



# SENATE BILL 355: North Carolina Farm Act of 2024.

2023-2024 General Assembly

<b>Committee:</b>	House Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	June 5, 2024
<b>Introduced by:</b>	Sen. Jackson	<b>Prepared by:</b>	Chris Saunders and Trina Griffin
<b>Analysis of:</b>	Second Edition		Staff Attorneys

**OVERVIEW:** *Senate Bill 355 would make various changes to the agricultural laws of this state.*

*The Finance sections are as follows:*

- *Section 1(c) would expand the exemption from the requirements of the Sedimentation Pollution Control Act to include activities involving the rearing, feeding, training, caring, boarding, and managing of horses, among which includes a \$100/acre free charge for the review of sedimentation and erosion control plans for land-disturbing activity.*
- *Section 6 would limit the testing of soil samples by the Department of Agriculture to in-state samples only, and, therefore, eliminate the fee for the testing of out-of-state samples.*
- *Section 14 would prohibit cities and counties from imposing a stormwater utility fee on property used for bona fide farm purposes.*
- *Section 15 would reenact an income tax credit that existed prior to 2014 for individuals, pass-through entities, and corporations that donate real property for certain conservation-related purposes, effective for tax years beginning on or after January 1, 2024. The credit is 25% of the fair market value of the property, capped at \$250,000 for individuals and \$500,000 for corporations.*

## CURRENT LAW AND BILL ANALYSIS:

### CLARIFY THAT AGRICULTURE INCLUDES HORSE BOARDING

In 2022, the definition of agricultural land for purposes of present-use value taxation was updated to explicitly state that it includes the boarding of horses.

**Section 1** of the PCS would amend other definitions of "agriculture," "agricultural operation," or related terms to clarify that those terms include the boarding of horses.

### NORTH CAROLINA SWEETPOTATO ACT OF 2020 REVISIONS

In 2020, the General Assembly enacted the North Carolina Sweetpotato Act, which established within the Department of Agriculture and Consumer Services (DACS) a program to create and license a trademark for North Carolina sweetpotatoes. Part of the Act also established within DACS an advisory council, appointed by the North Carolina Sweetpotato Commission, a nonprofit trade association for sweetpotato

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growers, to advise the Commissioner of Agriculture on rules for quality standards, grades, packing, handling, labeling, and marketing practices for the marketing of sweetpotatoes in this State, as well as establishing a registration, inspection, and verification program for the production and marketing of North Carolina sweetpotatoes using the trademark developed by DACS.

**Section 2** would state explicitly that participation in the trademark program for North Carolina sweetpotatoes is voluntary. This section would also eliminate the advisory council and instead direct the Board of Agriculture to adopt rules as authorized by the North Carolina Sweetpotato Act in consultation with the North Carolina Sweetpotato Commission.

## FERAL SWINE AMENDMENTS

Under current law, transporting a live swine on a public road within the State without an official form of identification approved by the State Veterinarian for that purpose is punishable by a civil penalty of up to \$5,000 per swine. A swine transported without identification is presumed to be a feral swine that is also subject to regulation by the Wildlife Resources Commission (WRC). It is currently a Class 2 misdemeanor, with a fine of at least \$250, to remove a feral swine from a trap while the swine is still alive or to transport the swine after removal from the trap. Removal of a live feral swine from a trap and transporting the swine are two separate offenses.

**Section 3** would eliminate the civil penalty for transporting a live swine without identification and amend the definition of feral swine in the WRC statutes to include live swine transported without identification. It would also amend the criminal penalties related to removal of feral swine from a trap and transportation of feral swine as follows:

- Establishes that removal of feral swine from a trap while the swine is still alive or transportation of feral swine without authorization from WRC are two separate offenses. Specifically, the element making transportation of feral swine **after removal from a trap** would be deleted, so that any transportation of a feral swine would be an offense.
- Increase the penalty for removal of feral swine from a trap while the swine is still alive or transportation of feral swine to a Class 2 misdemeanor punishable by a fine of at least \$1,000 for a first offense and a Class A1 misdemeanor punishable by a fine of not less than \$5,000 or \$500 per feral swine, whichever is greater, for a second or subsequent offense.
- Provide that conviction of a second violation of removal of feral swine from a trap while the swine is still alive or transporting feral swine results in a one-year suspension of a trapping license or any other WRC-issued license or permit applicable to the type of activity in which the person was engaging, and conviction of a third violation results in a permanent revocation.

This section would become effective December 1, 2024, and would apply to offenses committed on or after that date.

## DIRECT AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION TO STUDY LOW-HANGING COMMUNICATIONS LINES

**Section 4** would direct the Agriculture and Forestry Awareness Study Commission to study communication lines that fall below minimum height requirements and create a public safety hazard. The Commission would be directed to seek input from numerous stakeholders, including the Office of Broadband Infrastructure, electric and telecommunications companies, agricultural organizations, and any other stakeholders the Commission deems necessary. The Commission would be directed to report its

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findings, including recommendations or proposed legislation, prior to the start of the 2025 Regular Session of the General Assembly.

## **SHELLFISH LEASE AND FRANCHISE AMENDMENTS**

A shellfish lease is a piece of public trust bottom for which leaseholders are charged a yearly rent fee and have renewable contractual obligations. A franchise is a commercial shellfish aquaculture operation located on a recognized submerged land claim. Statutes now prohibit granting private deeds on public trust bottom.

Section 3 of S.L. 2019-37 increased the annual production and planting requirements for shellfish cultivation leases and franchises as follows:

- Production requirements were increased from 10 bushels of shellfish per acre to 20 bushels of shellfish per acre.
- For intensive culture bottom operations, the planting requirements were increased from 25 bushels of seed shellfish per acre or 50 bushels of cultch per acre to purchasing 23,000 shellfish seed per acre.
- For extensive culture bottom operations, the planting requirements were increased from 25 bushels of seed shellfish per acre or 50 bushels of cultch per acre to purchasing 15,000 shellfish seed per acre.

**Section 5.(a)** would direct the Marine Fisheries Commission to amend its rules on annual production and planting requirements for shellfish leases and franchises no later than July 1, 2024, such that franchises could not be terminated for failure to meet minimum production requirements, and to implement the rules in that manner until the adopted rule becomes effective.

**Section 5.(b)** would provide that any application for a shellfish lease on which the Department of Environmental Quality fails to act within 365 days after the applicant has submitted all information required by the rules of the Marine Fisheries Commission and accurately marked the proposed lease area, is deemed approved.

## **LIMIT AGRONOMIC SOIL TESTING TO IN-STATE SAMPLES**

Under current law, DACS is directed to provide agronomic testing services for plant analysis, nematode testing, in-State soil testing during peak season, out-of-State soil testing, and expedited soil testing. The Board of Agriculture is directed to charge at least \$4.00 for in-State soil testing during peak season and \$5.00 for out-of-State soil testing.

**Section 6** would limit provision of soil testing services to in-State soil samples.

## **INCREASED PROMOTION OF NEW AND EMERGING CROPS**

Since 2018, DACS has received \$1,500,000 in recurring funds for the Bioenergy Research Initiative. About \$1,000,000 is appropriated in the form of grants. In 2018, the General Assembly authorized DACS to establish a program to advance and promote new and emerging crops and to use up to 50% of the funds appropriated for the Bioenergy Research Initiative to fund the new and emerging crops program.

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**Section 7** would authorize DACS to use up to the full amount of funds appropriated for the Bioenergy Research Initiative on efforts to advance and promote new and emerging crops, and other research initiatives related to agricultural technologies.

## **PERMANENT PRESCRIBED BURN COST SHARE PROGRAM**

Section 10.9 of S.L. 2021-180 (Appropriations Act of 2021) created a prescribed burn matching grant program to support prescribed burns on privately owned forestlands that will maximize the benefits of prescribed burning. The program had a required match of one non-State dollar for every State dollar for each of the first 99 acres for a landowner for whom prescribed burns are conducted in a calendar year, and two non-State dollars for every State dollar for all other acres. \$1,000,000 in nonrecurring revenue was appropriated for each of the 2021-22 and 2022-23 fiscal years. The nonrecurring appropriation was converted to a \$1,000,000 in recurring revenue in 2022.

**Section 8** would codify a new permanent prescribed burn cost share program for the same purpose. Reimbursement rates would be set by the Forest Service by rule, but the maximum allowable cost share reimbursement would be 75% based on program rate per acre caps. The program would require a General Fund appropriation in order to operate. DACS would be directed to report on implementation of the program by January 15 of each even-numbered year to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division.

## **TIMBER SALES/RETENTION AND USE OF PROCEEDS**

Under current law, the net proceeds from the sale of timber and other products of land, such as timber harvested in a State Forest, are to be used for DACS's operational expenses incurred for restoration and stewardship of the land.

**Section 9** would allow the net proceeds from the sale of timber and other products of land to also be used for capital improvement projects; for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, and environmental studies; and for the management of the plant conservation program preserves owned by DACS.

## **AMEND SWINE AND DAIRY ASSISTANCE PROGRAM ELIGIBILITY**

The 2021 Appropriations Act established a program in DACS to provide financial assistance to swine and dairy farmers using funds appropriated from the State Fiscal Recovery Fund. The Department was directed to award a one-time payment of \$31,500 to each eligible applicant, plus, in relevant part, financial assistance to swine producers for a fixed dollar amount per head space for producers who can secure a production contract with another swine integrator but must invest in upgrades to existing barns or completely rebuild animal housing. That award was limited to \$10 per head space for renovations or \$20 per head space for rebuilt housing, but the total award could not exceed 90% of the actual cost of the renovation or construction. Approximately \$4.4 million is unencumbered and remaining in the program.

Since the program was enacted, some swine farmers have sought to convert "finishing" animal barns to sow barns. Sow housing is more expensive and sows require more space than animals in "finishing" barns.

**Section 10** would expand the eligible uses of funds to allow DACS to provide assistance to swine producers at a rate of \$70 per head for renovations to convert existing barn space to sow housing. \$70 per

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head represents approximately 5.4% of the cost of an average sow space, which is the same percentage cost as the \$10 for head for finishing spaces.

## **GO GLOBAL ENDOWMENT**

The 2023 Appropriations Act appropriated to DACS \$1,000,000 in nonrecurring funds under the title "Go Global" to "Provide[] funds to support the Global Teacher Fellowship. These funds will be matched with private donations for grants to teachers from all 100 counties."

**Section 11** would provide more detail on the use of these funds. This section would require that the funds appropriated for Go Global be used to establish an endowment administered by the North Carolina Community Foundation, Inc., a nonprofit corporation, to provide scholarships for the Global Teacher Fellowship program with a focus on agricultural teachers. The fellowship would also be open to any individual directly associated with the agriculture industry, regardless of their connection to education.

This section would also require DACS to report to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the chairs of the Joint Legislative Education Oversight Committee on the administration of the endowment no later than April 1 of each year, including the number of grant applications and awards, the name of each recipient, purposes of each grant, and balance and expenditures of the endowment in each fiscal quarter of the prior fiscal year.

## **PROHIBIT REGULATION OF BEEHIVES IN MUNICIPAL ETJS**

Under current law, a county may not adopt or enforce any ordinance or resolution that prohibits any person from owning or possessing five or fewer beehives. A city may adopt an ordinance to regulate hives, provided the ordinance permits up to five hives on a single parcel *within the land use planning jurisdiction of the city* and requires that the hive be placed at ground level or security attached to an anchor or stand. The ordinance may include regulation of placement on the parcel and require removal of the hive if the owner no longer maintains the hive or if needed to protect public health and safety.

**Section 12** would allow city ordinances to regulate beehives only within the incorporated limits of the city, so that properties in the extraterritorial jurisdiction of the city would not be subject to any city ordinance regulating beehives. The county ordinance, if one exists, would control.

## **REQUIRE DISCLAIMER ON LOCAL GOVERNMENT GEOGRAPHIC INFORMATION SYSTEM (GIS) TOOLS**

**Section 13** would require counties and cities that offer a GIS tool to the public to provide a disclaimer notifying the user that the data offered by the tool is provided without warranty and that the user should consult public primary information sources, such as recorded deeds and plats, to verify the accuracy of the data provided. The disclaimer must be displayed prominently on a splash screen or interstitial webpage that the user must affirmatively acknowledge before accessing the tool.

This section would become effective January 1, 2025.

## **EXEMPT AGRICULTURAL LAND FROM STORMWATER FEES**

Local governments are authorized by statute to establish and revise schedules of rates and fees for the use of services provided by a public enterprise, including stormwater utility fees. Schedules of rates and fees

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may vary according to classes of service, and different schedules may be adopted for services provided outside of the local government's boundaries. Both cities and counties are prohibited from imposing a stormwater utility fee on an airport runway or taxiway, including those on military property.

**Section 14** would prohibit cities and counties from imposing stormwater utility fees for property used for bona fide farm purposes.

This section would be effective when it becomes law, and would apply to fees levied on or after that date.

## **INCENTIVIZE FARMLAND PRESERVATION, FISH AND WILDLIFE CONSERVATION, AND MILITARY BUFFERS**

The conservation tax credit was enacted in 1983 and was repealed in 2013 as part of the Tax Simplification and Reduction Act.

Prior to its repeal, a taxpayer was allowed a nonrefundable income tax credit for certain donations of real property located in North Carolina. The amount of the credit was 25% of the fair market value of the donated property interest, capped at \$250,000 for individuals and \$500,000 for corporations. To be eligible for the credit, the land was required to be useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural or scenic river areas, (vii) conservation of predominantly natural parkland, or (viii) historic landscape conservation; the land must be donated in perpetuity to and accepted by the State, a local government, or a body organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions.

**Section 15** would reenact the tax credit for certain real property donations and modify the purposes for which donated land will qualify for the credit. The credit would be available to both individuals and corporations, and the amount of the credit and the caps are the same – 25% of the fair market value of the property, capped at \$250,000 for individuals and \$500,000 for corporations.

Under the credit as reenacted and modified by this section, the credit would be allowed for only for land donated for the following six purposes:

- Forestland or farmland preservation
- Fish and wildlife conservation
- As a buffer to limit land use activities that would restrict or interfere with military training, testing, or operation on a military installation or training area.
- Floodplain protection
- Historic landscape conservation
- Public trails or access to public trails

This section would be effective for tax years beginning on or after January 1, 2024.

## **ESTABLISH ANNUAL GREAT TRAILS STATE DAY**

**Section 16** would designate the third Saturday of October of each year, beginning in 2024, as North Carolina Great Trails State Day. The North Carolina Great Trails State Coalition (Coalition) would be the lead organization for recognition of North Carolina Great Trails State Day and would be directed to develop a plan to raise awareness of, promote, and implement the first annual North Carolina Great Trails

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State Day. The Coalition includes 96 members, including nonprofit organizations, local governments, and private companies.

The Coalition would be directed to report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than September 30, 2024, regarding its plan to raise awareness of and promote the first annual North Carolina Great Trails State Day.

## **AMEND COMPOSITION OF THE NORTH CAROLINA SENTINEL LANDSCAPES COMMITTEE**

The North Carolina Sentinel Landscapes Committee was established in 2017 to coordinate the overlapping priority areas in the vicinity of and where testing and training occur near or adjacent to major military installations and to assist landowners in improving their land to benefit their operations and enhance wildlife habitats while furthering the State's economic interest in preserving, maintaining, and sustaining land uses that are compatible with military activities at major military installations and National Guard facilities. The Sentinel Landscapes Committee is currently made up of five members:

- The Commissioner of Agriculture, or the Commissioner's designee.
- The Secretary of the Department of Military and Veterans Affairs, or the Secretary's designee.
- The Secretary of Natural and Cultural Resources, or the Secretary's designee.
- The Executive Director of the Wildlife Resources Commission, or the Executive Director's designee.
- The Dean of the College of Natural Resources at North Carolina State University, or the Dean's designee.

**Section 17** would add two voting members to the Sentinel Landscapes Committee, namely the Secretary of Transportation or the Secretary's designee and a representative of the North Carolina Sentinel Landscapes Partnership. The North Carolina Sentinel Landscapes Partnership is administered by North Carolina State University and is a collaborative effort between private landowners, academia, agricultural organizations, conservation districts, nonprofit organizations, and military leaders.

This section would also add two nonvoting ex officio members, namely the Eastern North Carolina Sentinel Landscapes Coordinator and a representative from the United States Department of Defense Readiness and Environmental Protection Integration Program.

This section would also make the Commissioner of Agriculture or the Commissioner's designee the permanent chair of the Sentinel Landscapes Committee.

## **ADD ONE MEMBER TO THE COMMUNITY CONSERVATION ASSISTANCE PROGRAM ADVISORY COMMITTEE**

The Community Conservation Assistance Program (CCAP) provides cost share funds to reduce the input of nonpoint source pollution into waters of the State. The CCAP Advisory Committee, which currently consists of 15 members, meets quarterly to review the progress of the CCAP.

**Section 18** would add the Extension Administrator of the Cooperative Extension Service at North Carolina Agricultural and Technical State University (NC A&T State University) or the Extension Administrator's designee as a sixteenth member of the CCAP Advisory Committee.

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## COOPERATIVE EXTENSION TECHNICAL CHANGES

**Section 19** would make several technical changes to outdated references to North Carolina State University and, in sections relevant to the Cooperative Extension Service, add references to the Cooperative Extension Service at NC A&T University.

## BOARD OF CROP SEED IMPROVEMENT AND SEED BOARD AMENDMENTS

The Board of Crop Seed Improvement within DACS is directed to foster and promote the development and distribution of pure strains of crop seeds among the farmers of North Carolina. The Seed Board is directed to investigate claims of damages to buyers due to the failure of agricultural or vegetable seed to produce or perform as labeled or as warranted, or as the result of negligence.

**Section 20** would, in sections involving the Board of Crop Seed Improvement and the Seed Board that involve cooperation with North Carolina State University, also require cooperation with NC A&T State University. This section would also add four members to the Seed Board. Two would be appointed upon the recommendation of each of the Associate Dean of Agriculture Research at NC A&T State University and the Extension Administrator of the North Carolina Cooperative Extension Service at NC A&T State University. Two would be individuals appointed at large by the Commissioner of Agriculture.

## EXTEND REQUIRED TIME BETWEEN TRAVELING FAIRS AND COUNTY FAIRS

Under current law, carnival companies or people in the business of holding similar shows, including menageries, carnival rides, circuses, before holding an exhibition in any county with an annual agricultural fair must obtain a permit from the county sheriff. However, no permit may be issued if the requested exhibition date is less than 30 days prior to the regularly advertised agricultural fair. Exhibition without a permit is a Class 1 misdemeanor.

**Section 21** would provide that no permit may be issued to a carnival company or similar business if the requested exhibition date is less than 90 days prior to the regularly advertised agricultural fair.

This section would become effective July 1, 2024, and applies to permits issued on or after that date.

**EFFECTIVE DATE:** Except as otherwise provided, this act would be effective when it becomes law.

*Trina Griffin, counsel to the Senate Finance Committee, substantially contributed to this summary.*