO A WRITTEN AGREEMENT TO HAVE URINE TESTS PERFORMED BY ANOTHER FACILITY OR LABORATORY.

Introduced by Representative(s): Brubaker.

Principal Clerk's Use Only

PASSED 1st READING

MAR 14 2005

AND REFERRED TO COMMITTEE

ON. Agriculture

2005 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Hill, (Chair) for the Committee on AGRICULTURE.

☐ Committee Substitute for

H.B. 347 A BILL TO BE ENTITLED AN ACT TO PROVIDE A PUNISHMENT FOR FAILURE TO YIELD RESULTING IN DEATH.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☒ With a favorable report as to the committee substitute bill (#) ☒ which changes the title, unfavorable as to (the original bill) ~~(Committee Substitute Bill #)~~ (and ~~recommendation that the committee substitute bill #~~) be re-referred to the Committee on

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Hill**, (Chair) for the Committee on **AGRICULTURE**.

☐ Committee Substitute for

H.B. 607 A BILL TO BE ENTITLED AN ACT TO CLARIFY THAT A VETERINARIAN WHO OPERATES A MOBILE FACILITY MAY ENTER INTO A WRITTEN AGREEMENT TO HAVE URINE TESTS PERFORMED BY ANOTHER FACILITY OR LABORATORY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#~~), ☒ which changes the title, unfavorable as to (the original bill), (~~Committee Substitute Bill #~~), (~~and recommendation that the committee substitute bill #~~) be re-referred to the Committee on ~~on~~.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 607

DATE 5/26/05

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE ☒

(to be filled in by
Principal Clerk)

Rep.) Faison
Sen.)

1 moves to amend the bill on page 3, lines 16-23

2 () WHICH CHANGES THE TITLE

3 by deleting those lines and renumbering the remaining

4 subsections accordingly

5 _____

6 _____

7 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 347
PROPOSED COMMITTEE SUBSTITUTE H347-PCS80411-RF-21

Short Title: Ag Development/Farmland Preservation.

(Public)

Sponsors:

Referred to:

February 23, 2005

A BILL TO BE ENTITLED
AN ACT TO PROMOTE THE GROWTH, DEVELOPMENT, AND
SUSTAINABILITY OF FAMILY FARMS, TO RENAME THE FARMLAND
PRESERVATION TRUST FUND AS THE AGRICULTURAL DEVELOPMENT
AND FARMLAND PRESERVATION TRUST FUND, AND TO ESTABLISH
THE AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION
TRUST FUND ADVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-581 reads as rewritten:

"§ 106-581.1. Agriculture defined.

For purposes of this Article, the terms "~~agriculture~~" and "~~agricultural~~" "agriculture", "agricultural", and "farming" shall refer to ~~the~~ all of the following:

- (1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, ~~sod~~, flowers and ornamental plants, ~~the plants~~.
- (2) The planting and production of trees and ~~timber~~, timber.
- (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, deer, elk, and other animals for individual and public use, consumption, and marketing. ~~Further, for purposes of this Article, aquaculture is considered a form of agriculture pursuant to~~
- (4) Aquaculture as defined in G.S. 106-758.
- (5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
- (6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural

1 products, agritourism, the storage and use of materials for agricultural
2 purposes, packing, treating, processing, sorting, storage, and other
3 activities performed to add value to crops, livestock, and agricultural
4 items produced on the farm, and similar activities incident to the
5 operation of a farm."

6 **SECTION 2.** The title of Article 61 of Chapter 106 of the General Statutes
7 reads as rewritten:

8 "Agricultural Development and Preservation of Farmland."

9 **SECTION 3.** G.S. 106-735 reads as rewritten:

10 **"§ 106-735. Short title and purpose.**

11 (a) This ~~article~~Article shall be known as "The Agricultural Development and
12 Farmland Preservation Enabling Act."

13 (b) The purpose of this Article is to authorize counties to undertake a series of
14 programs to encourage the preservation of ~~farmland~~qualifying farmland, as defined
15 ~~herein~~herein, and to foster the growth, development, and sustainability of family
16 farms."

17 **SECTION 4.** G.S. 106-736 reads as rewritten:

18 **"§ 106-736. Farmland preservation programs ~~authorized~~authorized; definition of**
19 **agriculture.**

20 (a) A county may by ordinance establish a farmland preservation program under
21 this Article. The ordinance may authorize qualifying farms, as defined in G.S. 106-737,
22 to take advantage of one or more of the benefits authorized by the remaining sections of
23 this Article.

24 (b) A county may develop programs to promote the growth, development, and
25 sustainability of farming. A county, under its authority in Chapter 153A of the General
26 Statutes, may adopt or amend its ordinances to provide flexibility to farming operations,
27 including ordinances regarding on-farm sales, pick-your-own operations, road signs,
28 agritourism, and other activities incident to farming. For purposes of this Article, the
29 terms "agriculture", "agricultural", and "farming" have the same meaning as set forth in
30 G.S. 106-581.1."

31 **SECTION 5.** G.S. 106-738 reads as rewritten:

32 **"§ 106-738. Voluntary agricultural districts.**

33 (a) An ordinance adopted under this Article shall provide:

34 (1) For the establishment of voluntary agricultural districts consisting
35 initially of at least the number of contiguous acres of ~~qualifying~~
36 ~~farmland~~agricultural land, and forestland or horticultural land that is
37 part of a qualifying farm, or the number of qualifying farms deemed
38 appropriate by the board of county commissioners;

39 (2) For the formation of such districts upon the execution by the owners of
40 the requisite acreage of an agreement to sustain agriculture in the
41 district;

42 (3) That the form of this agreement must be reviewed and approved by an
43 agricultural advisory board established under G.S. 106-739 or some
44 other county board or official;

(4) That each such district have a representative on the agricultural advisory board established under G.S. 106-739.

(b) The purpose of such agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to increase protection from nuisance suits and other negative impacts on properly managed farms. The county may take such action as it deems appropriate to encourage the formation of such districts and to further their purposes and objectives."

SECTION 6. G.S. 106-744 reads as rewritten:

"§ 106-744. Purchase of agricultural conservation easements.

(a) A county may, with the voluntary consent of landowners, acquire by purchase agricultural conservation easements over qualifying farmland as defined by G.S. 106-737 located within a voluntary agricultural district as defined by G.S. 106-738.

(b) For purposes of this section, "agricultural conservation easement" means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement:

(1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations; and

(1a) May permit agricultural uses as necessary to promote agricultural development associated with the family farm; and

(2) Shall be for a term of at least 20 years or perpetual in duration, duration. If the easement is perpetual in duration, then, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question.

(c) There is established a "North Carolina Agricultural Development and Farmland Preservation Trust Fund" to be administered by the Commissioner of Agriculture. The Trust Fund shall consist of all monies received for the purpose of purchasing agricultural conservation easements or funding programs that will promote the development and sustainability of farming and assist in the transition of existing farms to new farm families, and monies transferred from counties or private sources. The Trust Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The Commissioner shall use Trust Fund monies ~~for the~~ for any of the following:

(1) The purchase of agricultural conservation easements, including transaction costs, and costs.

(2) Public and private enterprise programs that will promote profitable and sustainable family farms through assistance to farmers in developing and implementing plans for the production of food, fiber, and value-added products, agritourism activities, marketing and sales of agricultural products produced on the farm, and other agriculturally related business activities.

(3) The costs of administering the program under this Article, including the cost of staff and staff support.

(c1) The Commissioner shall distribute Trust Fund monies for such purchases, including transaction costs, as follows:

(1) To a private nonprofit conservation organization that matches thirty percent (30%) of the Trust Fund monies it receives with funds from sources other than the Trust Fund.

(2) To counties according to the match requirements under subsection ~~(e1)~~ (c2) of this section.

~~(e1)~~(c2) A county that is an enterprise tier four county or an enterprise tier five county, as these tiers are defined in G.S. 105-129.3(a), and that has prepared a countywide farmland protection plan shall match fifteen percent (15%) of the Trust Fund monies it receives with county funds. A county that has not prepared a countywide farmland protection plan shall match thirty percent (30%) of the Trust Fund monies it receives with county funds. A county that is an enterprise tier one county, an enterprise tier two county, or an enterprise tier three county, as these counties are defined in G.S. 105-129.3(a), and that has prepared a countywide farmland protection plan shall not be required to match any of the Trust Fund monies it receives with county funds.

~~(e2)~~(c3) The Commissioner of Agriculture shall adopt rules governing the use, distribution, investment, and management of Trust Fund monies.

(d) This section shall apply to agricultural conservation easements falling within its terms. This section shall not be construed to make unenforceable any restriction, easement, covenant, or condition that does not comply with the requirements of this section.

This section shall not be construed to invalidate any farmland preservation program.

This section shall not be construed to diminish the powers of any public entity, agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent domain, or otherwise and to use property of any kind for public purposes.

This section shall not be construed to authorize any public entity, agency, or instrumentality to acquire by eminent domain an agricultural conservation easement.

(e) As used in subsection ~~(e1)~~-(c2) of this section, a countywide farmland protection plan means a plan that satisfies all of the following requirements:

(1) The countywide farmland protection plan shall contain a list and description of existing agricultural activity in the county.

(2) The countywide farmland protection plan shall contain a list of existing challenges to continued family farming in the county.

(3) The countywide farmland protection plan shall contain a list of opportunities for maintaining or enhancing small, family-owned farms and the local agricultural economy.

(4) The countywide farmland protection plan shall describe how the county plans to maintain a viable agricultural community and shall address farmland preservation tools, such as agricultural economic development, including farm diversification and marketing assistance; other kinds of agricultural technical assistance, such as farm

1 infrastructure financing, farmland purchasing, linking with younger
2 farmers, and estate planning; the desirability and feasibility of
3 donating agricultural conservation easements, and entering into
4 voluntary agricultural districts.

- 5 (5) The countywide farmland protection plan shall contain a schedule for
6 implementing the plan and an identification of possible funding
7 sources for the long-term support of the plan.

8 (f) A countywide farmland protection plan that meets the requirements of
9 subsection (e) of this section may be formulated with the assistance of an agricultural
10 advisory board designated pursuant to G.S. 106-739.

11 (g) There is established the Agricultural Development and Farmland Preservation
12 Trust Fund Advisory Committee. The Advisory Committee shall be administratively
13 located within the Department of Agriculture and Consumer Services and shall advise
14 the Commissioner on the prioritization and allocation of funds, the development of
15 criteria for awarding of funds, program planning, and other areas where monies from
16 the Trust Fund can be used to promote the growth and development of family farms in
17 North Carolina. The Advisory Committee shall be composed of 18 members as follows:

- 18 (1) The Commissioner of Agriculture or the Commissioner's designee,
19 who shall serve as the Chair of the Advisory Committee.
20 (2) The Secretary of Commerce or the Secretary's designee.
21 (3) The Secretary of Environment and Natural Resources or the
22 Secretary's designee.
23 (4) Three practicing farmers, one appointed by the Governor, one
24 appointed by the President Pro Tempore of the Senate, and one
25 appointed by the Speaker of the House of Representatives.
26 (5) The Dean of the College of Agriculture and Life Sciences at North
27 Carolina State University or the Dean's designee.
28 (6) The Dean of the School of Agriculture and Environmental Sciences at
29 North Carolina Agricultural and Technical State University or the
30 Dean's designee.
31 (7) The Executive Director of the North Carolina Rural Economic
32 Development Center, Inc., or the Executive Director's designee.
33 (8) The Executive Director of the Conservation Trust for North Carolina
34 or the Executive Director's designee.
35 (9) The Executive Director of the North Carolina Farm Transition
36 Network or the Executive Director's designee.
37 (10) The Executive Director of the North Carolina Soil and Water
38 Foundation or the Executive Director's designee.
39 (11) The Director of the Southeast Regional Office of the American
40 Farmland Trust or the Director's designee.
41 (12) The Executive Director of the North Carolina Agribusiness Council or
42 the Executive Director's designee.
43 (13) The Master of the State Grange or the Master's designee.

1 (14) The President of the North Carolina Farm Bureau Federation, Inc., or
2 the President's designee.

3 (15) The President of the North Carolina Black Farmers and
4 Agriculturalists Association or the President's designee.

5 (16) The Executive Director of the North Carolina Association of County
6 Commissioners or the Executive Director's designee.

7 (h) The Advisory Committee shall meet at least quarterly. The Department of
8 Agriculture and Consumer Services shall provide the Advisory Committee with
9 administrative and secretarial staff. Members of the Advisory Committee shall be
10 entitled to per diem pursuant to G.S. 138-5 or G.S. 138-6, as appropriate. The Advisory
11 Committee shall make recommendations to the Commissioner on the distribution of
12 monies from the Trust Fund at least annually. The Commissioner shall take the
13 recommendations of the Advisory Committee into consideration in making decisions on
14 the distribution of monies from the Trust Fund.

15 (i) The Advisory Committee shall report no later than May 1 of each year to the
16 Joint Legislative Commission on Governmental Operations and the House of
17 Representatives and Senate Appropriations Subcommittees on Natural and Economic
18 Resources regarding the activities of the Advisory Committee, the agriculture easements
19 purchased, and agricultural projects funded during the previous year."

20 **SECTION 7.** The first report required pursuant to G.S. 106-744(i), as
21 enacted by Section 6 of this act, is due on or before 1 May 2006.

22 **SECTION 8.** This act is effective when it becomes law.

House Bill 347 – Ag Development/Farmland Preservation

Section 1 rewrites the definition of agriculture contained in G.S. 106-581.1 making it more comprehensive.

The definition of "agriculture", "agricultural" and "farming" include the management, training and care of livestock, including bees, horses, poultry, deer, elk and other animals, the operation management, conservation, improvement, and maintenance of a farm and the structures and buildings thereon. The definition also includes activities such as marketing and selling of agricultural products, agritourism, and activities that add value to crops, livestock and other agricultural items produced on a farm.

Section 2 renames Chapter 61 of Chapter 106 of the General Statutes "Agricultural Development and Preservation of Farmland".

Section 3 amends G.S. 106-735 to expand the purpose of the Article to include the growth, development and sustainability of family farms.

Section 4 amends G.S. 106-736 to provide that counties may develop programs to promote family farms. It authorizes counties to adopt and amend ordinances under its authority in G.S. 153A that would provide flexibility to farming operations, including ordinances relating to on-farm sales, pick-your-own operations, road signs, agritourism, and other activities incident to farming.

Section 5 amends G.S. 106-738 to provide that qualifying farmland for a voluntary agricultural district may consist of agricultural land, and forestland and horticultural land that is a part of a qualifying farm.

Section 6 makes several changes to G.S. 106-744.

- Agricultural easements purchased by a county under this section may permit agricultural uses as necessary to promote agricultural development associated with the family farm.
- Agricultural easements may be either perpetual or for a term of at least 20 years.
- The Farmland Preservation Trust Fund is renamed the Agricultural Development and Farmland Preservation Trust Fund.
- Money in the Trust Fund may be used for the purchase of agricultural conservation easements and for funding programs that will promote the development and sustainability of farming and assist in the transition of existing farms to new farm families.
- The Agricultural Development and Farmland Preservation Advisory Committee is created.

The Advisory Committee consists of 18 members from listed State agencies, universities, and agricultural and conservation organizations. It shall advise the Commissioner of Agriculture on the distribution of monies from the Trust Fund. The Commissioner must take the recommendations of the Advisory Committee into consideration in making decisions on Trust Fund distributions. The Advisory Committee must report annually to Gov Ops and to the Chairs of the Appropriations Subcommittees on Natural and Economic Resources of both the House and Senate.

H.B. 0347

SESSION LAW

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A PUNISHMENT FOR FAILURE TO YIELD RESULTING IN DEATH.

Introduced by Representative(s): Glazier, Hill, and Sauls (Primary Sponsors).

Folwell *Moore*

Principal Clerk's Use Only

PASSED 1st READING
23 2005
AND REFERRED TO COMMITTEE
Judiciary... IV

ON MOTION OF
REP. *Culpepper*
WITHDRAWN FROM
Jud IV
MAY 24 2005
RECOMMITTED TO
Agriculture

House Pages

Name Of Committee: Agriculture Date: 5/26/05

1. Name: Mark Hamblin
County: Beaufort
Sponsor: Brubaker
2. Name: Lee Mann ✓
County: Carteret
Sponsor: Drew Saunders
3. Name: _____
County: _____
Sponsor: _____
4. Name: _____
County: _____
Sponsor: _____
5. Name: _____
County: _____
Sponsor: _____

Sgt-At-Arms

1. Name: James Womack
2. Name: T. L. Owens
3. Name: Two Sons
4. Name: _____
5. Name: _____

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

5/26/05
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Deeitt Harcer	NCDACS
Geoff Benson	Ag. ECON, NCSU
Norman Jordan Jr.	NC Dairy Producers
Erica Peterson	NC Agribusiness Council
Kim Dibbald	NCLM
Jim Kinsley	Ncpe / Forestry
RUSTY PAINTER	CONSERVATION TRUST for NC
Tisha Johnson	Land for Tomorrow TNC
Jimmy Johnson	NCDA + CS
Chester Lowder	NC Farm Bureau
Jim Cummings	NCDA + CS

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

5/26/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Steve Woodson

Mc Form Bureau

Bluster Co Gerry Cohn

American Farmland Trust

DAP

NCFB

Q and K length

TN2

Pam Mayer

NcAce

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Thursday, May 26, 2005
1425 Legislative Building**

12:30 P.M.

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**

AGENDA ITEMS

**HB 347 Punishment for Failure to Yield Causing Death
(PCS will be offered – Ag Development/Farmland Preservation)**

**HB 607 Clarify Veterinary Urine Test Requirements
(PCS will be offered – Voluntary Agriculture Districts)**

**HB 858 Motorcycle Awareness Month
(PCS will be offered – Dairy Stabilization and Growth Act)**

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: **Thursday, May 26, 2005**

TIME: **12:30 p.m.**

LOCATION: **1425 Legislative Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 347 Punishment for Failure to Yield Causing Death

(PCS will be offered – Ag Development/Farmland Preservation)

HB 607 Clarify Veterinary Urine Test Requirements

(PCS will be offered – Voluntary Agriculture Districts)

HB 858 Motorcycle Awareness Month

(PCS will be offered – Dairy Stabilization and Growth Act)

Respectfully,
Representative Dewey Hill
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
2:40 p.m. on May 24, 2005.

x ___ Principal Clerk
x ___ Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

June 1, 2005

The House Committee on Agriculture met on Wednesday, June 1, 2005, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Bell, Coates, Langdon, Tucker, and Williams; Representatives Kiser, Pate, Pierce, Preston, Tolson, Walker, Warren, Wilson, Wray, and Yongue.

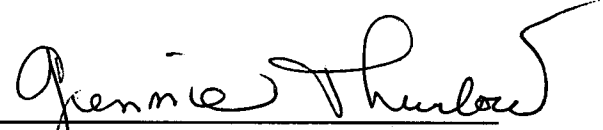
Chair Hill called the meeting to order at 12:05 p.m. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

Chair Hill asked for a motion to accept the **Proposed Committee Substitute for House Bill 858 Motorcycle Awareness Month**. Representative Tolson made the motion to accept the Proposed Committee Substitute. The motion passed. Chair Hill asked Dr. Jeff Benson, North Carolina State University, to speak on the bill. Norman Jordan, Jr., President, North Carolina Dairy Producers Association, also spoke on the bill. Barbara Riley, Legislative Staff Attorney for the Agriculture Committee, explained the bill. Discussion followed. Representative Coates moved for a favorable report as to the Proposed Committee Substitute, unfavorable as to the original bill and recommended that the Committee Substitute bill be re-referred to the Committee on Appropriations. Discussion continued. The motion passed.

The meeting adjourned at 12:35 p.m.



Representative Dewey Hill, Chair



Gennie Thurlow, Committee Assistant

6/1/05

2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Hill, (Chair) for the Committee on AGRICULTURE.

☐ Committee Substitute for

H.B. 858 A BILL TO BE ENTITLED AN ACT DESIGNATING MAY OF EACH YEAR
AS MOTORCYCLE AWARENESS MONTH.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#~~), ☒ which changes the
title, unfavorable as to (the original bill) (~~Committee Substitute Bill #~~) (and
recommendation that the committee substitute bill ~~#~~ be re-referred to the Committee
on *appropriations*).

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

6/1/05

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 858
PROPOSED COMMITTEE SUBSTITUTE H858-PCS10346-RF-20

Short Title: Dairy Stabilization and Growth Act.

(Public)

Sponsors:

Referred to:

March 23, 2005

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH THE DAIRY STABILIZATION AND GROWTH FUND
AND PROVIDE CRITICAL SUPPORT FOR THE NORTH CAROLINA DAIRY
INDUSTRY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 106 of the General Statutes is amended by adding a
new Article to read:

"Article 68A.

"North Carolina Dairy Stabilization and Growth Program.

"§ 106-812. Findings.

(a) The General Assembly finds that North Carolina has suffered a significant
loss of its traditional industrial and agricultural economic base. The State's dairy
industry is at serious risk of total collapse unless milk prices reach levels sufficient to
allow dairy farmers to meet production costs. At the same time, North Carolina is
experiencing rapid population growth and urbanization. This growth and urbanization
have fueled a rapid loss of prime agricultural land and green space, resulting in a decline
in the quality of life for which the State is known.

(b) The General Assembly finds that the dairy industry in North Carolina makes
a substantial economic, environmental, and quality of life contribution to the well-being
of the citizens of the State. The dairy industry, including both producers and processors,
currently contributes over six hundred million dollars (\$600,000,000) and 3,000 jobs to
the State's economy. Properly managed dairy farms help maintain green space, keep
prime agricultural land under production, maintain water quality, enhance food security,
and provide a local supply of fresh milk at a reasonable cost to the consumer and to
processors in the State. An adequate local milk supply has become increasingly
important as transportation costs escalate, making the importation of milk from
out-of-state increasingly expensive. The General Assembly finds, however, that despite
its importance to the State's economic and environmental well-being, North Carolina's

dairy industry is under severe economic pressure and milk production is declining at an alarming rate. According to United States Department of Agriculture statistics, since 1985 the State has lost sixty-seven percent (67%) of its dairy farms and thirty-five percent (35%) of its processing facilities. North Carolina dairy farms no longer produce sufficient milk for North Carolina's processing facilities to operate. Milk must be imported 10 out of 12 months each year to keep these processing facilities functioning. Further, farm prices for milk exhibit great volatility, creating financial risk and discouraging investment. The General Assembly finds that it is essential to a viable North Carolina dairy industry to have locally produced milk available to processors in the State. The General Assembly further finds that it is essential to the well-being of the citizens of the State to have a local supply of fresh milk available at reasonable cost and not subject to the vagaries of transportation costs and production conditions in other regions of the country.

(c) The General Assembly finds that one of the primary reasons for the decline in milk production in the State is the gap between the price paid to farmers for milk under the federal milk programs and the actual cost of production. Inability to meet production costs combined with increasing land prices have led many milk producers to sell their farms for development and retire or turn to other employment. The General Assembly finds that the most effective means to ensure the continuation of a viable dairy industry in this State is to establish a price floor for milk to enable dairy farmers to meet their production costs. It is the intent of the General Assembly to establish a price support program that will stabilize and reverse the decline in the local milk supply and in the dairy industry in the State and encourage new producers to enter the dairy industry. Sustaining and growing North Carolina's dairy industry will advance the State's goals of preserving and enhancing its economic base and improving the quality of life in the State through maintaining green space and water quality and assuring an adequate local supply of fresh milk.

"§ 106-813. North Carolina Dairy Stabilization and Growth Fund.

(a) The North Carolina Dairy Stabilization and Growth Fund is created as a nonreverting account in the Department of Agriculture and Consumer Services. The Fund shall consist of any money appropriated to the Fund by the General Assembly and money made available to it from grants, donations, and other sources. The Board of Agriculture shall actively seek donations, grants, and other sources of money for the Fund.

(b) The Board shall use the monies in the Fund as follows:

- (1) Up to two percent (2%) of the money appropriated annually by the General Assembly may be used by the Department for the costs of administering the Dairy Stabilization and Growth Program. In the event that the General Assembly does not make an appropriation to the Fund in a given year, up to two percent (2%) of the balance remaining in the Fund may be used by the Department for the costs of administering the Program.

(2) The monies remaining after administrative expenses are deducted shall be used to provide assistance to North Carolina dairy farmers in accordance with the provisions of G.S. 106-814.

(3) At the end of any fiscal year in which the total payments to North Carolina dairy farmers under G.S. 106-814 are less than fifty percent (50%) of the amount appropriated by the General Assembly for the year, five percent (5%) of the unspent appropriation for the year may be set aside for use in that year and subsequent years for programs to support the development of the dairy industry.

"§ 106-814. Dairy Stabilization and Growth Program.

(a) On 1 July of each year the Board of Agriculture shall set a milk support baseline price. The baseline price per hundredweight of milk shall be the average United States Department of Agriculture Federal Milk Market Order Class I price mover for the previous 10 years less fifty cents (50¢).

(b) The Board shall adopt rules implementing the provisions of this Article. The rules shall include criteria for eligibility for distributions from the Fund, procedures for applications for distributions from the Fund, the method by which the amount of a payment to a producer shall be calculated, and the manner of payment to producers.

(c) Each month the Board shall determine whether the monthly announced United States Department of Agriculture Federal Milk Market Order Class I price mover has dropped below the baseline price set for the year. If the monthly announced Class I price mover is lower than the baseline price, then each producer who meets the requirements of subsection (f) of this section shall become eligible for a distribution from the Fund in an amount equal to the difference between the baseline price and the monthly announced Class I price mover multiplied by the hundredweight of milk sold by the producer for the month.

(d) Under exceptional circumstances, and in the discretion of the Board, the amount of any monthly distribution as calculated by the formula set forth in subsection (c) of this section may be increased by an amount not to exceed one dollar (\$1.00) per hundredweight of milk sold in that month.

(e) Distributions shall be made to eligible producers at least quarterly, unless in the judgment of the Board the payment amounts are trivial. All payments under the Program are subject to the availability of funds.

(f) To be eligible to receive assistance from the Dairy Stabilization and Growth Fund, dairy farmers shall demonstrate to the satisfaction of the Board that they are in compliance with the following rules and regulations:

(1) For Grade A milk producers, the federal Grade A milk regulations.

(2) For non-Grade A producers, Article 26 of Chapter 106 of the General Statutes and the rules implementing that Article.

(g) Farmers who fail to demonstrate compliance with applicable rules and regulations shall become ineligible for assistance from the Fund until compliance is attained."

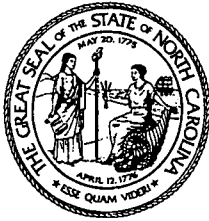
SECTION 2. The Commissioner of Agriculture shall file a report no later than 31 March of each year with the Chairs of the House of Representatives and Senate

1 Appropriations Subcommittees on Natural and Economic Resources, the Chair of the
2 House of Representatives Agriculture Committee, and the Chair of the Senate
3 Committee on Agriculture, Environment, and Natural Resources, which shall include
4 the following:

- 5 (1) The short- and long-term problems associated with maintaining a
6 viable dairy industry in the State.
- 7 (2) Ways to sustain the existing dairy industry in the State.
- 8 (3) Opportunities to expand the dairy industry, including attracting both
9 new dairy producers and new processors to the State.
- 10 (4) The contribution of dairy farms to the maintenance of prime
11 agricultural land and the quality of life in the State.
- 12 (5) An analysis of the effectiveness of the Dairy Stabilization and Growth
13 Program in achieving the goals of maintaining a local supply of fresh
14 milk for processing and consumption, facilitating the entry of young
15 farmers into the dairy industry, and preserving green space along the
16 urban fringe.
- 17 (6) Other factors that impact the dairy industry in the State.

18 **SECTION 3.** There is appropriated to the Department of Agriculture and
19 Consumer Services the sum of twenty-five thousand dollars (\$25,000) for fiscal year
20 2005-2006 to be used by the Department to comply with the reporting requirements set
21 out in Section 2 of this act.

22 **SECTION 4.** This act becomes effective 1 July 2005.



HOUSE BILL 858: Dairy Stabilization and Growth Act

BILL ANALYSIS

Committee:	House Agriculture	Date:	May 25, 2005
Introduced by:	Rep. Hill	Summary by:	Barbara Riley
Version:	PCS to First Edition		Committee Counsel
	H858-CSRF-20		

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 820 establishes the North Carolina Dairy Stabilization and Growth Program (Program). The purpose of the Program is to establish a price floor for milk that would enable dairy farmers to cover their production costs, and in doing so, reverse the decline in the dairy industry in the State. The Program provides for payments from the Dairy Stabilization and Growth Fund (Fund) to dairy farmers in the State when the price of milk per hundredweight falls below the average USDA federal Milk Market Order Class I price mover for the past 10 years, less 50 cents. The PCS directs the Commissioner of Agriculture to report annually on the effectiveness of the Program in achieving its goals of maintaining a local supply of fresh milk for processing and consumption, attracting new farmers into dairying, and preserving green space. No appropriation is made to the Fund in the PCS. However, the sum of \$25,000 is appropriated to the Department of Agriculture and Consumer Services for compliance with the reporting requirements of the PCS.*

BILL ANALYSIS:

Section 1 adds a new Article 68A to Chapter 106 of the General Statutes containing the following new sections:

G.S. 106-812 contains extensive findings about the decline of the dairy industry in the State and how the industry contributes to State goals such as food security, maintaining a local supply of fresh milk at a reasonable cost to both consumers and to in-State processing plants, and preservation of green space. According to the United States Department of Agriculture (USDA), North Carolina has lost 67% of its dairy farms and 35% of its processing plants since 1985. Milk must be imported 10 out of 12 months of the year in order to keep the processing plants operating, as the remaining dairies in the State no longer produce sufficient milk to cover the demand.

G.S. 106-813 establishes the North Carolina Dairy Stabilization and Growth Fund (Fund). The non-reverting fund is to consist of any monies appropriated by the General Assembly and monies made available from grants, donations and other sources. The Board of Agriculture (Board) is directed to actively seek alternative funding sources.

Up to 2% of the money appropriated annually by the General Assembly may be used to cover the costs of administration of the program. If no money is appropriated to fund a given year, up to 2% of the balance remaining in the Fund may be used for administrative costs. The balance of monies in the Fund, after administrative costs, is to be used to provide assistance to North Carolina dairy farmers as provided in G.S. 106-814. If, in any year, total payments to farmers amount to less than 50% of the monies appropriated by the General Assembly for the year, 5% of the remaining funds may be set aside for programs to support the development of the dairy industry.

House Bill 858

Page 2

G.S. 106-814 establishes the Dairy Stabilization and Growth Program (Program). The section requires the Board to annually set a baseline price for milk. That baseline price is the average USDA federal Milk Market Order Class 1 price mover for the previous 10 years, less 50 cents.

Each month, if a determination is made that the monthly announced Class 1 price mover has dropped below the annual baseline price, then eligible producers are entitled to a distribution from the Fund in an amount equal to the difference between the baseline price and the announced monthly Class I price mover, multiplied by the hundredweight of milk sold by the producer for the month. Under exceptional circumstances, the Board may increase this amount by up to \$1 per hundredweight. Distributions shall be made on a quarterly basis.

To be eligible for a distribution, a dairy farmer must: (1) if a Grade A producer, be in compliance with the federal Grade A milk regulation; or (2) if a non-Grade A producer, be in compliance with Article 26 of Chapter 106 of the General Statutes, which regulates cleanliness and sanitation at ice cream plants, creameries and cheese plants. A dairy farmer who fails to demonstrate compliance becomes ineligible for distributions until compliance is attained.

The PCS directs the Board to adopt rules implementing the provisions of the Article.

Section 2 of the PCS sets forth the reporting requirements on the program.

Section 2 requires that the Commissioner of Agriculture report annually to the Chairs of the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Chair of the House Agriculture Committee and the Chair of the Senate Committee on Agriculture, Environment and Natural Resources. The report is to specifically cover:

- The short and long term issues in maintaining the dairy industry.
- Ways to sustain the existing dairy industry.
- Opportunities to expand the industry, including attracting new producers and processors.
- The contribution of dairy farms to maintaining prime farmland and the quality of life in the State.
- An analysis of the effectiveness of the Program in achieving the goals of maintaining a local supply of fresh milk, attracting new farmers into dairying, and preserving green space.
- Other factors impacting the dairy industry in the State.

Section 3 of the PCS appropriates \$25,000 to cover the costs of compliance with the reporting requirements in Section 2 of the PCS.

EFFECTIVE DATE: The PCS becomes effective July 1, 2005.

BACKGROUND: USDA federal Milk Market Order price movers reflect the minimum price for raw fluid-grade milk sold between producers and processors under federal milk marketing programs designed to help stabilize and support the price of milk. The Class I price mover is based on the wholesale price of milk (per hundredweight) sold during the first two weeks of the previous month, and is the higher of either (a) the value of milk in cheese or (b) the value of milk in butter and nonfat dry milk.

H0858e1-SMRF-CSRF-20

North Carolina Dairy Cow Facts

(January 1, 2005)

1. The North Carolina dairy industry generated approximately one-half billion dollars in economic activity in 2004.
2. North Carolina has 11 Grade A milk processing plants (7 large commercial fluid milk processors & 4 producer / processors), 1 large commercial cheese processing plant and several smaller homestead cheese operations.
3. Total milk produced in the state last year amounted to 117 million gallons.
4. There were 365 commercial dairy farms in North Carolina as of Jan. 1, 2005. In addition there were 3 Grade B dairy farms and 2 farmsteads (make cheese on the farm) in the state.
5. In North Carolina, cash receipts for the sale of milk by dairy farmers amounted to \$171 million in 2004.
6. The mailbox price paid to North Carolina dairy farmers was an estimated \$17.20 per hundred weight or approximately \$1.48 for each gallon of milk they produced in 2004.
7. Last year there were 55,000 milk cows in the state.
8. Each dairy cow in North Carolina produced an average of 2,250 gallons of milk.
9. In North Carolina, about 69 percent of the milk produced in 2004 was used in fluid dairy products.
10. North Carolina dairy cows produced an average of 6.0 gallons of milk per day, or enough to make 5 pounds of cheese or 1.7 pounds of butter. To produce this much milk, a cow consumes 35 gallons of water, 20 pounds of grain and concentrated feeds and 70 pounds of corn silage.
11. The average daily expense per milking cow is about \$7.50. Sales of other products associated with the dairy may equate to an additional \$1.00 per cow per day. It takes \$3.50 to pay for the feed, \$1.30 for other livestock related expense and \$2.70 to pay employees, operate machinery and cover the farm overhead. An additional \$1.30 per cow is estimated as a family expense towards their labor and to provide for family living and pay off the farm debts.
12. In 2004, a dairy cow in North Carolina cost about \$1,600. A typical North Carolina commercial dairy herd has approximately 150 cows.
13. The top ranking dairy counties based on number of dairy cows as of December 31, 2004 were:

♦ Iredell	11,300
♦ Randolph	4,400
♦ Alleghany	3,500
♦ Alexander	2,600
♦ Rowan	2,300
♦ Yakdin	2,100
♦ Henderson	2,100
♦ Lincoln	1,900
♦ Buncombe	1,800
♦ Alamance	1,800
♦ Haywood	1,800
♦ Orange	1,800

YEAR	TOTAL NC MILK PROD.	CHANGE VS PREV. YR	CLASS I UTIL.	AVG GRADE A PRICE	W-WB/PC/III MILK PRICE	FARM NUMBERS	CHANGE VS PREV. YR	MILK COMS	CHANGE VS PREV. YR	MILK PER COW	CHANGE VS PREV. YR	HEAD	CHANGE VS PREV. YR	FARM VALUE	CHANGE VS PREV. YR
1960	MIL. LB.	%	%	\$/100LB	\$/100LB		%	'000	%	LB.	%		%	\$MIL.	%
1961	84.80				7.06	3,864	-7.7	145	-2.1	10,331	7.7	91.4	1.6	158.6	6.5
1962	85.00				7.62	3,567	-8.0	142	-2.1	11,127	7.7	92.9	1.6	168.9	6.5
1963	87.20				8.46	3,283	-6.0	138	-2.8	11,471	3.1	96.0	3.3	173.5	2.7
1964	88.30				8.58	3,071	-6.5	133	-3.6	11,609	1.2	98.6	2.7	177.1	2.1
1965	89.60				9.57	2,879	-6.3	132	-0.8	11,856	2.1	101.5	2.9	200.2	13.0
1966	92.00				1,301	2,710	-5.9	134	1.5	12,172	2.7	104.7	3.2	230.8	15.3
1967	91.70				1,280	2,561	-5.5	131	0.0	12,343	1.4	107.2	8.7	250.8	8.7
1968	88.30				1,222	2,384	-3.9	133	-2.2	12,870	4.3	106.4	-0.7	247.8	-1.2
1969	88.80				1,222	2,292	-4.6	137	1.5	12,865	0.0	108.8	2.3	253.2	2.2
1970	88.80				1,646	2,186	-4.8	130	-2.3	12,885	-1.4	111.5	2.4	247.4	-2.3
1971	88.80				1,586	1,934	-7.1	128	-1.5	13,656	7.7	112.4	0.8	253.5	2.5
1972	89.00				1,528	1,754	-3.6	110	-6.1	14,008	2.6	119.6	6.4	257.3	-6.4
1973	88.30				1,437	1,646	-6.0	106	-3.6	14,136	0.9	120.6	0.9	228.6	-3.7
1974	86.20				1,349	1,586	-1.6	104	-1.9	14,670	3.8	118.1	-3.7	225.5	-1.4
1975	86.30				1,301	1,528	-3.6	100	-3.8	14,721	0.3	115.7	-0.4	231.2	2.5
1976	86.00				1,280	1,528	-2.3	99	-1.0	15,220	3.4	124.4	7.5	240.5	4.0
1977	86.00				1,257	1,437	-2.3	97	-2.0	15,424	1.3	125.3	0.8	209.2	-13.0
1978	86.00				1,231	1,331	-1.5	94	-3.1	15,577	1.0	131.1	4.6	221.6	5.9
1979	86.00				1,222	1,231	-1.2	94	-3.1	15,836	2.3	132.4	1.0	213.3	-3.7
1980	86.00				1,222	1,231	-1.2	94	-3.1	16,367	2.7	136.0	2.7	212.6	-0.3
1981	86.00				1,222	1,231	-1.2	94	-3.1	16,506	3.8	148.1	2.6	215.1	11.1
1982	86.00				1,222	1,231	-1.2	94	-3.1	16,680	1.1	160.9	5.2	208.0	-11.2
1983	86.00				1,222	1,231	-1.2	94	-3.1	16,862	0.5	168.2	2.8	174.5	-15.7
1984	86.00				1,222	1,231	-1.2	94	-3.1	17,224	2.9	164.6	-2.2	194.4	11.4
1985	86.00				1,222	1,231	-1.2	94	-3.1	17,766	3.1	162.0	-1.6	154.7	-20.4
1986	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1987	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1988	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1989	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1990	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1991	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1992	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1993	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1994	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1995	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1996	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1997	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1998	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
1999	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
2000	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
2001	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
2002	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4
2003	86.00				1,222	1,231	-1.2	94	-3.1	17,715	-3.7	162.7	0.4	143.3	-7.4

6/1/05

BLIC BILL



0858

H.B. _____

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT DESIGNATING MAY OF EACH YEAR AS MOTORCYCLE AWARENESS MONTH.

Introduced by Representative(s): Hill and Stiller (Primary Sponsors).

• <u>Maz</u>	• <u>BARNHART</u>	_____	_____
• <u>Folwell</u>	• <u>FAISON</u>	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Principal Clerk's Use Only

PASSED 1st READING
MAR 23 2005
AND REFERRED TO COMMITTEE
ON Rules, et.

ON MOTION OF
REP. Culpepper
WITHDRAWN FROM
Rules, et.
MAY 19 2005
RECOMMITTED TO
Agriculture

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

6/1/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Geoff Benson	Ag. Econ DEPT, NCSU
Norman Jordan Jr.	NC Dairy Producers
David McLeod	NCD A + CS
John Cymus	NCSG
David Meredith	NC State Grange
Steve Worden	NC Farm Bureau
PGP	"
Charlie Dixon	NC Trucking Assn.
Mary Alice Malone	GA Intern
Johanna Reese	DENR

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Wednesday, June 1, 2005
1228 Legislative Building**

12:00 Noon

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**

AGENDA ITEMS

**HB 858 Motorcycle Awareness Month
(PCS will be offered – Dairy Stabilization and Growth Act)**

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: **Wednesday, June 1, 2005**

TIME: **12:00 Noon**

LOCATION: **1228 Legislative Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 858 Motorcycle Awareness Month
(PCS will be offered – Dairy Stabilization and Growth Act)

Respectfully,
Representative Dewey Hill
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
6:25 p.m. on May 26, 2005.

x ___ Principal Clerk
x ___ Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

June 29, 2005

The House Committee on Agriculture met on Wednesday, June 29, 2005, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Bell, Langdon, West, and Williams; Representatives Faison, Kiser, Pate, Pierce, Underhill, Walker, Wilson, and Wray.

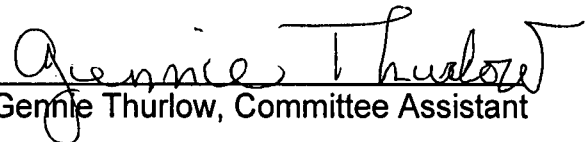
Chair Hill called the meeting to order at 12:00 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

Chair Hill asked Representative Underhill to speak on Senator Purcell's bill, **Senate Bill 268 Animal Exhibition Sanitation/"Aedin's Law"**. Committee Counsel Ben Popkin explained the bill. Discussion followed. Senator Purcell answered questions regarding his bill. Additional discussion followed. Representative Williams made a motion to give the bill a favorable report. The bill passed.

Patrick Robinette, organic beef cattle farmer from Edgecombe County, spoke on sustainable agriculture-grass fed beef. A copy of his presentation is attached.

The meeting adjourned at 12:45 p.m.


Representative Dewey Hill, Chair


Jennie Thurlow, Committee Assistant

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Hill (Chair) for the Committee on AGRICULTURE.

☒ Committee Substitute for

SB 268 A BILL TO BE ENTITLED AN ACT TO ENACT "AEDIN'S LAW"
TO DIRECT THE COMMISSIONER OF AGRICULTURE TO ADOPT RULES
ESTABLISHING PERMITTING AND SANITATION REQUIREMENTS FOR
ANIMAL EXHIBITIONS.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of
_____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

2

SENATE BILL 268
Health Care Committee Substitute Adopted 6/1/05

Short Title: Animal Exhibition Sanitation/"Aedin's Law".

(Public)

Sponsors:

Referred to:

March 1, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT "AEDIN'S LAW" TO DIRECT THE COMMISSIONER OF AGRICULTURE TO ADOPT RULES ESTABLISHING PERMITTING AND SANITATION REQUIREMENTS FOR ANIMAL EXHIBITIONS.

Whereas, contact with animals in public settings such as fairs, farm tours, and petting zoos provides opportunities for entertainment and education concerning animals and animal husbandry; and

Whereas, inadequate understanding of disease transmission can lead to infectious diseases among visitors, especially children, in these public settings; and

Whereas, in 2004, Aedin, a two-year-old child, and her family visited a petting zoo in North Carolina; and

Whereas, shortly after the visit to the petting zoo, Aedin contracted E. coli infection, was hospitalized for 36 days, and continues to suffer serious, lifelong complications from the infection and related Hemolytic Uremic Syndrome (HUS); and

Whereas, it is in the interest of the public health of this State to ensure that proper sanitation and other procedures are in place at fairs and animal exhibitions to address the potential for disease transmission; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1.(a) The title to Part 4 of Article 45 of Chapter 106 of the General Statutes reads as rewritten:

"Part 4. Supervision of ~~Fairs~~ Fairs and Animal Exhibitions."

SECTION 1.(b) Part 4 of Article 45 of Chapter 106 of the General Statutes is amended by adding the following new section to read:

"§ 106-520.3A. Animal exhibition regulation; permit required; civil penalties.

(a) Title. – This section may be referred to as "Aedin's Law". This section provides for the regulation of animal exhibitions as they may affect the public health and safety.

(b) Definitions. – As used in this section, unless the context clearly requires otherwise:

(1) 'Animal' means only those animals that may transmit infectious diseases.

(2) 'Animal exhibition' means any sanctioned agricultural fair where animals are displayed on the exhibition grounds for physical contact with humans.

(c) Permit Required. – No animal exhibition may be operated for use by the general public unless the owner or operator has obtained an operation permit issued by the Commissioner. The Commissioner may issue an operation permit only after physical inspection of the animal exhibition and a determination that the animal exhibition meets the requirements of this section and rules adopted pursuant to this section. The Commissioner may deny, suspend, or revoke a permit on the basis that the exhibition does not comply with this section or rules adopted pursuant to this section.

(d) Rules. – For the protection of the public health and safety, the Commissioner of Agriculture, with the advice and approval of the State Board of Agriculture, and in consultation with the Division of Public Health of the Department of Health and Human Services, shall adopt rules concerning the operation of and issuance of permits for animal exhibitions. The rules shall include requirements for:

(1) Education and signage to inform the public of health and safety issues.

(2) Animal areas.

(3) Animal care and management.

(4) Transition and nonanimal areas.

(5) Hand-washing facilities.

(6) Other requirements necessary for the protection of the public health and safety.

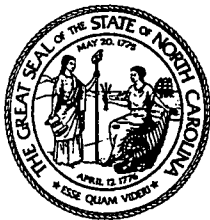
(e) Educational Outreach. – The Department shall continue its consultative and educational efforts to inform agricultural fair operators, exhibitors, agritourism business operators, and the general public about the health risks associated with diseases transmitted by physical contact with animals.

(f) Civil Penalty. – In addition to the denial, suspension, or revocation of an operation permit, the Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this section or a rule adopted pursuant to this section. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(g) Legal Representation by Attorney General. – It shall be the duty of the Attorney General to represent the Department of Agriculture and Consumer Services or designate a member of the Attorney General's staff to represent the Department in all actions or proceedings in connection with this section."

SECTION 2. This act becomes effective October 1, 2005. The Department of Agriculture shall use funds available for the 2005-2007 fiscal biennium to implement this act.



SENATE BILL 268: Animal Exhibition Sanitation/Aedin's Law

BILL ANALYSIS

Committee: House Agriculture
Introduced by: Sen. Purcell
Version: Second Edition

Date: June 27, 2005
Summary by: Ben Popkin
Committee Counsel

SUMMARY: *Senate Bill 268, "Aedin's Law", would direct the Commissioner of Agriculture to adopt rules establishing sanitation and permitting requirements for animal exhibitions at sanctioned agricultural fairs. The bill would amend Part 4 of Article 45 of Chapter 106 of the General Statutes by adding a new section to provide for regulation of animal exhibitions at sanctioned agricultural fairs as they may affect the public health and safety.*

BILL ANALYSIS: Senate Bill 268 would direct the Commissioner of Agriculture to adopt rules establishing sanitation and permitting requirements for animal exhibitions at sanctioned agricultural fairs. The bill would amend Part 4 of Article 45 of Chapter 106 of the General Statutes by adding a new section to provide for regulation of animal exhibitions as they may affect the public health and safety.

The bill would require that the owner or operator of an animal exhibition at a sanctioned agricultural fair obtain an operation permit in order to be allowed to operate an animal exhibition for use by the general public. The Commissioner would be authorized to deny, suspend, or revoke a permit on the basis that the exhibition does not comply with this section of the statutes or rules adopted pursuant to this section.

The bill would direct the Commissioner of Agriculture to adopt rules concerning the operation of and issuance of permits for animal exhibitions at sanctioned agricultural fairs. These rules would be developed by the Commissioner, with the advice and approval of the State Board of Agriculture, and in consultation with the Division of Public Health of the Department of Health and Human Services. The rules would include requirements for the following:

1. Education and signage to inform the public of health and safety issues;
2. Animal areas;
3. Animal care and management;
4. Transition and nonanimal areas;
5. Hand-washing facilities; and
6. Other requirements necessary for the protection of the public health and safety.

The bill would direct the Department of Health and Human Services to conduct educational outreach to inform agricultural fair operators, exhibitors, agritourism business operators, and the general public about the health risks associated with diseases transmitted by physical contact with animals.

The bill would authorize the Commissioner to assess a civil penalty of not more than \$5,000 for violation of provisions of the statutes or of the rules adopted pursuant to this section of the statutes. The Attorney General or a designated member of the Attorney General's staff would represent the Department in all actions or proceedings in connection with this section.

EFFECTIVE DATE: The bill would become effective October 1, 2005.

S0268e2-SMRD

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S

1

SENATE BILL 268

Short Title: Public Laws - 2.

(Public)

Sponsors: Senator Purcell.

Referred to: Rules and Operations of the Senate.

March 1, 2005

A BILL TO BE ENTITLED

AN ACT AMENDING THE PUBLIC LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. This act amends the public laws of North Carolina.

SECTION 2. This act is effective when it becomes law.

ORDERED SENT TO

Executive Summary of
Presentation to the NC House Agriculture Committee
Chairman, Representative Dewey Hill
Sustainable Agriculture-Grass Fed Beef

Prepared and Presented by:

Patrick Robinette, Beef Cattle Farmer, Edgecombe County

- A. Introduction
- B. Background
- C. Present Situation
- D. Current Problems
 - 1. **Lack of a Safety Net**
 - 2. **Inadequate Lending Policies**
- E. Suggested Policy Option Solutions to Consider
 - 1. **Farmers considered as independent business**
 - 2. **Incentives to encourage young farmers**
 - 3. **Support for groups like Tobacco Trust Fund**
 - 4. **Marketing support from NCDA**
 - 5. **Programs to support Sustainable Agriculture**
- F. Conclusion

Presentation to the NC House Agriculture Committee

Chairman, Representative Dewey Hill

Sustainable Agriculture-Grass Fed Beef

Prepared and Presented by:

Patrick Robinette, Beef Cattle Farmer, Edgecombe County

Introduction

I would first like to thank Chairman Dewey Hill and the members of the House Agriculture Committee for allowing me to speak to you this morning concerning emerging sustainable agricultural development in North Carolina with specific options for this committee to consider in order to advance and encourage further development in this area of agriculture for the benefit of the citizens of our state.

Background

My name is Patrick Robinette. I grew up in a military family and have been involved with agriculture since 1993. I attended North Carolina State University where I studied Beef Cattle Management. I also met my wife Amy at this time. She grew up in a farming family but because of small acreage, her mother and father both supplemented their farming income with other jobs. After college, I began working for the Department of Agriculture. Shortly after my employment with them, I slowly started a beef cattle herd that is 100% grass fed. This sustainable approach to raising cattle enabled me to be eligible to apply for various grants that emphasize creative sustainable production and marketing practices. I received a grant in 2002 from RAFI-USA that enabled me to

expand my cattle herd and also to begin the direct marketing of 100% grass fed natural beef. Our beef is raised without the use of antibiotics, hormones, pesticides, or commercial fertilizers. It is slaughtered and packaged at a USDA inspected facility located in Robersonville, NC. A majority of our product is sold in NC, but a small amount is marketed in other states. All of the employees of my farm are currently family members with the exception of one part-time employee who recently graduated from high school.

Present Situation

With this background in mind, I would now like for you to picture a small family farm in North Carolina raising sustainable agriculture products. This farm would require much less equipment than a comparative conventional farm and all acreage under production would likely be located within a 10 mile or less radius. This family farm would be spending less on inputs. Customers from nearby cities and towns would be driving directly to the farm where there would be direct interaction with the farmer and his family and where the farmer would be receiving retail prices for their products - - - products such as grass fed beef, pasture raised chicken, non-pesticide produced vegetables and organically raised eggs and milk. The products that weren't completely sold to customers visiting the farm would be taken directly to the stores and schools in nearby towns where the farmer would be paid a premium due to increased product safety as a result of the sustainable production practices being used. This scenario is happening right now in many states where sustainable agriculture is being practiced. Unfortunately, North Carolina, for the most part, is not one of those states. North Carolina is not one of

those states because we do not have the necessary policies to provide a favorable environment for this new and innovative type of agriculture to develop and prosper.

Current Problems

1. Lack of a Safety Net

Agriculture is still the number one industry in our state even with suppressed commodity prices and the federal support for tobacco being eliminated. With the proposed elimination of subsidy payments in the new federal farm bill, farmers will be left without a safety net. For example, Northeastern North Carolina is a traditional peanut production region, but this year the average private contract for peanuts will only allow the farmer to net a profit of \$50 per acre versus just two years when - with federal peanut subsidies - a farmer could net a profit of \$175 per acre. The future in tobacco contracts will probably follow. Sustainable farming practices could provide the new safety net. It has for me. I have witnessed first hand how the demand for safe sustainable farm products far exceeds our present supply.

2. Inadequate Lending Policies

I am presently unable to expand and increase my production of grass fed beef due to the lending policies of the conventional banks. With the lack of a long term market history or a commodity report from the Chicago Board of Trade, banks have no assurances that the value added prices that we receive for these new products are accurate. For example, conventional Fat Cattle prices are presently around \$80 per hundred weight. I currently receive a price of \$200 per hundred weight for my grass fed beef. The conventional lender though will not accept my price even with documentation to support it because of a lack of a long term market history.

Suggested Policy Option Solutions to Consider

What can the North Carolina General Assembly do to encourage the development of more sustainable agricultural enterprises in North Carolina? I believe that there are at least five policy options for this committee to consider.

Option #1

One option is for small sustainable agriculture producing farmers to be considered as independent businesses. Organizations such as Self-Help Credit and the NC Rural Center are just two of many organizations that provide grants or loans to promote business growth in communities. The problem is that the small farmer isn't put in the same category as anyone else that builds a small business. Incentives should be provided to farmers who want to venture outside of the conventional production practices. These incentives should be in conjunction with the North Carolina Department of Agriculture and the two agriculture colleges so that farmers can be guided in the world of direct marketing for sustainable crops and products.

Option #2

A second policy option could be an incentive program to persuade young farmers to begin sustainable agricultural production. The average age of farmers is now over 56. Young people graduating with agricultural degrees are less and less likely to actually pursue farming as a career. More of them are pursuing careers in the ag-related industries. Perhaps tax incentives much like the ones that corporations are presently receiving to re-locate in our state could be considered for anyone willing to invest in

sustainable and emerging agriculture. Also, young farmers that are willing to begin a sustainable agriculture venture could be provided with low interest loans and extended payments. Such loans exist in programs like the Aggie Bond. Provisions could be included to provide that if one fails in an sustainable agriculture venture then the loan would become void which would reduce the burden of potential long lasting debt.

Option #3

A third policy option could include allowing the Tobacco Trust Fund Commission to retain more of the money allocated to them so that they can provide grants to farmers to diversify into sustainable agriculture. The TTFC provided a grant to RAFI and they in turn distributed funds to NC farmers with sustainable agriculture production ventures.

Option #4

A fourth policy option could be for money to be allocated to the North Carolina Department of Agriculture to provide small farmers with help in marketing value added raw products. The present program, Goodness Grows in North Carolina, works for processed products but not in raw product sales. Furthermore, North Carolina grown value added products should be focused in North Carolina. Programs could be created within the NCDA to provide incentives for NC businesses to purchase sustainable agricultural products grown here.

Option #5

Finally, a fifth policy option could be for programs to be supported that promote sustainable agriculture. These programs need to educate the citizens about agriculture and the health benefits of sustainable agriculture. This will encourage local involvement with the agriculture communities across the state, further boosting the agriculture

revenue. Nutrition groups in each county could be provided funds to promote this education. Also, programs such as FFA, and 4-H could be provided with additional resources in order to educate our youth to these new sustainable products associated with agriculture.

Conclusion

In conclusion, I believe that if any or all of these suggested policy options are considered and implemented by the General Assembly, then sustainable agriculture will become a viable, new and emerging frontier in North Carolina in the twenty-first century. Thank you for your time. I will now be glad to answer any questions that you may have.

VISITOR REGISTRATION SHEET

Agriculture
Name of Committee

06/29/05
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Judy Southard	P.O. Box 246, Wilson, NC 27894 NC Organics Institute
Pam Forrest	2293 Sis Mills Rd. Grimesland, NC 27837
Carol Robinette	111 Nine J Dr Newport NC 28570
Amy Robinette	Rt 1 Box 1834 - Pinetops, NC 27864
Patrick Robinette	Rt 1 Box 1834 Pinetops
Gerald Barbone	105 Finch St. Clinton, NC 28328
James Roberts	P.O. Box 1074 Bladenboro NC 28320
Liz Gray	802 Hillborough Rd Chapel Hill NC 27516
Kyle Gray	"
Alexin Gray	"
Hunter Gray	"

VISITOR REGISTRATION SHEET

Agiculture
Name of Committee

6/29/05
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

William Venable	511 Carriage Ln, Cary NC 27511
Brant Goode	NC DPH General Communicable Disease Control + Centers for Disease Control + Prevention
Jeff Engel	DHHS
David McLeod	NCDA + CS
Ashley Lewis	NCDA + CS
Mary Ann McBride	NCDA + CS
Benjie Fornst	Ag. Ed.
P S P	NC FB
Richy Joyner	Southern Wayne H.S. Dudley, NC
Jessica Anderson	Southern Wayne H.S. Dudley, NC
Scarlett Joyner	NCSU Teaching Fellow/ Ag Ed.

VISITOR REGISTRATION SHEET

Name of Committee

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Richard C. Reich

NCDA & CS

Howard Tiley

WCDA & CS

David Marshall

NCDA & CS

N. David Smith

Agriculture

VERA HARBO

NCPC

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

Wednesday, June 29, 2005
1228 Legislative Building

12:00 Noon

OPENING REMARKS

Representative Dewey Hill
Chair, House Agriculture Committee

AGENDA ITEMS

SB 268 ANIMAL EXHIBITION SANITATION/"AEDIN'S LAW".

Guest Speaker

Patrick Robinette, Organic Beef Cattle Farmer, Edgecombe County

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: **Wednesday, June 29, 2005**

TIME: **12:00 Noon**

LOCATION: **1228 Legislative Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 268 ANIMAL EXHIBITION SANITATION/"AEDIN'S LAW".

Guest Speaker

Patrick Robinette, Organic Beef Cattle Farmer, Edgecombe County

Respectfully,
Representative Dewey Hill
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
10:05 a.m. on June 23, 2005.

x ___ Principal Clerk
x ___ Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

July 20, 2005

The House Committee on Agriculture met on Wednesday, July 20, 2005, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Coates, Langdon, Tucker, West, and Williams; Representatives Culp, Faison, Kiser, Pate, Pierce, Tolson, Underhill, Walker, Warren, Wilson, and Wray.

Chair Hill called the meeting to order at 12:00 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

Chair Hill asked for a motion to accept **House Bill 344 Proposed Committee Substitute Tobacco Promotion Assessment** for discussion. Representative Coates made a motion to accept the Proposed Committee Substitute for discussion. The motion passed. Chair Hill stated that no motions and no vote would be taken on the Proposed Committee Substitute.

Committee Counsel Erika Churchill explained the Proposed Committee Substitute. Discussion followed. Individuals supporting and those opposing the Proposed Committee Substitute spoke. Additional discussion followed.

The meeting adjourned at 12:52 p.m.



Representative Dewey Hill, Chair



Gennie Thurlow, Committee Assistant

2/20/05

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 344
PROPOSED COMMITTEE SUBSTITUTE H344-PCS60511-Rff-35

Short Title: Tobacco Promotion Assessment.

(Public)

Sponsors:

Referred to:

February 22, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A TOBACCO PROMOTION ASSESSMENT.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Article 50C of Chapter 106 of the General Statutes is repealed.

5 SECTION 2. Chapter 106 of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 70.

8 "Tobacco Promotion Assessment Act.

9 "§ 106-830. Title.

10 This act shall be known as the Tobacco Promotion Assessment Act.

11 "§ 106-831. Purpose.

12 It is in the public interest for the State to enable producers of tobacco to assess
13 themselves in order to raise funds to promote the sale of tobacco grown in North
14 Carolina.

15 "§ 106-832. Definitions.

16 The following definitions apply in this Article:

17 (1) Association. – The Tobacco Growers Association of North Carolina,
18 Inc., a North Carolina nonprofit corporation.

19 (2) Buyer. – Any person who buys tobacco from the producer.

20 (3) Department. – The North Carolina Department of Agriculture and
21 Consumer Services.

22 (4) Market. – To sell in commerce.

23 (5) Person. – An individual, partnership, firm, or corporation.

24 (6) Tobacco. – Flue-cured, burley, or any other type of tobacco grown in
25 North Carolina.

26 (7) Tobacco producer. – A person who (i) is a North Carolina resident, (ii)
27 owns, manages, or has a financial interest in tobacco production, and
28 (iii) is actively involved in the production of tobacco.

"§ 106-833. Referendum.

(a) The Association may conduct among tobacco producers a referendum upon the question of whether an assessment shall be levied on tobacco sold in this State.

(b) The Association shall determine:

(1) The amount of the proposed assessment.

(2) The time and place of the referendum.

(3) Procedures for conducting the referendum and counting of votes.

(4) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment shall be stated on the referendum ballot. The amount may not exceed twenty cents (20¢) per hundred pounds of tobacco.

(d) All tobacco producers may vote in the referendum. Any dispute over eligibility to vote or any other matter relating to the referendum shall be determined by the Association. The Association shall make reasonable efforts to provide tobacco producers with notice of the referendum and an opportunity to vote.

(e) The Association shall certify the results of the election to the Department within 10 days of the completion of the referendum.

"§ 106-834. Payment and collection of assessment.

(a) The assessment shall not be collected unless more than half of the votes cast in the referendum are in favor of the assessment. If more than half of the votes cast in the referendum are in favor of the assessment, then the Association shall notify the Department of the amount of the assessment and the effective date of the assessment. The Department shall notify all tobacco buyers of the assessment.

(b) A buyer shall collect the assessment when buying tobacco by deducting the assessment from the price paid to the producer. The buyer shall remit collected assessments to the Department no later than the tenth day of the following month. The Department shall provide forms to buyers for reporting the assessment. If the total assessments collected by a buyer in a month are less than twenty-five dollars (\$25.00), the buyer may keep the assessments until the total amount due is at least twenty-five dollars (\$25.00) or the end of the quarter, whichever comes first. All buyers shall file at least one report in each calendar quarter, regardless of the amount collected and remitted to the Department.

(c) A buyer shall keep records of the amount of tobacco purchased from producers. All information or records regarding purchases of tobacco by individual buyers shall be kept confidential by employees or agents of the Department and the Association and shall not be disclosed except by court order.

(d) The Association may bring an action to recover any unpaid assessments, plus the reasonable cost, including attorney fees, incurred in the action.

"§ 106-835. Use of assessments; refunds.

(a) The Department shall remit one-half of the funds collected under this Article to the Association at least monthly. The Association shall use the funds to promote the sale of tobacco grown in North Carolina and to promote the interests of North Carolina tobacco growers.

(b) The Department shall deposit the remaining one-half of the funds collected under this Article into a nonreverting account for the use of the North Carolina Tobacco

Promotion Authority established under Article 71 of Chapter 106 of the General Statutes.

(c) A tobacco producer may request a refund of an assessment deducted from the sales price of tobacco sold by the producer by submitting a written request for a refund to the Association within 30 days after the buyer of the tobacco collected the assessment. A refund request must be accompanied by proof of payment of the assessment satisfactory to the Association. The Association shall mail a refund to the producer within 30 days of receipt of a properly documented refund request.

"§ 106-836. Report on use of assessments.

The board of directors of the Association shall provide to the Commissioner of Agriculture an annual written report of the expenditures of assessment funds received under this Article."

SECTION 3. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 71.

"North Carolina Tobacco Promotion Authority.

"§ 106-850. Definitions.

(1) Authority. – The North Carolina Tobacco Promotion Authority.

(2) Buyer. – A tobacco buyer, as defined in G.S. 106-832.

(3) Commissioner. – The Commissioner of Agriculture.

(4) Department. – The Department of Agriculture and Consumer Services.

(5) Fund. – The Fund created under G.S. 106-835.

(6) Producer. – A tobacco producer as defined in G.S. 106-832.

"§ 106-851. Tobacco Promotion Authority.

(a) The North Carolina Tobacco Promotion Authority is created in the Department of Agriculture and Consumer Services.

(b) The Authority shall consist of nine tobacco producers and three tobacco buyers appointed by the Commissioner of Agriculture. Members shall serve two-year terms that shall begin on July 1 of the year in which the appointment is made. No member shall serve more than three consecutive terms. A member may be removed from office for cause by the Commissioner. The Commissioner shall appoint a chairman who shall serve at the pleasure of the Commissioner. The buyer members shall serve as advisory members and shall not have the right to vote on Authority matters.

(c) Administrative support and clerical services shall be provided by the Department.

(d) Members shall receive per diem and necessary travel and subsistence expenses paid from the Fund in accordance with G.S. 138-5.

"§ 106-852. Powers and duties.

The Authority shall have the following powers and duties:

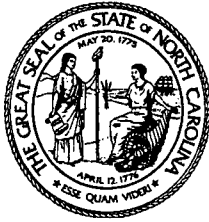
(1) To develop programs to promote the sale of flue-cured, burley, and other types of tobacco grown in North Carolina.

(2) To advise the Commissioner on ways the Department can assist tobacco producers in marketing their tobacco.

1 (3) To approve expenditure of monies from the Fund for the purposes of
2 improving markets for tobacco grown in North Carolina."

3 **SECTION 4.** Sections 2, 3, and 4 of this act are effective upon ratification.

4 If the assessment is approved by tobacco producers in the referendum held under
5 Section 2 of this act, then Section 1 of this act becomes effective when the results of the
6 referendum are certified by the Tobacco Growers Association of North Carolina to the
7 North Carolina Department of Agriculture and Consumer Services. If the assessment is
8 not approved, Section 1 of this act does not become effective.



HOUSE BILL 344: Tobacco Promotion Assessment

BILL ANALYSIS

Committee: House Finance
Introduced by: Rep. Setzer
Version: PCS to First Edition
H344-CSRF-35

Date: July 5, 2005
Summary by: Barbara Riley
Committee Counsel

SUMMARY:

House Bill 344 would replace the current assessment on flue-cured tobacco levied for the purposes of increasing exports and the use of flue-cured tobacco generally, with a new assessment on all types of tobacco grown in North Carolina for the promotion of the sale of tobacco grown in North Carolina and the interests of North Carolina tobacco growers. The bill also establishes the North Carolina Tobacco Promotion Authority in the Department of Agriculture and Consumer Services to develop programs to promote the sale of the various types of tobacco grown in North Carolina and to advise the Commissioner on ways the Department can assist tobacco farmers in marketing their product.

CURRENT LAW:

Article 50C of Chapter 106 of the General Statutes currently provides for an annual assessment on flue-cured tobacco. The funds are paid to Tobacco Associates, Inc. and used to stimulate, develop and expand the export trade in flue-cured tobacco and encourage the use of flue-cured tobacco. The rate of the assessment is set by Tobacco Associates but may not exceed \$4 per acre. An alternative method of assessment is available on a per pound marketed basis. The alternative assessment may not exceed 1/5 cent per pound.

BILL ANALYSIS:

House Bill 344 creates a new Article 70 in Chapter 106 which would allow the Tobacco Growers Association of North Carolina to conduct a referendum among tobacco producers on whether an assessment should be levied on tobacco sold in the State. "Tobacco producer" is defined as any North Carolina resident who owns, manages, or has a financial interest in tobacco production and who is actively involved in the production of tobacco. "Tobacco" includes flue-cured, burley and any other type of tobacco grown in North Carolina. G.S. 106-832.

The amount of the proposed assessment must be stated on the ballot and may not exceed 20 cents per hundred pounds of tobacco. G.S. 106-833. A majority those voting must vote in favor of the assessment for the assessment to be collected. G.S. 106-834. Tobacco buyers shall collect the assessment by deducting the amount of the assessment from the price paid to the producer. The tobacco buyer shall remit the proceeds to the Department on a monthly basis. *Id.* The Department shall distribute half of the funds collected to the Tobacco Growers Association to promote the sale of tobacco grown in NC and to promote the interests of tobacco growers. The remaining half of the funds collected shall be deposited to a nonreverting account in the Department for the use of the North Carolina Tobacco Promotion Authority. G.S. 106-835.

A tobacco grower may request a refund of the assessment he paid by submitting a written request to the Tobacco Growers Association within 30 days after the assessment was collected. G.S. 106-835.

The bill also creates a new Article 71 in Chapter 106 which establishes within the Department of Agriculture and Consumer Services the North Carolina Tobacco Promotion Authority. The Authority

House Bill 344

Page 2

will consist of 12 members appointed by the Commissioner of Agriculture and shall include 9 tobacco producers and 3 tobacco buyers. Members are to serve 2-year terms and may not serve more than 3 consecutive terms. Administrative and clerical services are to be provided by the Department. Members shall be entitled to per diem and travel per G.S. 138-5. G.S. 106-851.

The Authority is to develop programs to promote the sale of flue-cured, burley and other types of tobacco grown in North Carolina and to advise the Commissioner of ways the Department can assist tobacco producers in marketing their tobacco. The Authority is also to approve expenditure of monies from the account established in G.S. 106-835 for the use of the Authority. G.S. 106-852

EFFECTIVE DATE:

Sections 2, 3, and 4 of the act are effective upon ratification. Section 1, which repeals the existing assessment on flue-cured tobacco collected by Tobacco Associates, becomes effective on the date the results of the referendum are certified to the Department only if the assessment provided for in Section 2 of this act is approved by the tobacco producers.

H0344e1-SMRF-CSRF-

Agriculture Committee

Speakers on HB-344 Proposed Committee Substitute Tobacco Promotion Assessment

Date: July 20, 2005

[illegible]

VISITOR REGISTRATION SHEET

Agri
Name of Committee

July 20, 2005
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Cyrus	NCSG
David Meredith	North Carolina State Grange
F. Carlyle Reague	Co-op Council of NC
David M. Lind	NCDA & CS
Graham Boyd	TGANK
Keith Beavers	Farmer-Tobacco
Erica Peterson	NC Agribusiness Council
Steve Woodha	NC Farm Bureau Federation
ERIC LEAZER	RONAN-SALISBURY SCHOOLS
PS for	nc 10
Theresa A	GAL

VISITOR REGISTRATION SHEET

Agri
Name of Committee

July 20, 2005
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<u>Lina Meag</u>	<u>NCPBA Staff</u>
<u>Darryl Dungan</u>	<u>NCFB</u>
<u>Richard Jenks</u>	<u>Tob Farmer</u>
<u>J.R. Burgess</u>	<u>Tob Farmer (NCFB)</u>
<u>C. Hester Vernon, Jr.</u>	<u>Tob Farmer</u>
<u>Jay Boyette</u>	<u>NC Farm Bureau</u>
<u>Marion Priddy SA</u>	<u>Tob. Farmer (NCFB)</u>
<u>Erin Kinney</u>	<u>NCCoreNetwork</u>
<u>[Signature]</u>	<u>NCFB</u>
<u>[Signature]</u>	<u>Boe + Assoc</u>
<u>[Signature]</u>	<u>Farm Products Inc</u>

VISITOR REGISTRATION SHEET

Agri
Name of Committee

July 20, 2005
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Lu-Ann Coe

CFS A

Crissey Porter,

NCMS

House Pages

Name Of Committee: Agv Date: 07/20/05

1. Name: Shaday King

County: Wake

Sponsor: Coleman

2. Name: Bria Skeage

County: Wake

Sponsor: Coleman

3. Name: Deanna King

County: Wake

Sponsor: Coleman

4. Name: Jewel Harrington

County: CUMBERLAND

Sponsor: McAULISTER

5. Name: _____

County: _____

Sponsor: _____

Sgt-At-Arms

1. Name: Jay Callaway

2. Name: Toussaint Avert

3. Name: Jim Womack

4. Name: _____

5. Name: _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 344

Short Title: Law Enforcement Tax Deduction.

(Public)

Sponsors: Representatives Setzer; Faison and Moore.

Referred to: Finance.

February 22, 2005

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN INCOME TAX DEDUCTION FOR LAW
ENFORCEMENT WORKERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-134.6(b) is amended by adding a new subdivision to
read:

"(b) Deductions. – The following deductions from taxable income shall be made
in calculating North Carolina taxable income, to the extent each item is included in
taxable income:

...

(18) The sum of three thousand dollars (\$3,000) for an eligible law
enforcement worker. In the case of a married couple filing a joint
return, each spouse may qualify separately for the deduction allowed
under this subdivision. In order to claim the deduction allowed under
this subdivision, the taxpayer must submit with the tax return any
documentation required by the Secretary. For purposes of this
subdivision, eligible law enforcement worker means a taxpayer
holding an active law enforcement certification."

SECTION 2. This act is effective for taxes imposed for taxable years
beginning on or after January 1, 2005.

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Wednesday, July 20, 2005
1228 Legislative Building**

12:00 Noon

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**

AGENDA ITEMS

HB 344 Proposed Committee Substitute Tobacco Promotion Assessment

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: **Wednesday, July 20, 2005**

TIME: **12:00 Noon**

LOCATION: **1228 Legislative Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 344 – Law Enforcement Tax Deduction - Representative Setzer

Respectfully,
Representative Dewey Hill
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
1:45 p.m. on July 18, 2005.

x ___ Principal Clerk
x ___ Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

June 7, 2006

The House Committee on Agriculture met on Wednesday, June 7, 2006, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Bell, Coates, and Williams; Representatives Culp, Pate, Pierce, Preston, Tolson, Underhill, Walker, Wilson, and Wray.

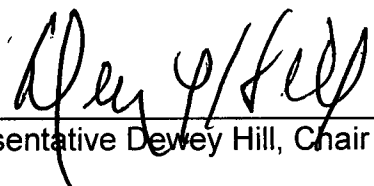
Chair Hill called the meeting to order at 12:05 p.m. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

Representative Ross spoke on her bill. Chair Hill asked for a motion to accept **House Bill 2098 Proposed Committee Substitute Protection of Animals** for discussion. Representative Coates made a motion to accept the Proposed Committee Substitute for discussion. The motion passed.

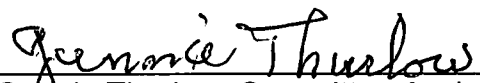
Representative Ross explained the Proposed Committee Substitute. Questions and discussion followed.

Representative Coates moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill. The motion carried.

The meeting adjourned at 12:25 p.m.



Representative Dewey Hill, Chair



Geanie Thurlow, Committee Assistant

Gennie Thurlow (Rep. Hill)

From: Gennie Thurlow (Rep. Hill)
Sent: Thursday, June 01, 2006 10:25 AM
Subject: Notice 6-7-06.doc

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **Wednesday, June 7, 2006**

TIME: **12:00 Noon**

LOCATION: **1228 Legislative Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 2098 Protection of Animals – Representatives Ross and Insko

Respectfully,
Representative Hill
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **10:30 a.m.** on **June 1, 2006.**

____Principal Clerk
____Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

AGENDA

HOUSE COMMITTEE ON AGRICULTURE

**Wednesday, June 7, 2006
1228 Legislative Building**

12:00 Noon

OPENING REMARKS

**Representative Dewey Hill
Chair, House Agriculture Committee**

AGENDA ITEMS

HB 2098 Protection of Animals

CHAIR'S REMARKS

OTHER BUSINESS

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 2098*

Short Title: Protection of Animals.

(Public)

Sponsors: Representatives Ross, Insko (Primary Sponsors); Faison, Glazier, Jones, Luebke, Weiss, and Womble.

Referred to: Agriculture.

May 18, 2006

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LAW RELATING TO THE PROTECTION OF
ANIMALS, AS RECOMMENDED BY THE GENERAL STATUTES
COMMISSION.

The General Assembly of North Carolina enacts:

PART I. CIVIL REMEDY FOR CRUELTY AMENDMENTS.

SECTION 1.1. G.S. 19A-3 reads as rewritten:

"§ 19A-3. Preliminary ~~injunction~~injunction; care of animal pending hearing on the merits.

(a) Upon the filing of a verified complaint in the district court in the county in which cruelty to an animal has allegedly occurred, the judge may, as a matter of discretion, issue a preliminary injunction in accordance with the procedures set forth in G.S. 1A-1, Rule 65. Every such preliminary injunction, if the complainant so requests, may give the complainant the right to provide suitable care for the animal. If it appears on the face of the complaint that the condition giving rise to the cruel treatment of an animal requires the animal to be removed from its owner or other person who possesses it, then it shall be proper for the court in the preliminary injunction to allow the complainant to take possession of the ~~animal~~ animal as custodian.

(b) The custodian may employ a veterinarian or other health provider to provide necessary medical care for the animal without any additional court order. Prior to taking such action, the custodian shall consult with, or attempt to consult with, the defendant in the action, but the custodian may authorize such care without the defendant's consent. Notwithstanding the provisions of this subsection, the custodian may not have an animal euthanized without written consent of the defendant or a court order that authorizes euthanasia upon the court's finding that the animal is suffering due to terminal illness or terminal injury.

(c) The custodian may place an animal under the custodian's care with a foster care provider. The foster care provider shall return the animal to the custodian on demand."

SECTION 1.2. G.S. 19A-4 reads as rewritten:

"§ 19A-4. **Permanent injunction.**

(a) In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as the court deems appropriate, including a permanent injunction and dismissal of the action along with dissolution of any preliminary injunction that had been issued.

(b) If the plaintiff prevails, the court in its discretion may include the costs of food, water, shelter, and care, including medical care, provided to the animal, less any amounts deposited by the defendant under G.S. 19A-70, as part of the costs allowed to the plaintiff under G.S. 6-18. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further cruelty if returned to the possession of the defendant, the court may terminate the defendant's ownership and right of possession of the animal and transfer ownership and right of possession to the plaintiff or other appropriate successor owner. For good cause shown, the court may also enjoin the defendant from acquiring new animals for a specified period of time or limit the number of animals the defendant may own or possess during a specified period of time.

(c) If the final judgment entitles the defendant to regain possession of the animal, the custodian shall return the animal, including taking any necessary steps to retrieve the animal from a foster care provider.

(d) The court shall consider and may provide for custody and care of the animal until the time to appeal expires or all appeals have been exhausted."

PART II. DEPOSIT REQUIREMENT WHEN COUNTY OR MUNICIPAL ANIMAL SHELTER TAKES CUSTODY OF ANIMAL PENDING LITIGATION.

SECTION 2.1. Article 6 of Chapter 19A of the General Statutes reads as rewritten:

"Article 6.

"Care of ~~Dogs Illegally Used for Fighting~~. Animal Subjected to Illegal Treatment.

"§ 19A-70. Care of ~~dogs illegally used for fighting~~. **animal subjected to illegal treatment.**

(a) In every arrest under G.S. 14-362.2, any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of ~~dogs illegally used for fighting~~, an animal, the animal operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the ~~dogs~~ animal

1 pending the disposition of the ~~charges.~~ litigation. For purposes of this section,
2 "reasonable expenses" includes the cost of providing food, water, shelter, and care,
3 including medical care, for at least 30 days.

4 (b) Upon receipt of a petition, the court shall set a hearing on the petition. The
5 hearing shall be conducted no less than 10 and no more than 15 business days after the
6 petition is filed. The operator of the animal shelter shall mail written notice of the
7 hearing and a copy of the petition to the defendant at the address contained in the
8 criminal ~~charges.~~ charges or the complaint or summons by which a civil action was
9 initiated. If the defendant is in a local detention facility at the time the petition is filed,
10 the operator of the animal shelter shall also provide notice to the custodian of the
11 detention facility.

12 (c) The court shall set the amount of funds necessary for 30 days' care after
13 taking into consideration all of the facts and circumstances of the case, including the
14 recommendation of the operator of the animal shelter and the estimated cost of caring
15 for the ~~dogs~~ animal as well as the defendant's ability to pay. If the court determines that
16 the defendant is unable to deposit funds, the court may consider issuing an order under
17 subsection (f) of this section.

18 Any order for funds to be deposited pursuant to this section shall state that if the
19 operator of the animal shelter files an affidavit with the clerk of superior court, at least
20 two business days prior to the expiration of a 30-day period, stating that, to the best of
21 the ~~shelter's~~ affiant's knowledge, the ~~criminal~~ case against the defendant has not yet
22 been resolved, the order shall be automatically renewed every 30 days until the ~~criminal~~
23 case is resolved.

24 (d) If the court orders that funds be deposited, the amount of funds necessary for
25 30 days shall be posted with the clerk of superior court. The defendant shall also deposit
26 the same amount with the clerk of superior court every 30 days thereafter until the
27 ~~criminal charges are~~ litigation is resolved, unless the defendant requests a hearing no
28 less than five business days prior to the expiration of a 30-day period. If the defendant
29 fails to deposit the funds within five business days of the initial hearing, or five business
30 days of the expiration of a 30-day period, the ~~dogs are~~ animal is forfeited by operation
31 of law. If funds have been deposited in accordance with this section, the operator of the
32 animal shelter may draw from the funds the actual costs incurred in caring for the ~~dogs.~~
33 animal.

34 In the event of forfeiture, the animal shelter may determine whether ~~any of the dogs~~
35 ~~are the animal is~~ suitable for adoption and whether adoption can be arranged for ~~any of~~
36 ~~the dogs.~~ the animal. The ~~dogs~~ animal may not be adopted by the defendant or by any
37 person residing in the defendant's ~~household, and~~ household. If the adopted animal is a
38 dog used for fighting, the animal shelter shall notify any persons adopting the ~~dogs~~ dog
39 of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67
40 of the General Statutes. If no adoption can be arranged after the forfeiture, or ~~the dogs~~
41 ~~are~~ animal is unsuitable for adoption, the shelter shall humanely euthanize the ~~dogs.~~
42 animal.

43 (e) The deposit of funds shall not prevent the animal shelter from disposing of
44 the ~~dogs~~ animal prior to the expiration of the 30-day period covered by the deposit if the

1 court makes a final determination of the charges or claims against the defendant. Upon
2 ~~the adjudication of the charges, determination,~~ the defendant is entitled to a refund for
3 any portion of the deposit not incurred as expenses by the animal shelter. ~~A person who~~
4 ~~is adjudicated not guilty of the charges under G.S. 14-362.2 shall be entitled to a full~~
5 ~~refund of the deposit.~~ A person who is acquitted of all criminal charges or not found to
6 have committed animal cruelty in a civil action under Article 1 of this Chapter is
7 entitled to a full refund of the deposit.

8 (f) Pursuant to subsection (c) of this section, the court may order a defendant to
9 provide necessary food, water, shelter, and care, including any necessary medical care,
10 for any ~~dogs that are~~ animal that is the basis of the charges or claims against the
11 defendant without the removal of the ~~dogs~~ animal from the existing location and until
12 the charges or claims against the defendant are adjudicated. If the court issues such an
13 order, the court shall provide for an animal control officer or other law enforcement
14 officer to make regular visits to the location to ensure that the ~~dogs are~~ animal is
15 receiving necessary food, water, shelter, and care, including any necessary medical care,
16 and to impound the ~~animals if they are~~ animal if it is not receiving those necessities."

17 **PART III. CLARIFY THAT THE PROHIBITION AGAINST DOGFIGHTING**
18 **INCLUDES FIGHTS BETWEEN DOGS AND OTHER ANIMALS.**

19 **SECTION 3.1.** G.S. 14-362.2 reads as rewritten:

20 **"§ 14-362.2. Dog fighting and baiting.**

21 (a) A person who instigates, promotes, conducts, is employed at, provides a dog
22 for, allows property under ~~his~~ the person's ownership or control to be used for, gambles
23 on, or profits from an exhibition featuring the ~~fighting or~~ baiting of a dog or the
24 fighting of a dog with another dog or with another animal is guilty of a Class H felony.
25 A lease of property that is used or is intended to be used for an exhibition featuring the
26 ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another
27 animal is void, and a lessor who knows this use is made or is intended to be made of ~~his~~
28 the lessor's property is under a duty to evict the lessee immediately.

29 (b) A person who owns, possesses, or trains a dog with the intent that the dog be
30 used in an exhibition featuring the ~~fighting or~~ baiting of that dog or the fighting of that
31 dog with another dog or with another animal is guilty of a Class H felony.

32 (c) A person who participates as a spectator at an exhibition featuring the
33 ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another
34 animal is guilty of a Class H felony."

35 **PART IV. EFFECTIVE DATE.**

36 **SECTION 4.1.** This act becomes effective December 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 2098*
PROPOSED COMMITTEE SUBSTITUTE H2098-CSST-112 [v.3]

6/7/2006 10:33:35 AM

Short Title: Protection of Animals.

(Public)

Sponsors:

Referred to:

May 18, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW RELATING TO THE PROTECTION OF
3 ANIMALS, AS RECOMMENDED BY THE GENERAL STATUTES
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 **PART I. CIVIL REMEDY FOR CRUELTY AMENDMENTS.**

7 **SECTION 1.1. G.S. 19A-3 reads as rewritten:**

8 "**§ 19A-3. Preliminary ~~injunction~~; care of animal pending hearing on**
9 **the merits.**

10 (a) Upon the filing of a verified complaint in the district court in the county in
11 which cruelty to an animal has allegedly occurred, the judge may, as a matter of
12 discretion, issue a preliminary injunction in accordance with the procedures set forth in
13 G.S. 1A-1, Rule 65. Every such preliminary injunction, if the ~~complainant~~ plaintiff so
14 requests, may give the ~~complainant~~ plaintiff the right to provide suitable care for the
15 animal. If it appears on the face of the complaint that the condition giving rise to the
16 cruel treatment of an animal requires the animal to be removed from its owner or other
17 person who possesses it, then it shall be proper for the court in the preliminary
18 injunction to allow the ~~complainant~~ plaintiff to take possession of the ~~animal~~. animal as
19 custodian.

20 (b) The plaintiff as custodian may employ a veterinarian or other health provider
21 to provide necessary medical care for the animal without any additional court order.
22 Prior to taking such action, the plaintiff as custodian shall consult with, or attempt to
23 consult with, the defendant in the action, but the plaintiff as custodian may authorize
24 such care without the defendant's consent. Notwithstanding the provisions of this
25 subsection, the plaintiff as custodian may not have an animal euthanized without written
26 consent of the defendant or a court order that authorizes euthanasia upon the court's
27 finding that the animal is suffering due to terminal illness or terminal injury.

(c) The plaintiff as custodian may place an animal with a foster care provider. The foster care provider shall return the animal to the plaintiff as custodian on demand."

SECTION 1.2. G.S. 19A-4 reads as rewritten:

"§ 19A-4. Permanent injunction.

(a) In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as the court deems appropriate, including a permanent injunction and dismissal of the action along with dissolution of any preliminary injunction that had been issued.

(b) If the plaintiff prevails, the court in its discretion may include the costs of food, water, shelter, and care, including medical care, provided to the animal, less any amounts deposited by the defendant under G.S. 19A-70, as part of the costs allowed to the plaintiff under G.S. 6-18. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further cruelty if returned to the possession of the defendant, the court may terminate the defendant's ownership and right of possession of the animal and transfer ownership and right of possession to the plaintiff or other appropriate successor owner. For good cause shown, the court may also enjoin the defendant from acquiring new animals for a specified period of time or limit the number of animals the defendant may own or possess during a specified period of time.

(c) If the final judgment entitles the defendant to regain possession of the animal, the custodian shall return the animal, including taking any necessary steps to retrieve the animal from a foster care provider.

(d) The court shall consider and may provide for custody and care of the animal until the time to appeal expires or all appeals have been exhausted."

PART II. DEPOSIT REQUIREMENT WHEN COUNTY OR MUNICIPAL ANIMAL SHELTER TAKES CUSTODY OF ANIMAL PENDING LITIGATION.

SECTION 2.1. Article 6 of Chapter 19A of the General Statutes reads as rewritten:

"Article 6.

~~"Care of Dogs Illegally Used for Fighting. Animal Subjected to Illegal Treatment.~~

"§ 19A-70. Care of ~~dogs illegally used for fighting.~~ animal subjected to illegal treatment.

(a) In every arrest under G.S. 14-362.2, any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of ~~dogs illegally used for fighting,~~ an animal, the animal operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the ~~dogs animal~~ pending the disposition of the ~~charges.~~ litigation. For purposes of this section,

1 "reasonable expenses" includes the cost of providing food, water, shelter, and care,
2 including medical care, for at least 30 days.

3 (b) Upon receipt of a petition, the court shall set a hearing on the ~~petition.~~
4 petition to determine the need to care for and provide for the animal pending the
5 disposition of the litigation. The hearing shall be conducted no less than 10 and no more
6 than 15 business days after the petition is filed. The operator of the animal shelter shall
7 mail written notice of the hearing and a copy of the petition to the defendant at the
8 address contained in the criminal ~~charges.~~ charges or the complaint or summons by
9 which a civil action was initiated. If the defendant is in a local detention facility at the
10 time the petition is filed, the operator of the animal shelter shall also provide notice to
11 the custodian of the detention facility.

12 (c) The court shall set the amount of funds necessary for 30 days' care after
13 taking into consideration all of the facts and circumstances of the case, including the
14 need to care for and provide for the animal pending the disposition of the litigation, the
15 recommendation of the operator of the animal shelter and shelter, the estimated cost of
16 caring for and providing for the dogs animal, ~~as well as and~~ the defendant's ability to
17 pay. If the court determines that the defendant is unable to deposit funds, the court may
18 consider issuing an order under subsection (f) of this section.

19 Any order for funds to be deposited pursuant to this section shall state that if the
20 operator of the animal shelter files an affidavit with the clerk of superior court, at least
21 two business days prior to the expiration of a 30-day period, stating that, to the best of
22 the ~~shelter's~~ affiant's knowledge, the ~~criminal~~ case against the defendant has not yet
23 been resolved, the order shall be automatically renewed every 30 days until the ~~criminal~~
24 case is resolved.

25 (d) If the court orders that funds be deposited, the amount of funds necessary for
26 30 days shall be posted with the clerk of superior court. The defendant shall also deposit
27 the same amount with the clerk of superior court every 30 days thereafter until the
28 ~~criminal charges are~~ litigation is resolved, unless the defendant requests a hearing no
29 less than five business days prior to the expiration of a 30-day period. If the defendant
30 fails to deposit the funds within five business days of the initial hearing, or five business
31 days of the expiration of a 30-day period, the ~~dogs are~~ animal is forfeited by operation
32 of law. If funds have been deposited in accordance with this section, the operator of the
33 animal shelter may draw from the funds the actual costs incurred in caring for the ~~dogs.~~
34 animal.

35 In the event of forfeiture, the animal shelter may determine whether ~~any of the dogs~~
36 ~~are the animal is~~ suitable for adoption and whether adoption can be arranged for ~~any of~~
37 ~~the dogs.~~ the animal. The ~~dogs~~ animal may not be adopted by the defendant or by any
38 person residing in the defendant's ~~household, and household.~~ If the adopted animal is a
39 dog used for fighting, the animal shelter shall notify any persons adopting the ~~dogs~~ dog
40 of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67
41 of the General Statutes. If no adoption can be arranged after the forfeiture, or ~~the dogs~~
42 ~~are~~ animal is unsuitable for adoption, the shelter shall humanely euthanize the ~~dogs.~~
43 animal.

(e) The deposit of funds shall not prevent the animal shelter from disposing of the ~~dogs~~ animal prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon ~~the adjudication of the charges, determination,~~ the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. ~~A person who is adjudicated not guilty of the charges under G.S. 14-362.2 shall be entitled to a full refund of the deposit.~~ A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.

(f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any ~~dogs that are~~ animal that is the basis of the charges or claims against the defendant without the removal of the ~~dogs~~ animal from the existing location and until the charges or claims against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the ~~dogs are~~ animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the ~~animals if they are~~ animal if it is not receiving those necessities."

PART III. CLARIFY THAT THE PROHIBITION AGAINST DOGFIGHTING INCLUDES FIGHTS BETWEEN DOGS AND OTHER ANIMALS.

SECTION 3.1. G.S. 14-362.2 reads as rewritten:

"§ 14-362.2. Dog fighting and baiting.

(a) A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under ~~his~~ the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of ~~his~~ the lessor's property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the ~~fighting or~~ baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.

(c) A person who participates as a spectator at an exhibition featuring the ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony."

PART IV. EFFECTIVE DATE.

SECTION 4.1. This act becomes effective December 1, 2006, and applies to actions commenced on or after that date.



MEMORANDUM

June 4, 2006

TO: House Committee on Agriculture
FROM: General Statutes Commission
RE: **House Bill 2098 (Protection of Animals)**

Part I of this bill amends two statutes in Article 1 of Chapter 19A of the General Statutes, which provides a civil remedy for animal cruelty.

Section 1.1 amends G.S. 19A-3 ("Preliminary injunction") to clarify several potential questions. It clarifies that a plaintiff in a civil action under Article 1 who obtains a preliminary injunction giving the plaintiff possession of an animal takes possession as custodian, not as an owner. It clarifies that a grant of temporary custody under this section includes authority for the custodian to provide medical care for the animal without the need for an additional court order and without the defendant's permission, although the amendment requires the custodian to consult or try to consult with the defendant beforehand. The "medical care" authorized by this section does not include euthanasia. The amendments specify that before having an animal euthanized, a custodian must obtain either the defendant's written consent or a court order that (i) finds that the animal is suffering due to a terminal illness or injury and (ii) authorizes euthanasia. The amendments also expressly permit the custodian to place the animal with a foster care provider, who is required to return the animal to the custodian on demand.

Section 1.2 amends G.S. 19A-4 ("Permanent injunction") to allow a court to include reimbursement for the costs of caring for an animal during the litigation as part of the costs awarded to a plaintiff who prevails. It also clarifies that (i) a court can enjoin a defendant from acquiring new animals or having more than a certain number of animals for a specified time period, and (ii) if the defendant prevails, the plaintiff must return the animal. The amendment also expressly allows a court to provide for custody and care of an animal pending any appeals.

Part II of this bill amends Article 6 of Chapter 19A, which requires the owner of dogs seized in connection with an arrest for dog fighting to deposit funds for the dogs' care if a county or municipal animal shelter takes custody of them pending litigation. The amendment expands the deposit requirement so that it also applies to any animal that is in the custody of a county or municipal animal shelter as the result of the owner's arrest under Article 47 of Chapter 14 of the General Statutes (animal cruelty) or G.S. 67-4.3 (owning a dangerous dog that attacked someone and caused more than \$100 in damage) or the commencement of a civil action for animal cruelty brought by a county or municipality or its agent.

Part III amends the dog fighting criminal statute, G.S. 14-362.2, to clarify that it applies to fights between dogs and other animals as well as fights between two or more dogs.

Part IV provides an effective date of December 1, 2006.

VISITOR REGISTRATION SHEET

AGRICULTURE

Name of Committee

6/7/06
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jim Blackburn	NC Association of County Commissioners
Lydia Varn	NCACC ↑
Jim ~	RANVC
Jon Carr	NC Veterinary Medical Assoc.
Fern StClair	Concerned Citizen
GARY FREEZE	Catawba College
Joe Mc	McClus Consulting Inc
ROBERT REDER	HUMANE SOCIETY OF THE UNITED STATES RALEIGH OFFICE
Floyd Lewis	General Statutes Commission
P. By Hall	ditto
John Sauls	Chatham Co. Animal Control NC Task Force against Animal Fighting

VISITOR REGISTRATION SHEET

Agriculture
Name of Committee

6/7/84
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Martha Harris

DAILY BULLETIN

Visit

TITLE

Howard D. Ly

NCDACS -

Sherry Lee

NCDACS

David M. Lind

NCDACS

minutes
6-07-06

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 2098*

PROPOSED COMMITTEE SUBSTITUTE H2098-PCS70770-ST-112

Short Title: Protection of Animals.

(Public)

Sponsors:

Referred to:

May 18, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW RELATING TO THE PROTECTION OF
3 ANIMALS, AS RECOMMENDED BY THE GENERAL STATUTES
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 **PART I. CIVIL REMEDY FOR CRUELTY AMENDMENTS.**

7 **SECTION 1.1.** G.S. 19A-3 reads as rewritten:

8 "**§ 19A-3. Preliminary ~~injunction~~-injunction; care of animal pending hearing on**
9 **the merits.**

10 (a) Upon the filing of a verified complaint in the district court in the county in
11 which cruelty to an animal has allegedly occurred, the judge may, as a matter of
12 discretion, issue a preliminary injunction in accordance with the procedures set forth in
13 G.S. 1A-1, Rule 65. Every such preliminary injunction, if the ~~complainant~~-plaintiff so
14 requests, may give the ~~complainant~~-plaintiff the right to provide suitable care for the
15 animal. If it appears on the face of the complaint that the condition giving rise to the
16 cruel treatment of an animal requires the animal to be removed from its owner or other
17 person who possesses it, then it shall be proper for the court in the preliminary
18 injunction to allow the ~~complainant~~-plaintiff to take possession of the animal. animal as
19 custodian.

20 (b) The plaintiff as custodian may employ a veterinarian or other health provider
21 to provide necessary medical care for the animal without any additional court order.
22 Prior to taking such action, the plaintiff as custodian shall consult with, or attempt to
23 consult with, the defendant in the action, but the plaintiff as custodian may authorize
24 such care without the defendant's consent. Notwithstanding the provisions of this
25 subsection, the plaintiff as custodian may not have an animal euthanized without written
26 consent of the defendant or a court order that authorizes euthanasia upon the court's
27 finding that the animal is suffering due to terminal illness or terminal injury.

(c) The plaintiff as custodian may place an animal with a foster care provider. The foster care provider shall return the animal to the plaintiff as custodian on demand.

SECTION 1.2. G.S. 19A-4 reads as rewritten:

"§ 19A-4. Permanent injunction.

(a) In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as the court deems appropriate, including a permanent injunction and dismissal of the action along with dissolution of any preliminary injunction that had been issued.

(b) If the plaintiff prevails, the court in its discretion may include the costs of food, water, shelter, and care, including medical care, provided to the animal, less any amounts deposited by the defendant under G.S. 19A-70, as part of the costs allowed to the plaintiff under G.S. 6-18. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further cruelty if returned to the possession of the defendant, the court may terminate the defendant's ownership and right of possession of the animal and transfer ownership and right of possession to the plaintiff or other appropriate successor owner. For good cause shown, the court may also enjoin the defendant from acquiring new animals for a specified period of time or limit the number of animals the defendant may own or possess during a specified period of time.

(c) If the final judgment entitles the defendant to regain possession of the animal, the custodian shall return the animal, including taking any necessary steps to retrieve the animal from a foster care provider.

(d) The court shall consider and may provide for custody and care of the animal until the time to appeal expires or all appeals have been exhausted."

PART II. DEPOSIT REQUIREMENT WHEN COUNTY OR MUNICIPAL ANIMAL SHELTER TAKES CUSTODY OF ANIMAL PENDING LITIGATION.

SECTION 2.1. Article 6 of Chapter 19A of the General Statutes reads as rewritten:

"Article 6.

"Care of Dogs Illegally Used for Fighting: Animal Subjected to Illegal Treatment.

"§ 19A-70. Care of ~~dogs illegally used for fighting~~, animal subjected to illegal treatment.

(a) In every arrest under G.S. 14-362.2, any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of ~~dogs illegally used for fighting~~, an animal, the animal operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the ~~dogs~~ animal pending the disposition of the ~~charges~~ litigation. For purposes of this section,

1 "reasonable expenses" includes the cost of providing food, water, shelter, and care,
2 including medical care, for at least 30 days.

3 (b) Upon receipt of a petition, the court shall set a hearing on the ~~petition.~~
4 petition to determine the need to care for and provide for the animal pending the
5 disposition of the litigation. The hearing shall be conducted no less than 10 and no more
6 than 15 business days after the petition is filed. The operator of the animal shelter shall
7 mail written notice of the hearing and a copy of the petition to the defendant at the
8 address contained in the criminal ~~charges.~~ charges or the complaint or summons by
9 which a civil action was initiated. If the defendant is in a local detention facility at the
10 time the petition is filed, the operator of the animal shelter shall also provide notice to
11 the custodian of the detention facility.

12 (c) The court shall set the amount of funds necessary for 30 days' care after
13 taking into consideration all of the facts and circumstances of the case, including the
14 need to care for and provide for the animal pending the disposition of the litigation, the
15 recommendation of the operator of the animal shelter and shelter, the estimated cost of
16 caring for and providing for the dogs animal, ~~as well as~~ and the defendant's ability to
17 pay. If the court determines that the defendant is unable to deposit funds, the court may
18 consider issuing an order under subsection (f) of this section.

19 Any order for funds to be deposited pursuant to this section shall state that if the
20 operator of the animal shelter files an affidavit with the clerk of superior court, at least
21 two business days prior to the expiration of a 30-day period, stating that, to the best of
22 the ~~shelter's~~ affiant's knowledge, the ~~criminal~~ case against the defendant has not yet
23 been resolved, the order shall be automatically renewed every 30 days until the ~~criminal~~
24 case is resolved.

25 (d) If the court orders that funds be deposited, the amount of funds necessary for
26 30 days shall be posted with the clerk of superior court. The defendant shall also deposit
27 the same amount with the clerk of superior court every 30 days thereafter until the
28 ~~criminal charges are~~ litigation is resolved, unless the defendant requests a hearing no
29 less than five business days prior to the expiration of a 30-day period. If the defendant
30 fails to deposit the funds within five business days of the initial hearing, or five business
31 days of the expiration of a 30-day period, the ~~dogs are~~ animal is forfeited by operation
32 of law. If funds have been deposited in accordance with this section, the operator of the
33 animal shelter may draw from the funds the actual costs incurred in caring for the ~~dogs.~~
34 animal.

35 In the event of forfeiture, the animal shelter may determine whether ~~any of the dogs~~
36 ~~are~~ the animal is suitable for adoption and whether adoption can be arranged for ~~any of~~
37 ~~the dogs.~~ the animal. The ~~dogs~~ animal may not be adopted by the defendant or by any
38 person residing in the defendant's ~~household, and~~ household. If the adopted animal is a
39 dog used for fighting, the animal shelter shall notify any persons adopting the ~~dogs~~ dog
40 of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67
41 of the General Statutes. If no adoption can be arranged after the forfeiture, or ~~the dogs~~
42 ~~are~~ animal is unsuitable for adoption, the shelter shall humanely euthanize the ~~dogs.~~
43 animal.

(e) The deposit of funds shall not prevent the animal shelter from disposing of the ~~dogs animal~~ prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon ~~the adjudication of the charges, determination,~~ the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. ~~A person who is adjudicated not guilty of the charges under G.S. 14-362.2 shall be entitled to a full refund of the deposit.~~ A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.

(f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any ~~dogs that are~~ animal that is the basis of the charges or claims against the defendant without the removal of the ~~dogs animal~~ from the existing location and until the charges or claims against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the ~~dogs are~~ animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the ~~animals if they are~~ animal if it is not receiving those necessities."

PART III. CLARIFY THAT THE PROHIBITION AGAINST DOGFIGHTING INCLUDES FIGHTS BETWEEN DOGS AND OTHER ANIMALS.

SECTION 3.1. G.S. 14-362.2 reads as rewritten:

"§ 14-362.2. Dog fighting and baiting.

(a) A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under ~~his~~ the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of ~~his~~ the lessor's property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the ~~fighting or~~ baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.

(c) A person who participates as a spectator at an exhibition featuring the ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony."

PART IV. EFFECTIVE DATE.

SECTION 4.1. This act becomes effective December 1, 2006, and applies to actions commenced on or after that date.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Hill (Chair) for the Committee on AGRICULTURE.

☐ Committee Substitute for

HB 2098

A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW
RELATING TO THE PROTECTION OF ANIMALS, AS RECOMMENDED BY THE
GENERAL STATUTES COMMISSION.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the
original bill.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint)
resolution (No. _____) is placed on the Calendar of _____. (The original bill
resolution No. _____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-
referred to the Committee on _____. (The original bill/resolution) (House/Senate
Committee Substitute Bill/(Joint) resolution No. _____) is placed on the Unfavorable
Calendar.

**MINUTES
HOUSE COMMITTEE ON AGRICULTURE**

June 28, 2006

The House Committee on Agriculture met on Wednesday, June 28, 2006, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chairs Bell, Coates, Langdon, and Tucker; Representatives Faison, Kiser, Pierce, Tolson, Underhill, Walker, Warren, and Wilson.

Chair Hill called the meeting to order at 12:00 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration list is attached and made part of these minutes.

Chair Hill asked for a motion to accept **Senate Bill 1156 Appropriations/Base Budget Committee Substitute #2, adopted 7/27/06, Dairy Stabilization and Growth Prgm.** for discussion. Representative Tolson made a motion to accept the Committee Substitute for discussion. The motion passed.

Dewitt Hardee, North Carolina Department of Agriculture explained the Committee Substitute. Questions and discussion followed.

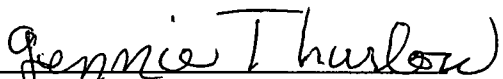
Representative Tolson moved for a favorable report as to the committee substitute bill. The motion carried.

Lewis M. Fetterman, Sr., chairman & CEO, Super Soil Systems USA, Inc., and Kyle Fetterman, gave a slide presentation on North Carolina's Swine Waste Treatment Solution. Questions and discussion followed.

The meeting adjourned at 12:50 p.m.



Representative Dewey Hill, Chair



Gennie Thurlow, Committee Assistant

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Hill (Chair) for the Committee on AGRICULTURE.

☒ Committee Substitute for ~~SB~~ 2

SB 1156

A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE
NORTH CAROLINA DAIRY STABILIZATION AND GROWTH FUND TO
PROVIDE CRITICAL SUPPORT FOR THE NORTH CAROLINA DAIRY
INDUSTRY.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of
_____.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S

3

SENATE BILL 1156

Agriculture/Environment/Natural Resources Committee Substitute Adopted
5/23/05

Appropriations/Base Budget Committee Substitute Adopted 7/27/05

Short Title: Dairy Stabilization and Growth Prgm.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA DAIRY STABILIZATION
AND GROWTH FUND TO PROVIDE CRITICAL SUPPORT FOR THE NORTH
CAROLINA DAIRY INDUSTRY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 106 of the General Statutes is amended by adding a
new Article to read:

"Article 68A.

"North Carolina Dairy Stabilization and Growth Program.

"§ 106-812. Findings.

(a) The General Assembly finds that North Carolina has suffered a significant
loss of its traditional industrial and agricultural economic base. The State's dairy
industry is at serious risk of total collapse unless milk prices reach levels sufficient to
allow dairy farmers to meet production costs. At the same time, North Carolina is
experiencing rapid population growth and urbanization. This growth and urbanization
have fueled a rapid loss of prime agricultural land and green space, resulting in a decline
in the quality of life for which the State is known.

(b) The General Assembly finds that the dairy industry in North Carolina makes
a substantial economic, environmental, and quality-of-life contribution to the well-being
of the citizens of the State. The dairy industry, including both producers and processors,
currently contributes over six hundred million dollars (\$600,000,000) and 3,000 jobs to
the State's economy. Properly managed dairy farms help maintain green space, keep
prime agricultural land under production, maintain water quality, enhance food security,
and provide a local supply of fresh milk at a reasonable cost to the consumer and to
processors in the State. An adequate local milk supply has become increasingly
important as transportation costs escalate, making the importation of milk from
out-of-state increasingly expensive. The General Assembly finds, however, that despite

1 its importance to the State's economic and environmental well-being, North Carolina's
2 dairy industry is under severe economic pressure, and milk production is declining at an
3 alarming rate. According to United States Department of Agriculture statistics, since
4 1985 the State has lost sixty-seven percent (67%) of its dairy farms and thirty-five
5 percent (35%) of its processing facilities. North Carolina dairy farms no longer produce
6 sufficient milk for North Carolina's processing facilities to operate. Milk must be
7 imported 10 out of 12 months each year to keep these processing facilities functioning.
8 Further, farm prices for milk exhibit great volatility, creating financial risk and
9 discouraging investment. The General Assembly finds that it is essential to a viable
10 North Carolina dairy industry to have locally produced milk available to processors in
11 the State. The General Assembly further finds that it is essential to the well-being of the
12 citizens of the State to have a local supply of fresh milk available at reasonable cost and
13 not subject to the vagaries of transportation costs and production conditions in other
14 regions of the country.

15 (c) The General Assembly finds that one of the primary reasons for the decline in
16 milk production in the State is the gap between the price paid to farmers for milk under
17 the federal milk programs and the actual cost of production. Inability to meet production
18 costs combined with increasing land prices have led many milk producers to sell their
19 farms for development and retire or turn to other employment. The General Assembly
20 finds that the most effective means to ensure the continuation of a viable dairy industry
21 in this State is to establish a price floor for milk to enable dairy farmers to meet their
22 production costs. It is the intent of the General Assembly to establish a price support
23 program that will stabilize and reverse the decline in the local milk supply and in the
24 dairy industry in the State and encourage new producers to enter the dairy industry.
25 Sustaining and growing North Carolina's dairy industry will advance the State's goals of
26 preserving and enhancing its economic base and improving the quality of life in the
27 State through maintaining green space and water quality and assuring an adequate local
28 supply of fresh milk.

29 **"§ 106-813. North Carolina Dairy Stabilization and Growth Fund.**

30 (a) The North Carolina Dairy Stabilization and Growth Fund is created as a
31 nonreverting account in the Department of Agriculture and Consumer Services. The
32 Fund shall consist of any money appropriated to the Fund by the General Assembly and
33 money made available to it from grants, donations, and other sources. The Board of
34 Agriculture shall actively seek donations, grants, and other sources of money for the
35 Fund.

36 (b) The Board shall use the monies in the Fund as follows:

37 (1) Up to two percent (2%) of the money appropriated annually by the
38 General Assembly may be used by the Department for the costs of
39 administering the Dairy Stabilization and Growth Program. In the
40 event that the General Assembly does not make an appropriation to the
41 Fund in a given year, up to two percent (2%) of the balance remaining
42 in the Fund may be used by the Department for the costs of
43 administering the Program.

(2) The monies remaining after administrative expenses are deducted shall be used to provide assistance to North Carolina dairy farmers in accordance with the provisions of G.S. 106-814.

(3) At the end of any fiscal year in which the total payments to North Carolina dairy farmers under G.S. 106-814 are less than fifty percent (50%) of the amount appropriated by the General Assembly for the year, five percent (5%) of the unspent appropriation for the year may be set aside for use in that year and subsequent years for programs to support the development of the dairy industry.

"§ 106-814. Dairy Stabilization and Growth Program.

(a) On 1 July of each year the Board of Agriculture shall set a milk support baseline price. The baseline price per hundredweight of milk shall be the average United States Department of Agriculture Federal Milk Market Order Class I price mover for the previous 10 years less fifty cents (50¢).

(b) The Board shall adopt rules implementing the provisions of this Article. The rules shall include criteria for eligibility for distributions from the Fund, procedures for applications for distributions from the Fund, the method by which the amount of a payment to a producer shall be calculated, and the manner of payment to producers.

(c) Each month the Board shall determine whether the monthly announced United States Department of Agriculture Federal Milk Market Order Class I price mover has dropped below the baseline price set for the year. If the monthly announced Class I price mover is lower than the baseline price, then each producer who meets the requirements of subsection (f) of this section shall become eligible for a distribution from the Fund in an amount equal to the difference between the baseline price and the monthly announced Class I price mover multiplied by the hundredweight of milk sold by the producer for the month.

(d) Under exceptional circumstances, and in the discretion of the Board, the amount of any monthly distribution as calculated by the formula set forth in subsection (c) of this section may be increased by an amount not to exceed one dollar (\$1.00) per hundredweight of milk sold in that month.

(e) Distributions shall be made to eligible producers at least quarterly, unless in the judgment of the Board the payment amounts are trivial. All payments under the Program are subject to the availability of funds.

(f) To be eligible to receive assistance from the Dairy Stabilization and Growth Fund, a dairy farmer shall demonstrate to the satisfaction of the Board that they are in compliance with the following rules and regulations:

(1) For Grade A milk producers, the federal Grade A milk regulations.

(2) For non-Grade A producers, Article 26 of Chapter 106 of the General Statutes and the rules implementing that Article.

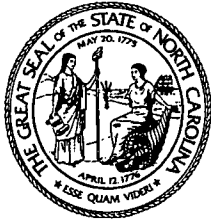
(g) Farmers who fail to demonstrate compliance with applicable rules and regulations shall become ineligible for assistance from the Fund until compliance is attained."

SECTION 2. The Commissioner of Agriculture shall file a report no later than 31 March of each year with the Chairs of the House of Representatives and Senate

1 Appropriations Subcommittees on Natural and Economic Resources, the Chair of the
2 House of Representatives Agriculture Committee, and the Chair of the Senate
3 Committee on Agriculture, Environment, and Natural Resources which shall include the
4 following:

- 5 (1) The short- and long-term problems associated with maintaining a
6 viable dairy industry in the State.
- 7 (2) Ways to sustain the existing dairy industry in the State.
- 8 (3) Opportunities to expand the dairy industry, including attracting both
9 new dairy producers and new processors to the State.
- 10 (4) The contribution of dairy farms to the maintenance of prime
11 agricultural land and the quality of life in the State.
- 12 (5) An analysis of the effectiveness of the Dairy Stabilization and Growth
13 Program in achieving the goals of maintaining a local supply of fresh
14 milk for processing and consumption, facilitating the entry of young
15 farmers into the dairy industry, and preserving green space along the
16 urban fringe.
- 17 (6) Other factors that impact the dairy industry in the State.

18 **SECTION 3.** This act is effective when it becomes law.



SENATE BILL 1156: Dairy Stabilization and Growth Prgm

BILL ANALYSIS

Committee: House Agriculture
Introduced by: Sen. Albertson
Version: Third Edition

Date: June 28, 2006
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *Senate Bill 1156 establishes the North Carolina Dairy Stabilization and Growth Program (Program). The purpose of the Program is to establish a price floor for milk that would enable dairy farmers to cover their production costs, and in doing so, reverse the decline in the dairy industry in the State. The Program provides for payments from the Dairy Stabilization and Growth Fund (Fund) to dairy farmers in the State when the price of milk per hundredweight falls below the average USDA federal Milk Market Order Class I price mover for the past 10 years, less 50 cents. The Bill directs the Commissioner of Agriculture to report annually on the effectiveness of the Program in achieving its goals of maintaining a local supply of fresh milk for processing and consumption, attracting new farmers into dairying, and preserving green space. No appropriation is made to the Fund in the Bill.*

BILL ANALYSIS:

Section 1 adds a new Article 68A to Chapter 106 of the General Statutes containing the following new sections:

G.S. 106-812 contains extensive findings about the decline of the dairy industry in the State and how the industry contributes to State goals such as food security, maintaining a local supply of fresh milk at a reasonable cost to both consumers and to in-State processing plants, and preservation of green space. According to the United States Department of Agriculture (USDA), North Carolina has lost 67% of its dairy farms and 35% of its processing plants since 1985. Milk must be imported 10 out of 12 months of the year in order to keep the processing plants operating, as the remaining dairies in the State no longer produce sufficient milk to cover the demand.

G.S. 106-813 establishes the North Carolina Dairy Stabilization and Growth Fund (Fund). The nonreverting fund is to consist of any monies appropriated by the General Assembly and monies made available from grants, donations and other sources. The Board of Agriculture (Board) is directed to actively seek alternative funding sources.

Up to 2% of the money appropriated annually by the General Assembly may be used to cover the costs of administration of the program. If no money is appropriated to fund a given year, up to 2% of the balance remaining in the Fund may be used for administrative costs. The balance of monies in the Fund, after administrative costs, is to be used to provide assistance to North Carolina dairy farmers as provided in G.S. 106-814. If, in any year, total payments to farmers amount to less than 50% of the monies appropriated by the General Assembly for the year, 5% of the remaining funds may be set aside for programs to support the development of the dairy industry.

G.S. 106-814 establishes the Dairy Stabilization and Growth Program (Program). The section requires the Board to annually set a baseline price for milk. That baseline price is the average USDA federal Milk Market Order Class 1 price mover for the previous 10 years, less 50 cents.

Each month, if a determination is made that the monthly announced Class 1 price mover has dropped below the annual baseline price, then eligible producers are entitled to a distribution from the Fund in an

Senate Bill 1156

Page 2

amount equal to the difference between the baseline price and the announced monthly Class I price mover, multiplied by the hundredweight of milk sold by the producer for the month. Under exceptional circumstances, the Board may increase this amount by up to \$1 per hundredweight. Distributions shall be made on a quarterly basis.

To be eligible for a distribution, a dairy farmer must: (1) if a Grade A producer, be in compliance with the federal Grade A milk regulation; or (2) if a non-Grade A producer, be in compliance with Article 26 of Chapter 106 of the General Statutes, which regulates cleanliness and sanitation at ice cream plants, creameries and cheese plants. A dairy farmer who fails to demonstrate compliance becomes ineligible for distributions until compliance is attained.

The PCS directs the Board to adopt rules implementing the provisions of the Article.

Section 2 sets forth the reporting requirements for the program.

Section 2 requires that the Commissioner of Agriculture report annually to the Chairs of the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Chair of the House Agriculture Committee and the Chair of the Senate Committee on Agriculture, Environment and Natural Resources. The report is to specifically cover:

- The short and long term issues in maintaining the dairy industry.
- Ways to sustain the existing dairy industry.
- Opportunities to expand the industry, including attracting new producers and processors.
- The contribution of dairy farms to maintaining prime farmland and the quality of life in the State.
- An analysis of the effectiveness of the Program in achieving the goals of maintaining a local supply of fresh milk, attracting new farmers into dairying, and preserving green space.
- Other factors impacting the dairy industry in the State.

EFFECTIVE DATE: The bill is effective when it becomes law.

BACKGROUND: USDA federal Milk Market Order price movers reflect the minimum price for raw fluid-grade milk sold between producers and processors under federal milk marketing programs designed to help stabilize and support the price of milk. The Class I price mover is based on the wholesale price of milk (per hundredweight) sold during the first two weeks of the previous month, and is the higher of either (a) the value of milk in cheese or (b) the value of milk in butter and nonfat dry milk.

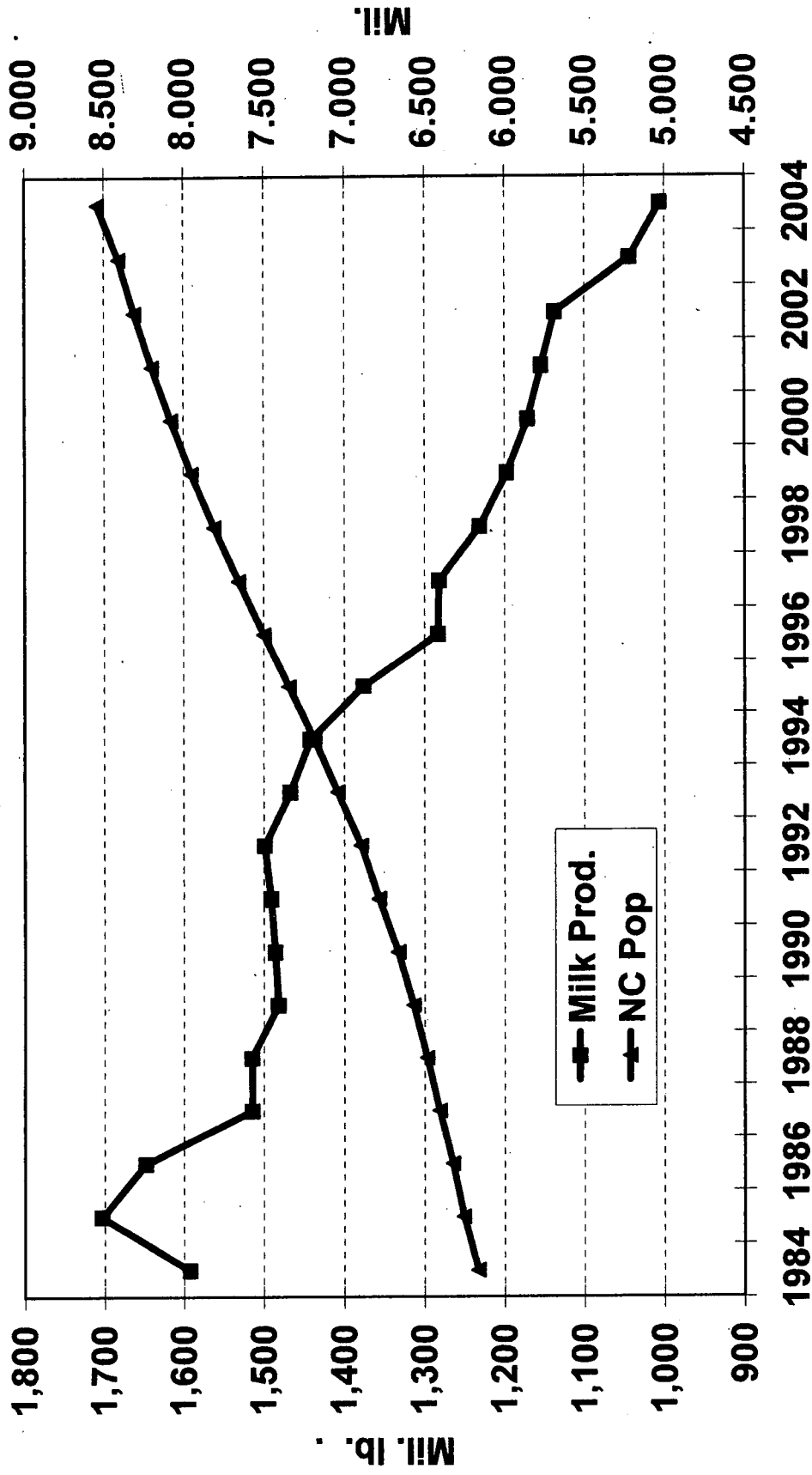
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North Carolina Dairy Cow Facts

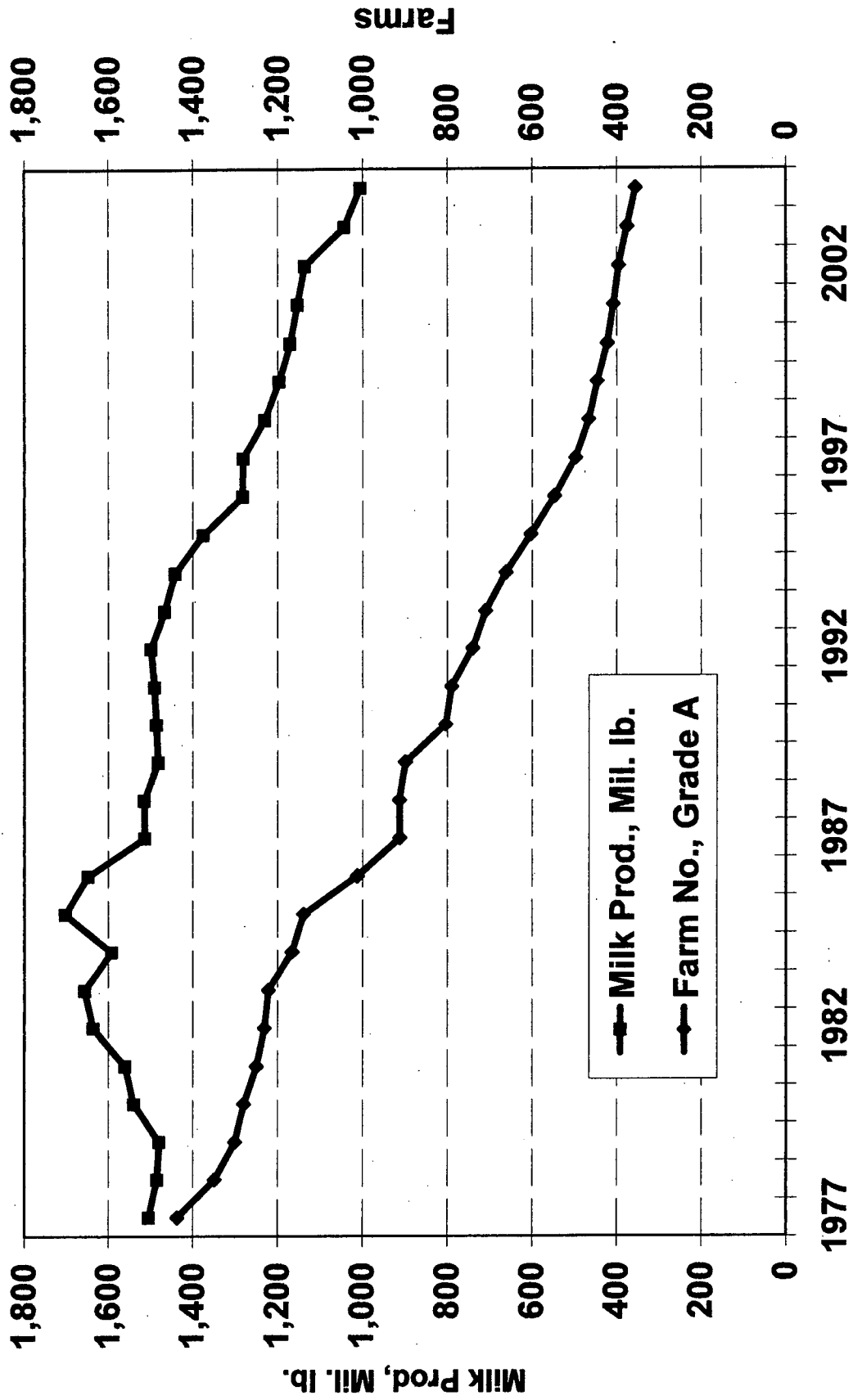
(January 1, 2006)

1. The North Carolina dairy industry generated approximately one-half billion dollars in economic activity in 2005.
2. North Carolina has 11 Grade A milk processing plants (7 large commercial fluid milk processors & 4 producer / processors), 1 large commercial cheese processing plant and several smaller homestead cheese operations. North Carolina Class I plant milk production was approximately 107,126,655 gallons in 2005.
3. Total farm milk production in the state last year was an estimated 118,860,000 gallons.
4. There were 365 commercial dairy farms in North Carolina as of Jan. 1, 2006..
5. In North Carolina, cash receipts for the sale of milk by dairy farmers amounted to \$171 million in 2004.
6. The mailbox price paid to North Carolina dairy farmers was an estimated \$15.30 per hundred weight or approximately \$1.32 for each gallon of milk they produced in 2005.
7. Last year there were 54,000 milk cows in the state.
8. Each dairy cow in North Carolina produced an average of 2,164 gallons of milk.
9. In North Carolina, about 66 percent of the milk produced in 2005 was used in fluid dairy products.
10. North Carolina dairy cows produced an average of 5.9 gallons of milk per day, or enough to make 5.1 pounds of cheese or 1.8 pounds of butter. To produce this much milk, a cow consumes 35 gallons of water, 20 pounds of grain and concentrated feeds and 70 pounds of corn silage.
11. The average daily expense per milking cow is about \$9.90. It takes \$3.60 to pay for feed, \$1.60 for other livestock expenses and \$.65 for crop related costs. Employee pay, machinery cost and normal overhead expense is another \$3.00 per day. Depreciation of farm assets and interest on debt amounts to \$1.05 per day. An additional \$1.85 per day is the estimated value of family labor, living expense and debt retirement.
12. In 2005, a dairy cow in North Carolina cost about \$1,830. A typical North Carolina commercial dairy herd has approximately 160 cows.
13. The top ranking dairy counties based on number of dairy cows as of December 31, 2005 were:
 - ◆ Iredell 12,300
 - ◆ Alleghany 2,800
 - ◆ Alexander 2,500
 - ◆ Randolph 2,500
 - ◆ Yakdin 2,300
 - ◆ Alamance 2,300
 - ◆ Guilford 2,100
 - ◆ Haywood 1,900

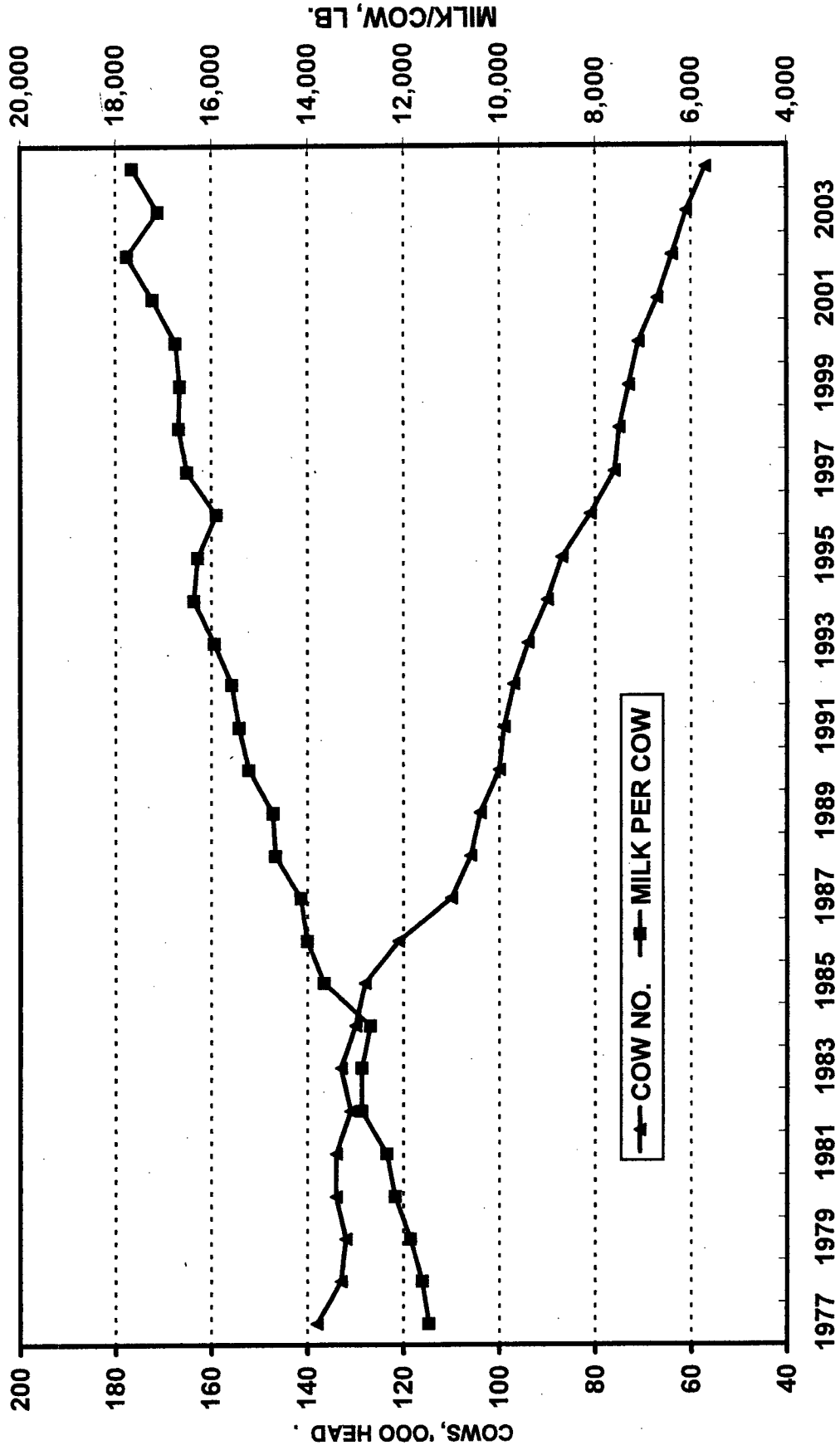
NC Milk Production and Population, 1984-2004



NC Grade A Milk Production and Farms, 1977-2004



NC DAIRY COW NUMBERS AND MILK PRODUCTION PER COW, 1977-2004



VISITOR REGISTRATION SHEET

Agriculture
Name of Committee

6/28/2006
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Joe Rudek	4000 Westchase Rd environmental Defense Raleigh
Melby Higgins	Sierra Club
DBF	AK TB
L. Rogers	NC DENR
DICK HAMILTON	NC WRC
Bob Linkay	Nature Works
TATJANA VUJIC	ENVTL DEFENSE
Kris Coracini	" "
DAN WHITTLE	" "
Karen Kelly	gov. office
Kathryn Pomeroy	Gov's Office
Paula M. Lattimer	SSS & R
MATIAS VANOTTI	USDA - ARS

VISITOR REGISTRATION SHEET

Agriculture
Name of Committee

6/28/06
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Geoff Benson

ARE, NCSU.

Dewitt Hordel

NCDA 2C5

Chester Lawder

NC Farm Bureau

Jeray Hardesty

NCR

Tommy Stevens

NCP

Mary Wilder

DSHC - DENR

Erica Rude

CWMTF

Heather Randell

NC Sierra Club

Emily Kirby

NC Conservation Network

Russ Dubinsky

SSG NC

Theresa Koszorek

SSG NC

Tyson Schoedel

ED

Tom Bean

NC Enviro Def

House Pages

Name Of Committee: Agriculture Date: 6-28-06

1. Name: Kara Jenkins

County: Forsyth

Sponsor: Bill McGee

2. Name: Devin Weiss

County: Wake

Sponsor: Black

3. Name: Jenna Davis

County: Durham

Sponsor: Mickey Wilcox

4. Name: Kevin Sanderson

County: Robeson

Sponsor: Garland Pierce

5. Name: _____

County: _____

Sponsor: _____

Sgt-At-Arms

1. Name: Louissant Arent

2. Name: Tom Wilder

3. Name: Nell Cooper

4. Name: _____

5. Name: —

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **Wednesday, June 28, 2006**

TIME: **12:00 Noon**

LOCATION: **1228 Legislative Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

Senate Bill 1156 DAIRY STABILIZATION AND GROWTH PRGM. --
Senator Albertson

Presentation: **Lewis M. Fetterman, Sr.**
 Chairman & CEO
 Super Soil Systems USA, Inc.

Evaluation of Environmentally Superior Technology: Swine Waste Treatment System for Elimination of Lagoons, Reduced Environmental Impact, and Improved Water Quality.

Respectfully,
Representative Hill
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at
3:35 p.m. on June 22, 2006.

____Principal Clerk
____Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

Super Soil Systems

North Carolina's Swine Waste Treatment Solution

Technology Verification Data 2003-2004

On-Farm Environmentally Superior Technology

- ✓ Suspended Solids reduced 98%
- ✓ Volatiles reduced 99%
- ✓ Ammonia reduced 99%
- ✓ Biological oxygen demand reduced 100%
- ✓ Phosphorus reduced 94%
- ✓ Heavy metals reduced 99%

Generation II Improvements

- Minimizes initial investment
- Lowers operating costs
- Utilizes modular installation
- Processes 80% faster
- Produces drier cake solids
- More rugged and easier to operate

Carbon Credits

- ✓ Reduce carbon emissions by 1.12 tonnes CO₂-eq/head/year (99% reduction)
- ✓ Trade carbon credits (currently \$4 per ton – Chicago Climate Exchange)
- ✓ Current dollar value = \$1.80/head/year

Direct Benefits = \$4.45 to \$8.15 per hog

Increased/Improved

- Feed conversion
- Rate of gain
- Product demand
- Working conditions

Decreased

- Mortality
- Need for medicines/antibiotics
- Health costs for both animals and employees
- Land required for spraying

Social Benefits = \$3.50 to \$6.50 per hog

Increased/Improved

- Property values
- Water conservation

Decreased/Eliminated

- Odor
- Waste lagoons
- Environmental impact and footprint
- Air emissions

Short-term Benefits of Statewide Implementation

- ✓ Multiple demonstration farms to gain public support and producer confidence
- ✓ Model optimization with 80-120 swine farms
 - Costs of equipment and service minimized
 - Precise quantification of direct and social benefits

Long-term Benefits

- ✓ EST farmers will be NC moratorium exempt
- ✓ Expansion of existing operations and possible new operations
- ✓ INDUSTRY SUSTAINABILITY, HEALTHIER ENVIRONMENT, HAPPIER COMMUNITIES

Table A
Operational Cost and Feasibility Curve
As Financed at 7% for 144 Months

Capacity	Electric					Preliminary Costs			Costs After Compounding Credits			
	Financing	Polymer	Solids Removal	NIP Removal	Maintenance	Management & Licensing	Yearly Cost Per Capacity	Per Hog	After Carbon (\$1.80)	Community - Social Benefits (\$3.50/2)	Producer - Direct Benefits (\$4.45/2)	Target** (\$4.32)
0												4.32
2000	22.75	1.97	0.809	3.500	1.00	2.65	32.681	13.072	11.272	9.522	7.297	4.32
3000	15.17	1.97	0.544	2.390	1.00	2.50	23.574	9.430	7.630	5.880	3.655	4.32
4000	11.37	1.97	0.405	1.791	0.75	2.50	18.786	7.514	5.714	3.964	1.739	4.32
5000	9.10	1.97	0.324	1.430	0.75	2.50	16.074	6.430	4.630	2.880	0.655	4.32
6000	7.58	1.97	0.270	1.194	0.50	2.50	14.014	5.606	3.806	2.056	-0.169	4.32
7000	6.50	1.97	0.491	2.106	0.50	2.50	14.067	5.627	3.827	2.077	-0.148	4.32
8000	5.69	1.97	0.430	1.843	0.50	2.50	12.933	5.173	3.373	1.623	-0.602	4.32
9000	5.06	1.97	0.382	1.636	0.50	2.50	12.048	4.819	3.019	1.269	-0.956	4.32
10000	4.55	1.97	0.344	1.474	0.50	2.50	11.338	4.535	2.735	0.985	-1.240	4.32
11000	4.14	1.97	0.312	1.340	0.50	2.50	10.762	4.305	2.505	0.755	-1.470	4.32
12000	3.79	1.97	0.286	1.228	0.50	2.50	10.274	4.110	2.310	0.560	-1.665	4.32

*Capacity at 2.5 turns per year

** Target value derived from current system costs of \$80 per 1000 lbs. Steady-state Live Weight

Operational Costs

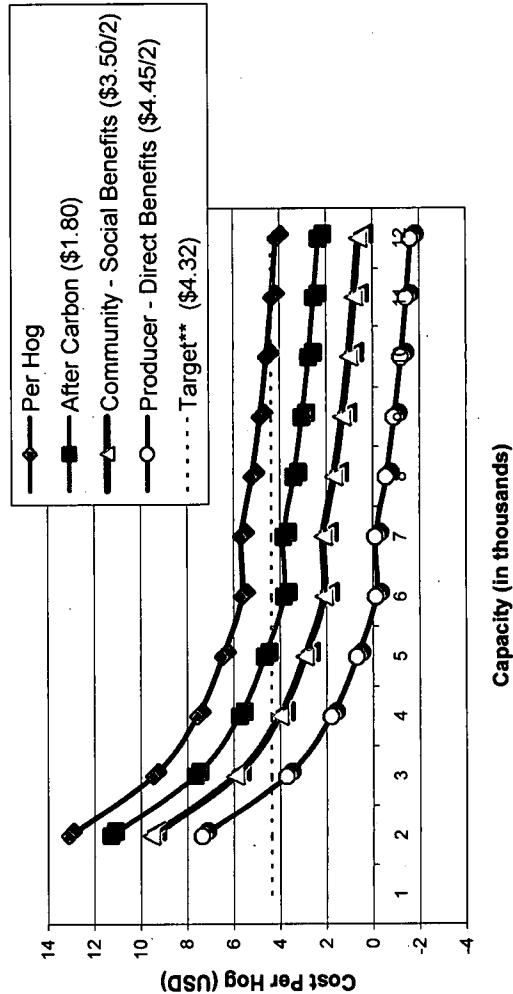


Table B
Operational Cost and Feasibility - Social & Direct Credits
As Financed at 7% for 144 Months

Range of Estimated Credit Values

Preliminary Costs		Minimum				Average				Maximum			
		Social	Mortality & Direct	Social	Mortality & Direct	Social	Mortality & Direct	Social	Mortality & Direct				
Capacity*	Yearly Cost Per Capacity	Per Hog											Target** (\$4.32)
0													4.32
2000	32.301	12.920	9.420	4.970	7.920	1.620	6.420	-1.730					4.32
3000	23.194	9.278	5.778	1.328	4.278	-2.022	2.778	-5.372					4.32
4000	18.406	7.362	3.862	-0.588	2.362	-3.938	0.862	-7.288					4.32
5000	15.694	6.278	2.778	-1.672	1.278	-5.022	-0.222	-8.372					4.32
6000	13.634	5.454	1.954	-2.496	0.454	-5.846	-1.046	-9.196					4.32
7000	13.687	5.475	1.975	-2.475	0.475	-5.825	-1.025	-9.175					4.32
8000	12.553	5.021	1.521	-2.929	0.021	-6.279	-1.479	-9.629					4.32
9000	11.668	4.667	1.167	-3.283	-0.333	-6.633	-1.833	-9.983					4.32
10000	10.658	4.263	0.763	-3.687	-0.737	-7.037	-2.237	-10.387					4.32
11000	10.382	4.153	0.653	-3.797	-0.847	-7.147	-2.347	-10.497					4.32
12000	9.894	3.958	0.458	-3.992	-1.042	-7.342	-2.542	-10.692					4.32

*Capacity assumes 2.5 turns per year

** Target value derived from current system costs of \$80 per 1000 lbs. Steady-state Live Weight

FOR IMMEDIATE RELEASE

CONTACT: Dan Whittle, Environmental Defense, 919-881-2914
Chuck Stokes, Ayden hog farmer, 252-531-2689
Rep. Carolyn Justice, 919-715-9664
Dr. Mike Williams, NCSU researcher, 919-513-0469

FEDERAL GRANT WILL DEVELOP, MARKET NC HOG WASTE BYPRODUCTS
Environmental Defense, Frontline Farmers Announce \$750,000 Project That Will Spur Innovation

(June 28, 2006 - Raleigh, NC) Environmental Defense and Frontline Farmers today announced a \$750,000 project that will support the development of byproducts from two leading innovative hog waste management technologies. The project lays the foundation for widespread implementation of new, cleaner waste systems on farms across North Carolina and will help to establish the state as a leader in the management of agricultural waste. The project will generate value-added products from hog waste and evaluate the economic potential of the products to generate new income for farmers. The project is a pivotal step in implementing recommendations issued by NC State University based on six years of research on the best alternatives to traditional open-air lagoons.

The project is a public-private partnership launched with a \$375,000 grant to NC State University (NCSU) from the Natural Resources Conservation Service, a program within the US Department of Agriculture (USDA). The grant will be matched with funds from a collaboration of partners spearheaded by Environmental Defense and Frontline Farmers. Earlier this year, Environmental Defense and Frontline Farmers identified USDA as a source of funding and then secured commitments for in-kind and cash contributions from the NC Department of Environment and Natural Resources, NC Department of Transportation, NC Division of Soil and Water Conservation, NatureWorks Organics, NCSU, Nicholas Institute for Environmental Policy Solutions at Duke University and Super Soil Systems.

"The USDA grant confirms that we have done our homework on hogs," said Dan Whittle, senior attorney for the North Carolina office of Environmental Defense. "The grant supports our plan for making proven technologies affordable and widely available. It jump starts a new future for hog farming. It is an investment in the right direction."

"There are motivated farmers out here who are willing to explore new technologies, but they need some seed money to make the transition," said Chuck Stokes, a co-founder of Frontline Farmers from Ayden.

"This grant will help put new technologies where they belong – directly in the hands of farmers – and lead to lower costs for all farmers. There's going to be a ripple effect for years to come."

(over)

"The grant is a huge vote of confidence in a clean, profitable future for hog farming," said Rep. Carolyn Justice, who introduced a bill in the NC House to establish a voluntary Early Adoption Program for farmers installing new waste systems. "The USDA is saying, 'North Carolina has the right idea, and we are going to invest in it.' This is big news for the entire state, not just hog farming counties. If North Carolina also makes an investment, we have the potential to bring in many more millions of dollars in federal funding."

For more information on NC hog farming, visit www.environmentaldefense.org/go/nchogs.

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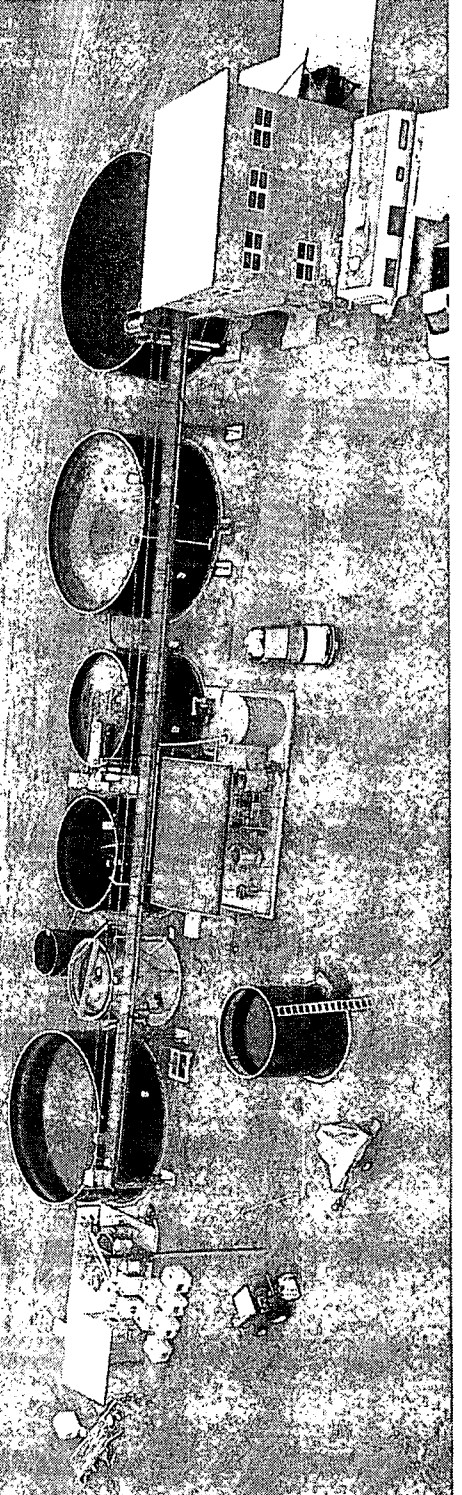
Environmental Defense, representing more than 400,000 members nationally, links science, economics, law and innovative private-sector partnerships to create breakthrough solutions to urgent environmental problems. www.environmentaldefense.org

Frontline Farmers is a nonprofit organization comprised of swine producers and their families in North Carolina.

Super Soil Systems

NORTH CAROLINA'S

Swine Waste Treatment Solution





Super Soil Systems aims to:

- ✓ **Afford industry sustainability and further profitability in an increasingly competitive global marketplace**
- ✓ **Provide cost-effective means for farmers to be environmentally responsible**
- ✓ **Help provide the end consumer with the best product at the least cost**

Super Soil Systems

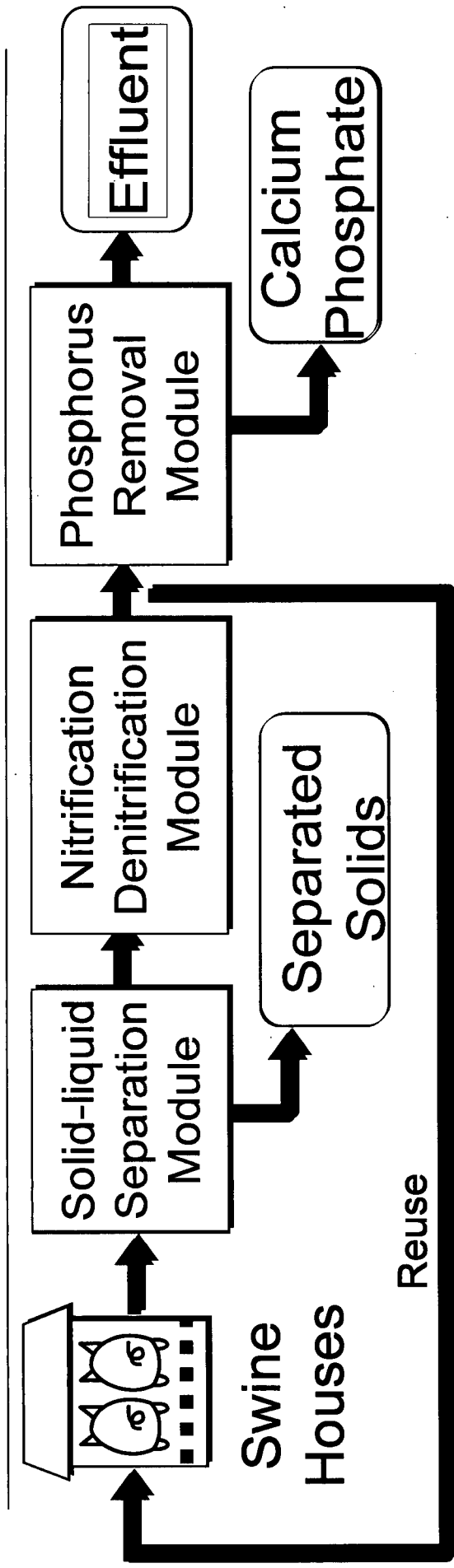
1st GENERATION

Research & Development Test Facility



Patented 2005

The Process



Super Soil Systems

Smithfield Agreement

- ✓ Affirmed better waste management as a statewide priority
- ✓ Outlined faults with existing systems and called for "substantial" reductions in problematic areas
- ✓ Any technology performing to these guidelines was deemed an Environmentally Superior Technology (EST)



Super Soil Systems

AGREEMENT is made this 25th day of July, 2000, by and between the STATE OF NORTH CAROLINA; SMITHFIELD FOODS, INC.; CARROLL'S FOODS, INC.; MURPHY FARMS, INC.; AND QUARTER M FARMS, INC.

WHEREAS, Brown's of Carolina, Inc.; Carroll's Foods, Inc.; Murphy Farms, Inc.; and Quarter M Farms, Inc. are subsidiaries of Smithfield Foods, Inc. ("Smithfield") (collectively, the "Subsidiaries") are owned and operated by Smithfield Foods, Inc. ("Smithfield") (collectively, the "Companies") are engaged in raising hogs on farms they individually own and operate. The Subsidiaries also contract individually with independent contractors to raise their hogs. Smithfield owns all of the outstanding stock of the Subsidiaries, but the Subsidiaries are not permitted to raise any hogs in North Carolina.

WHEREAS, the Attorney General is acting pursuant to his authority under Chapter 114 of the General Statutes and enters into this Agreement after consulting with the North Carolina Department of Environment and Natural Resources ("DENR").

WHEREAS, hog production and a clean and safe environment are important to the farming industry and economy of North Carolina.

WHEREAS, the current anaerobic lagoon and ... by the Subsidiaries.

Technology Verification 2003-2004

- ✓ Suspended Solids reduced 98%
- ✓ Volatiles reduced 99%
- ✓ Ammonia reduced 99%
- ✓ Biological oxygen demand reduced 100%
- ✓ Phosphorus reduced 94%
- ✓ Heavy metals reduced 99%

Evaluation by USDA – ARS

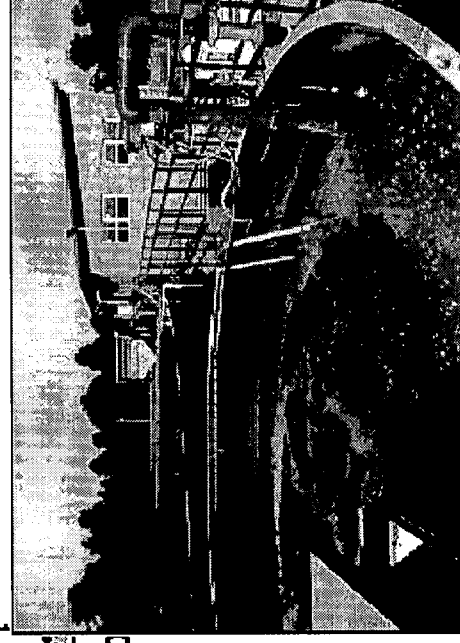
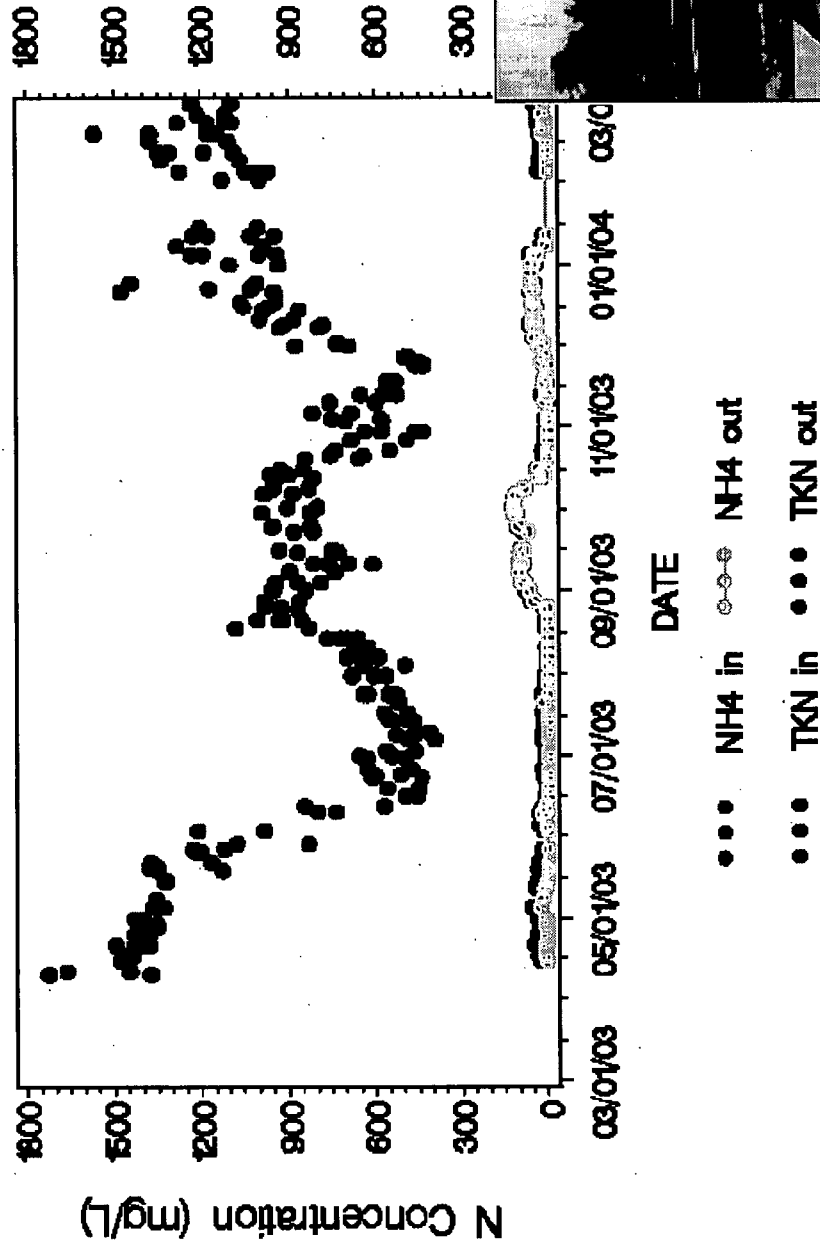


Super Soil Systems



Nitrogen Removal

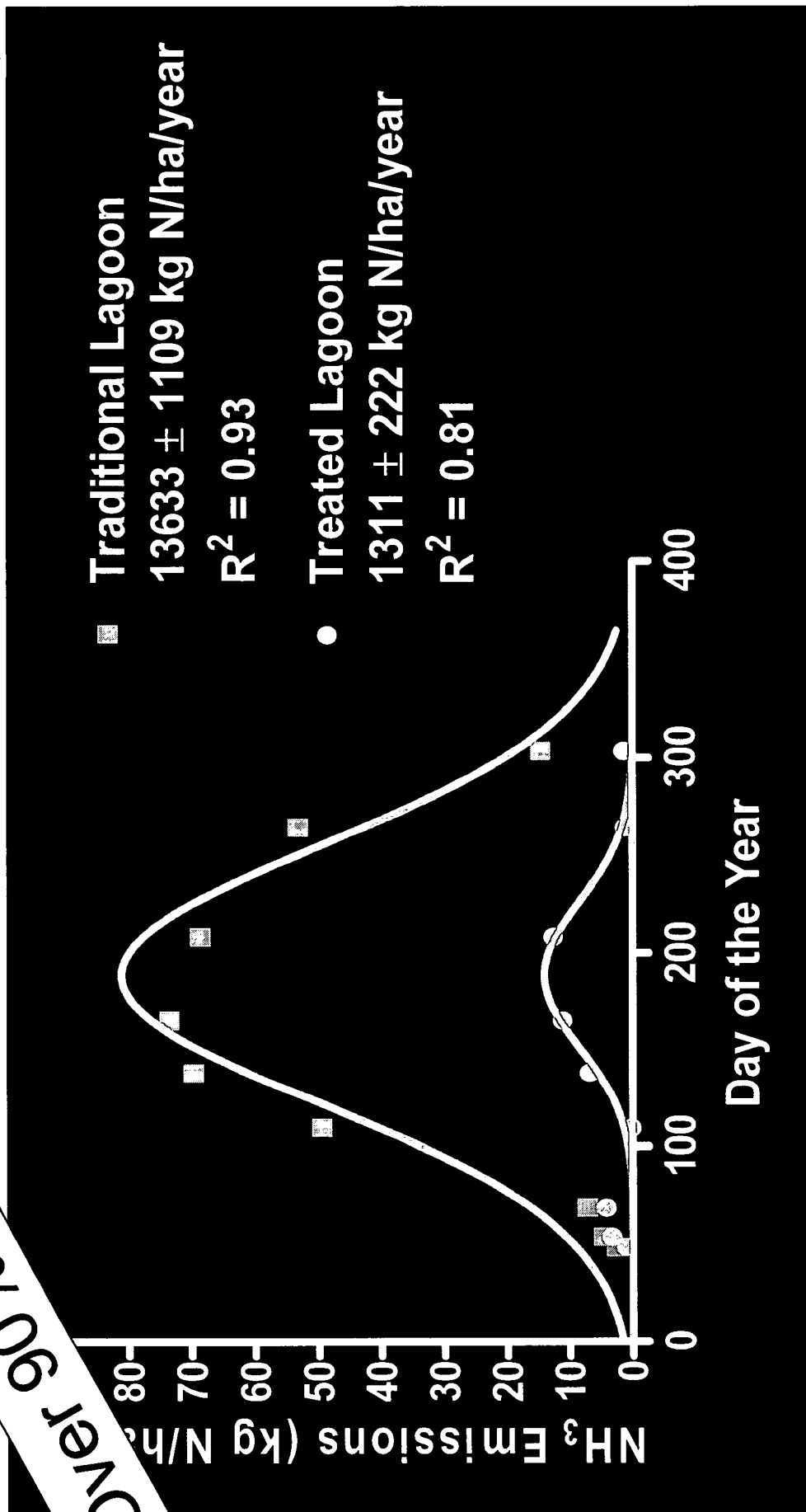
Removal of ammonia and TKN by biological N treatment



Super Soil Systems

Over 90% Reduction

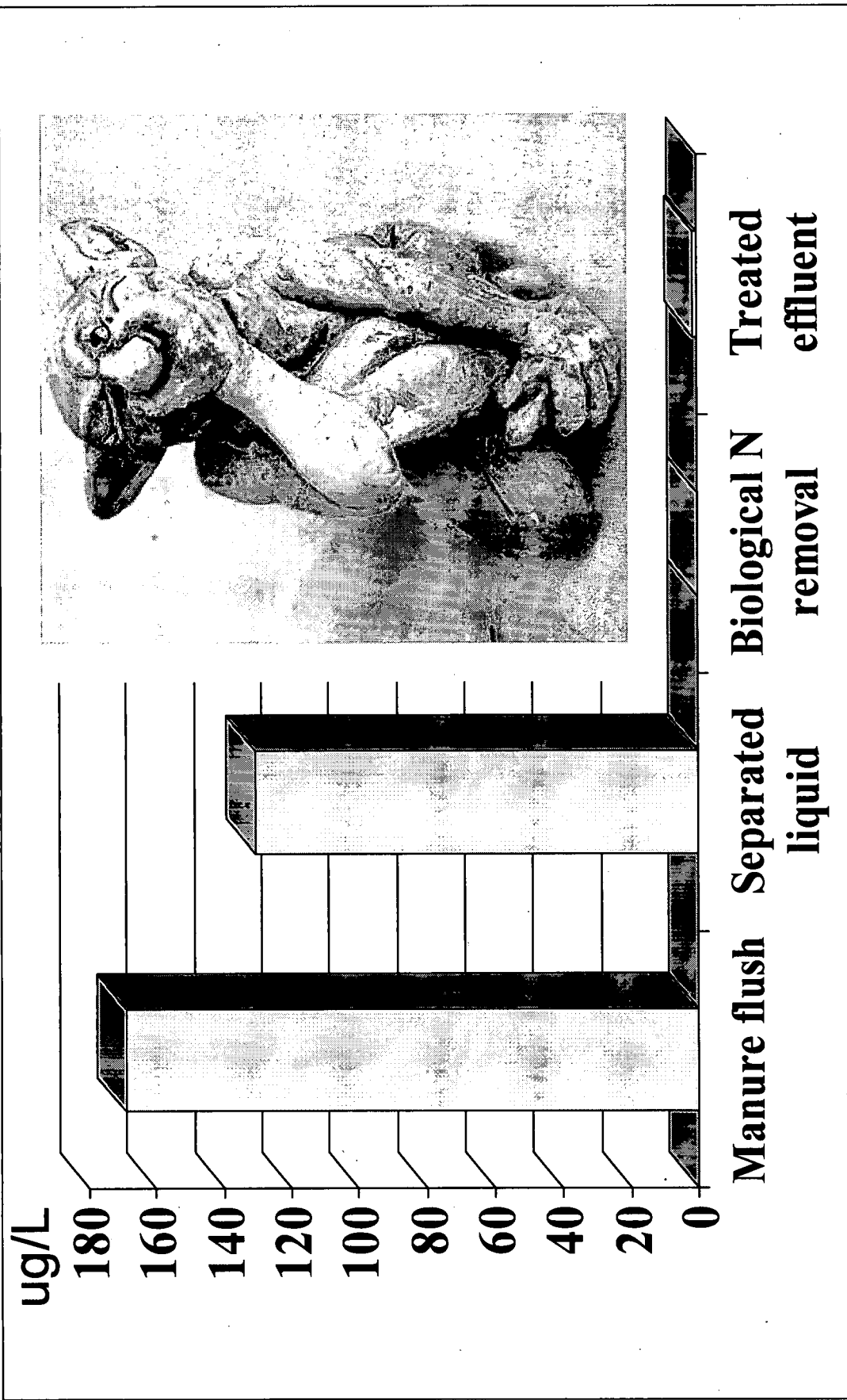
Emissions



"... substantially eliminate atmospheric emissions of ammonia..."

Super Soil Systems

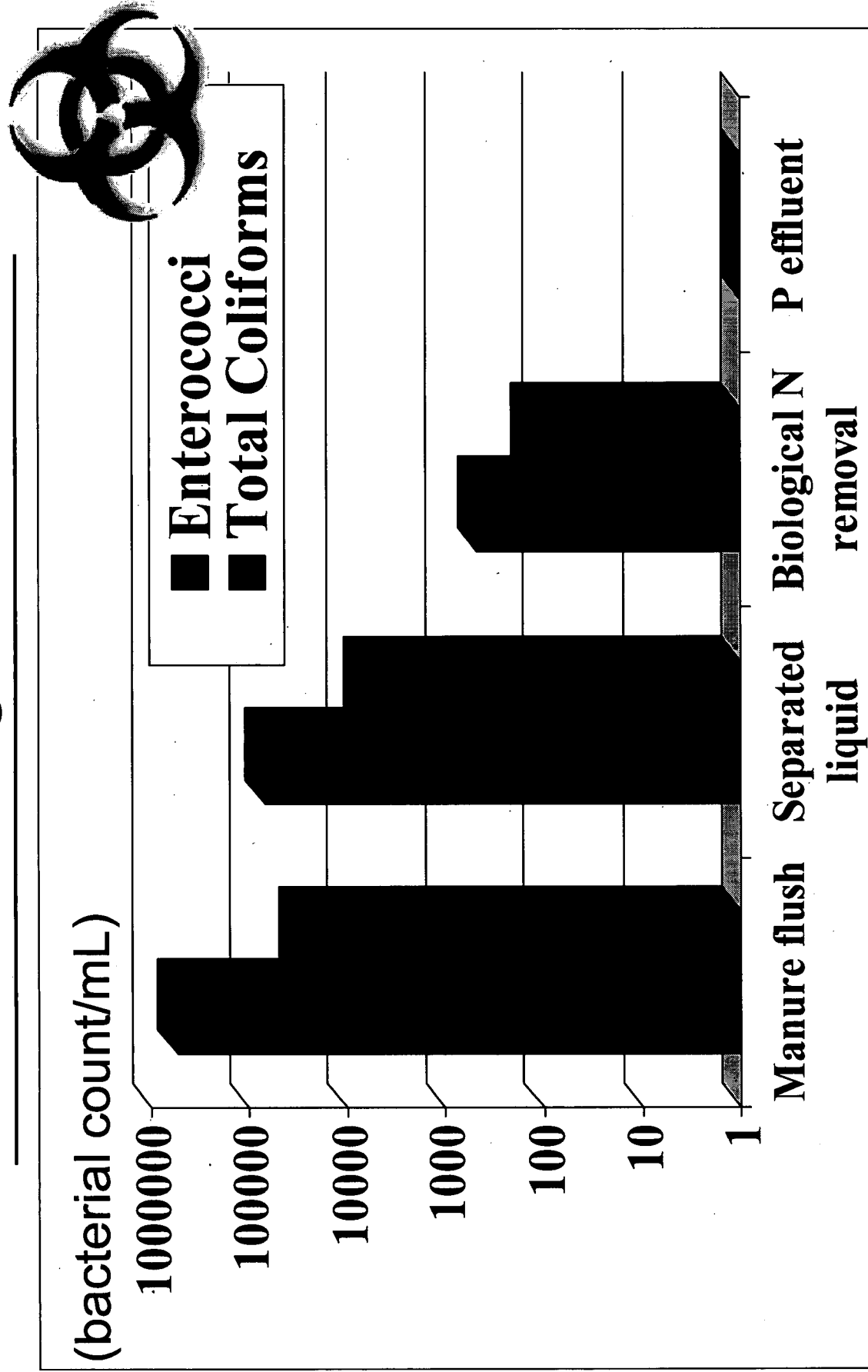
Odor Removal



"... substantially eliminate the emission of odor."

Super Soil Systems

Pathogen Kill



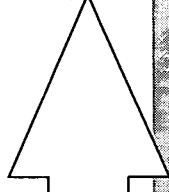
... substantially eliminate the release of disease-transmitting vectors
Super Soil Systems

Blue Lagoons on Pig Farms?

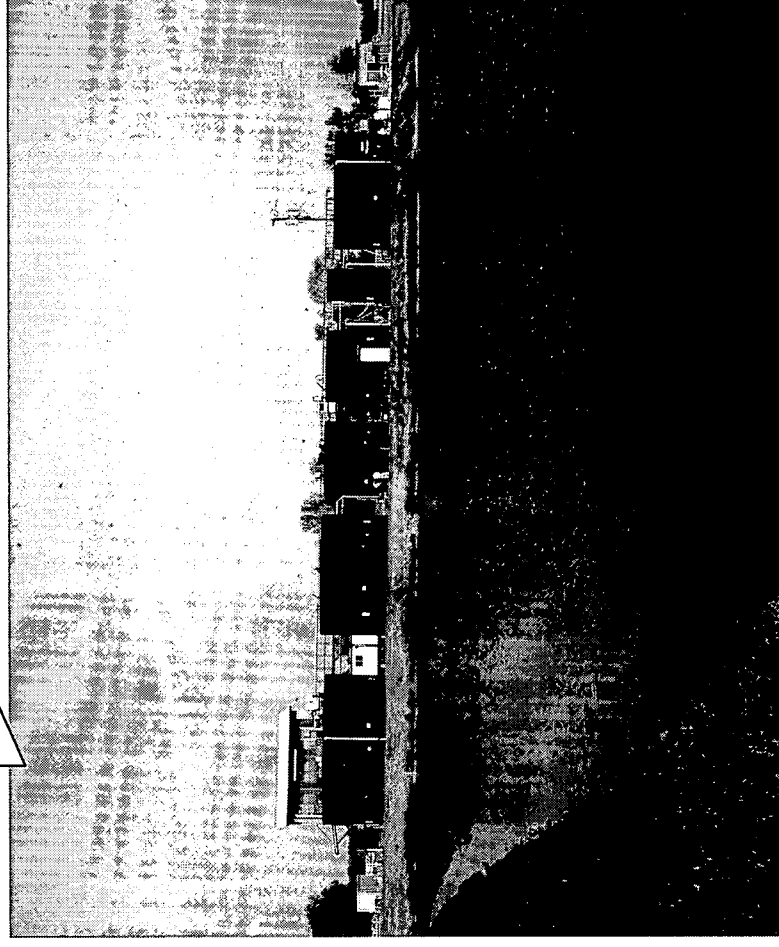
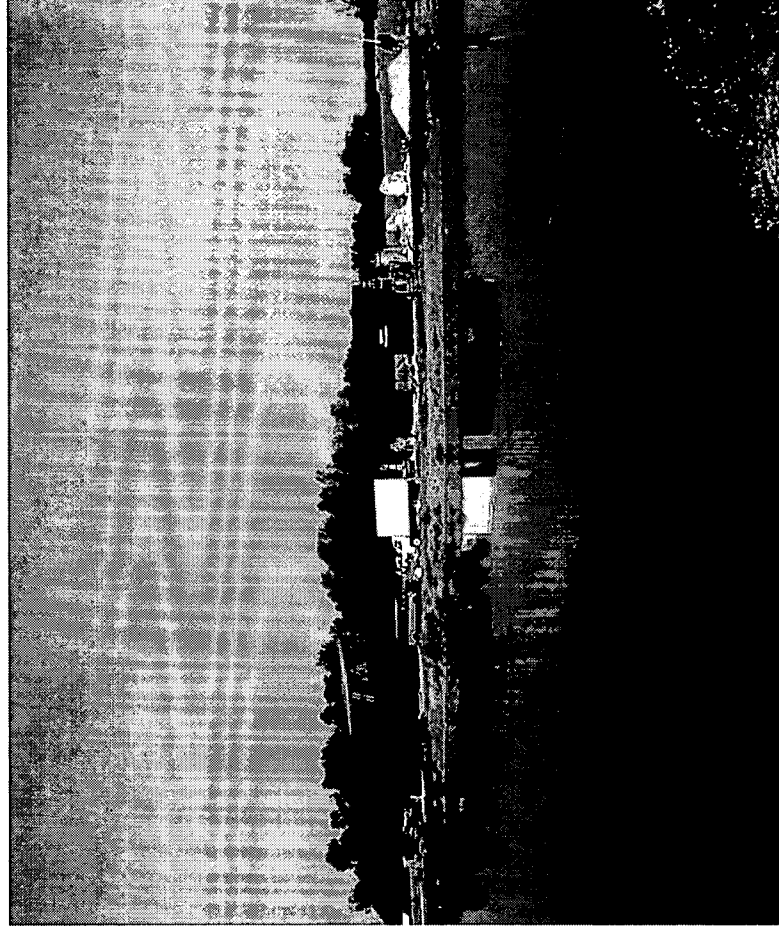
BEFORE



One Year Later



AFTER



Super Soil Systems

research
blue
has
uses
chas:

Blue Lagoons on pig Farms?

A new, more...
...and long pro-
...the best

✓ This, and publicity like it, has spurred interest in alternatives for Super Soil technology such as:

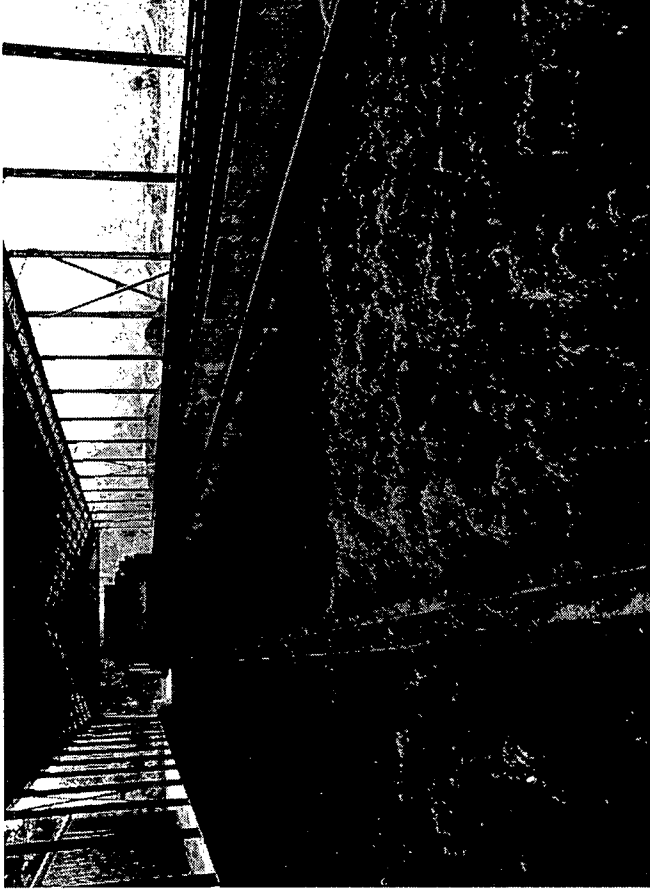
- Dairy Farms
- Municipal Installations
- Wineries

The research discharge of ammonia, odor, and pathogenically superior technology tested the system and ground water. The waste discharge of ammonia, odor, and pathogenically superior technology tested the system and ground water. The waste discharge of ammonia, odor, and pathogenically superior technology tested the system and ground water.

The system comprises three stages. In the first stage, a combination of technologies developed by ARS researchers at the University of Tennessee, as well as those from the United States, Spain, and Japan, are used to separate solids and liquids, remove organic matter, and recover nutrients. The second stage involves the separation of the solids and liquids. The third stage involves the recovery of nutrients from the solids and liquids. The system has been approved for use in the United States and is currently being tested in a pilot plant in Tennessee.

Super Soil Systems

Centralized Solids Processing Facility



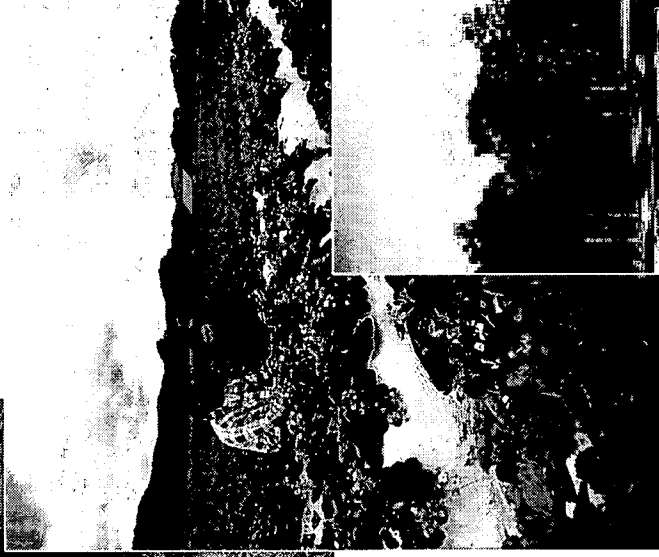
- Produces Class A compost
- Also meets EST standards



Recovers:

- 97% of Nitrogen
- 57% of Carbon
- 100% of Phosphorus
- 98% of Copper & Zinc

Super Soil Systems



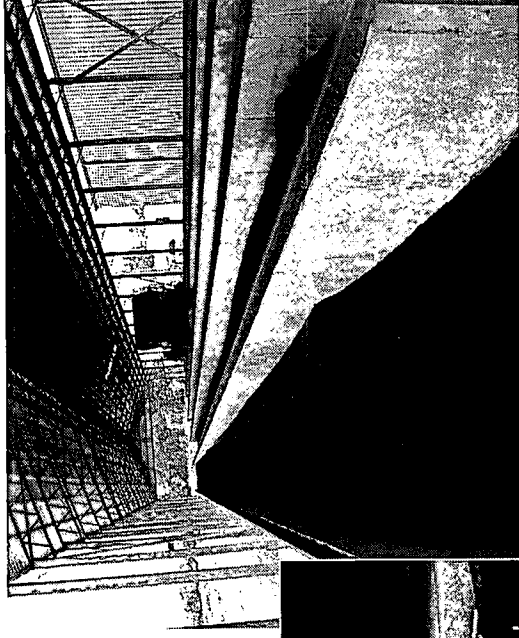
Value-Added Products

Compost

- ✓ High level of nutrient control
- ✓ Pathogen-free source
- ✓ End products include:
 - Fertilizers
 - Soil Amendments
 - Soilless Media / Container Mix

Super Soil Systems

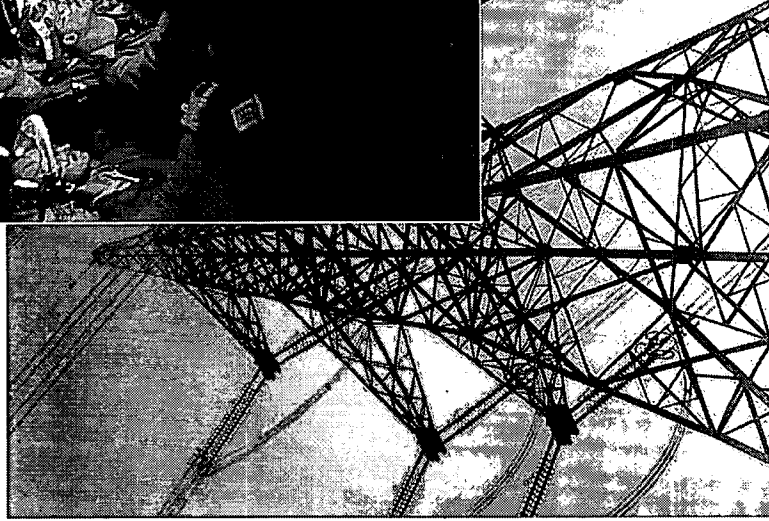
Value-Added Products Bio-Fuel

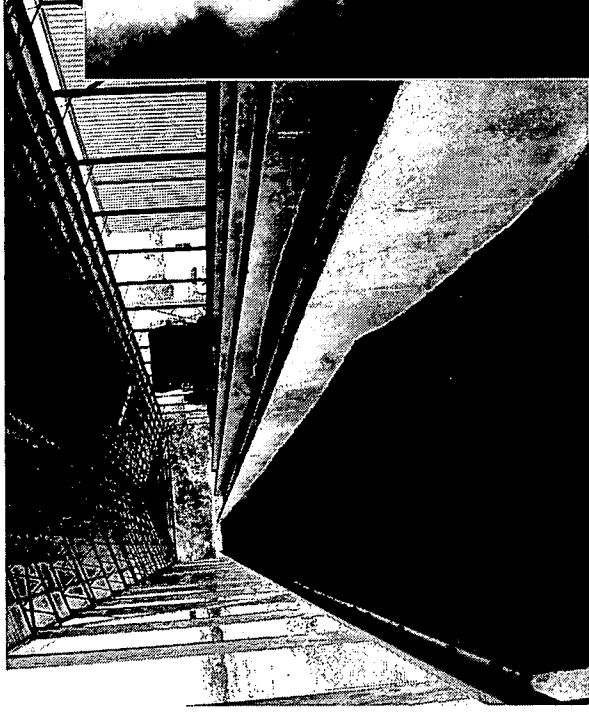


✓ Progress Energy
conducted independent
lab trials

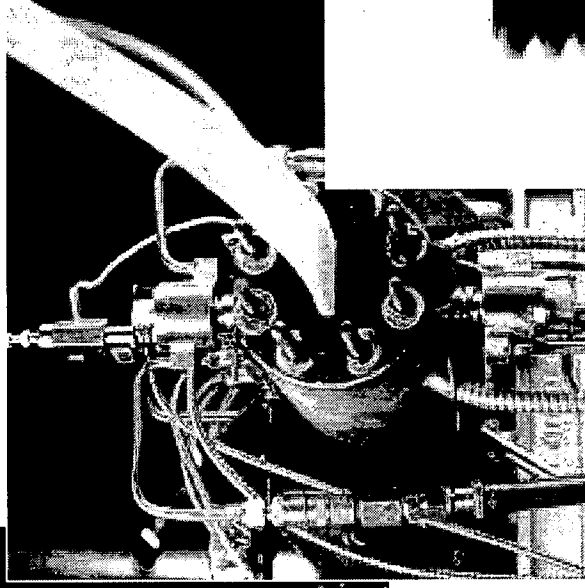
✓ Soft coal blends
utilized as much as 5%
swine solids with no
change in BTUs or
emissions

Super Soil Systems

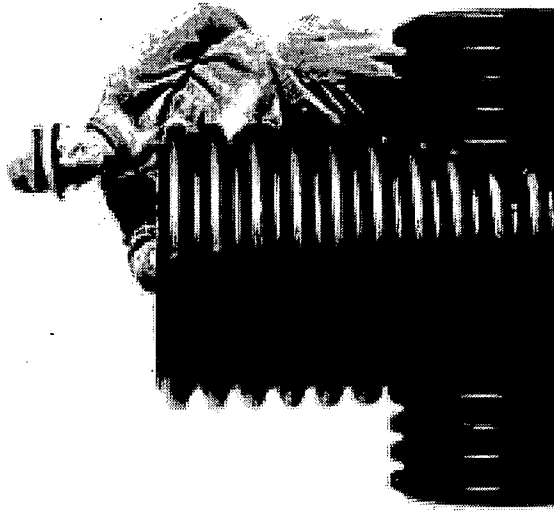




Value-Added Products Plastics



- ✓ Developing renewable materials is a priority
- ✓ Some plastic blends can contain as much as 70% swine solids
- ✓ Partners include Univ. of Wisc. and Processed Natural Composites



Super Soil Systems

Obstacles to Implementation

What's been the hold up?

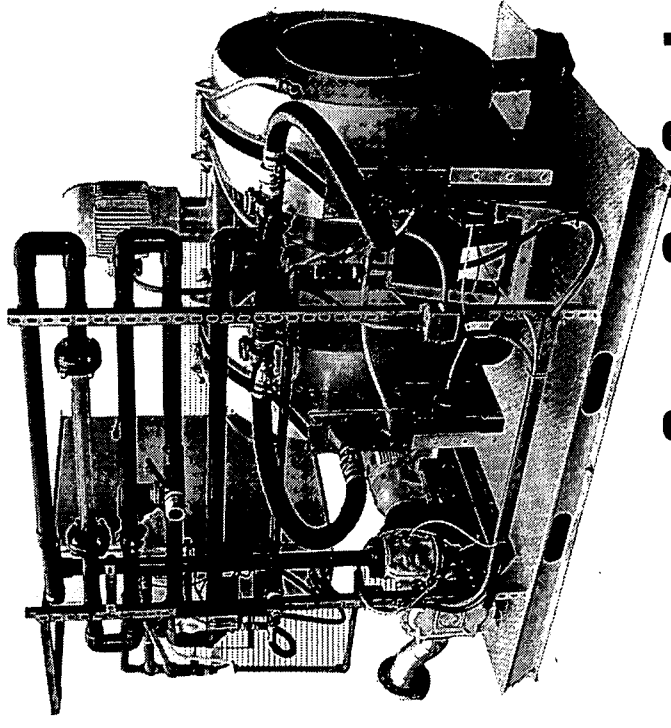
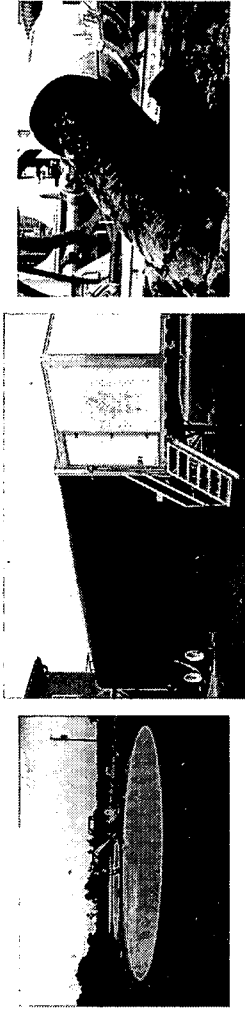


- Solids moisture content
- Over-engineering
- Target cost-effectiveness

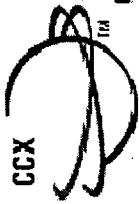
Super Soil Systems

Second Generation

- Minimal initial investment
- Lower operating costs
- Modular installation
- 80% faster processing
- Drier cake solids
- More rugged and easier to operate

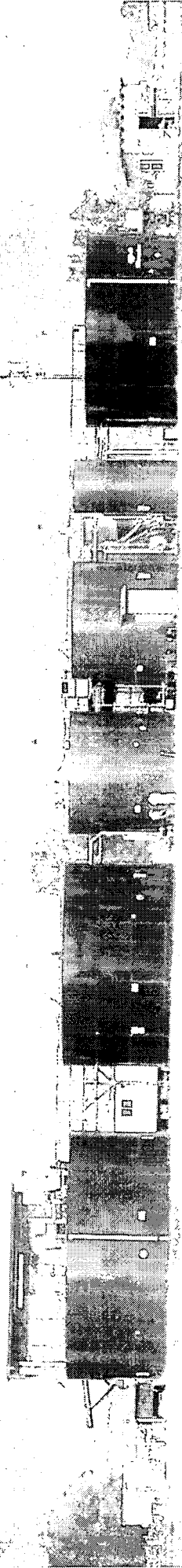


Super Soil Systems



Chicago Climate Exchange

Carbon Credits



- ✓ Cut carbon emissions by 1.12 tonnes CO₂-eq per head per year (99.0% reduction)
- ✓ Credits currently trading at \$4 on Chicago Climate Exchange
- ✓ Dollar value from implementation on R&D farm (4,360 head) = \$19,569.12 or \$1.80/head

Social Benefits for NC Community

Social Benefits = **\$3.50 to \$6.50** per hog



Increased

- Property values
- Water conservation

Decreased/Eliminated

- Odor
- Waste lagoons
- Environmental impact and footprint
- Air emissions

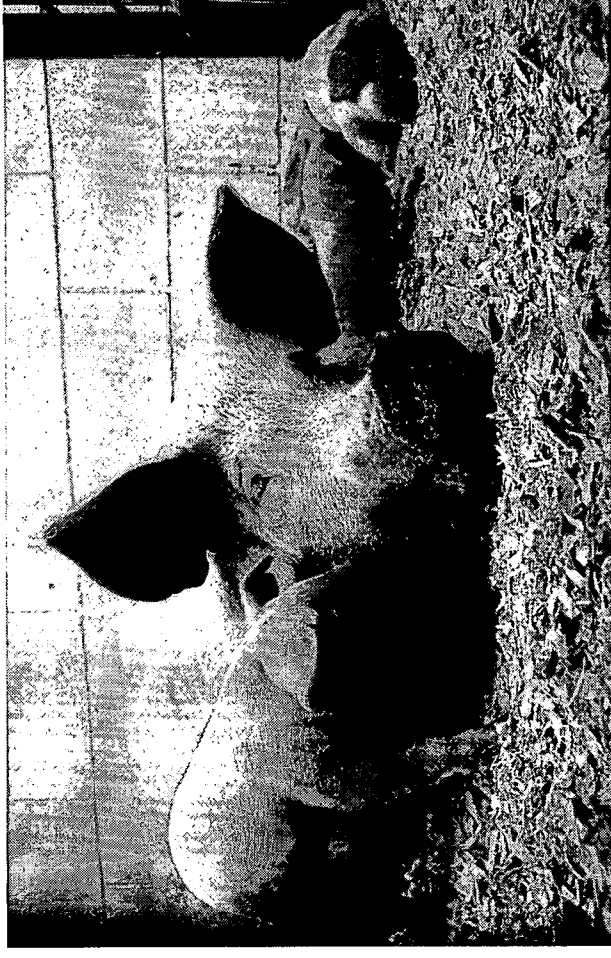
Super Soil Systems

Direct Benefits to Producer

Direct Benefits = **\$4.45 to \$8.15** per hog

Increased/Improved

- Feed conversion
- Rate of gain
- Working conditions
- Product demand



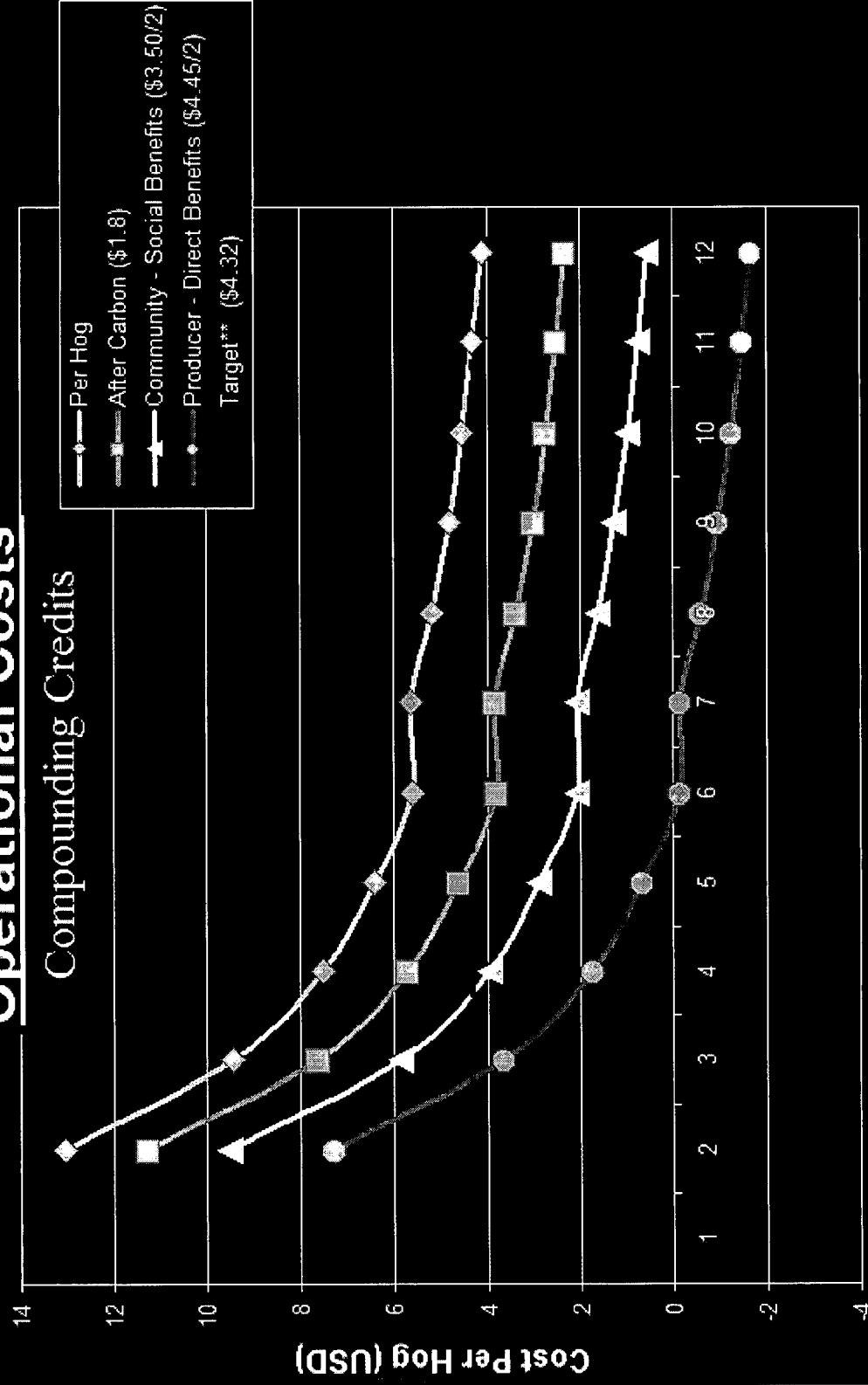
Decreased

- Mortality
- Need for medicines/antibiotics
- Health costs for both animals and employees
- Land required for spraying

Super Soil Systems

Operational Costs

Compounding Credits



Capacity (in thousands)

Super Soil Systems

Short-term Benefits of Statewide Implementation

- ✓ Multiple demonstration farms to gain public support and producer confidence
- ✓ Model optimization with 80-120 swine farms
 - Costs of equipment and service minimized
 - Precise quantification of direct and social benefits



Super Soil Systems

Long-term Benefits

- ✓ EST farmers will be moratorium exempt, providing for the expansion of existing operations and possible new operations
- ✓ EST will make possible a thriving swine industry of which North Carolina citizens are proud and supportive
- ✓ End product consumers will be able to buy not only products that are environmentally responsible, but safer and healthier as well