

# NORTH CAROLINA GENERAL ASSEMBLY



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## AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION

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

APRIL 17, 2018

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## TABLE OF CONTENTS

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LETTER OF TRANSMITTAL .....	5
COMMISSION PROCEEDINGS .....	7
COMMISSION MEMBERSHIP .....	13
STATUTORY AUTHORITY .....	15
LEGISLATIVE PROPOSALS .....	17

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# TRANSMITTAL LETTER

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April 17, 2018

[\[Back to Top\]](#)

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


Pursuant to Article 19 of Chapter 120 of the General Statutes, the AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION, respectfully submits the following report to the 2018 Regular Session of the 2017 General Assembly.



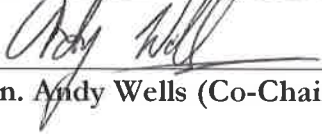
Sen. Bill Cook (Co-Chair)



Sen. Brent Jackson (Co-Chair)



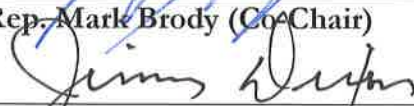
Sen. Norman W. Sanderson (Co-Chair)



Sen. Andy Wells (Co-Chair)



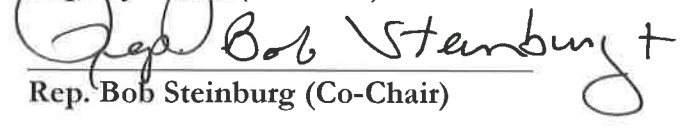
Rep. Mark Brody (Co-Chair)



Rep. Jimmy Dixon (Co-Chair)



Rep. Kyle Hall (Co-Chair)



Rep. Bob Steinburg (Co-Chair)

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# COMMISSION PROCEEDINGS

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[\[Back to Top\]](#)

The Agriculture and Forestry Awareness Study Commission met two times after the 2017 Regular Session. The following is a brief summary of the Commission's proceedings. Detailed minutes and information from each Commission meeting are available in the Legislative Library.

## AGENDA

**1:00 p.m. Tuesday, January 30, 2018**

Room 544, Legislative Office Building,  
Raleigh, NC

1. Call to order  
Representative Kyle Hall, Presiding
2. Introductory Remarks by Co-Chairs
3. Presentation on property tax abatement for aging farm machinery  
Tony Simpson, Director, Property Tax Section  
Department of Revenue
4. Overview of the North Carolina Handler's Act  
Dr. Richard Reich, Assistant Commissioner for Agricultural Services  
Department of Agriculture and Consumer Services
5. Overview of the federal Perishable Agricultural Commodities Act  
Basil Coale, Regional Director, Eastern Regional Office  
Agricultural Marketing Service, Specialty Crops Program, PACA Division  
United States Department of Agriculture
6. Committee discussion and announcements
7. Adjourn

The first meeting of the Agriculture and Forestry Study Awareness Commission was held on Tuesday, January 30, 2018 at 1:00 p.m. in Room 544 of the Legislative Office Building. Representative Kyle Hall presided.

Ms. Cindy Avrette, Staff Attorney, Legislative Analysis Division, presented an introduction to property tax in North Carolina, including how it is levied, how it was created, and how it can be changed.

## AGENDA

1:00 p.m. Thursday, March 22, 2018  
Room 544, Legislative Office Building,  
Raleigh, NC

1. Call to order  
Senator Brent Jackson, Presiding
2. Introductory remarks by Co-Chairs
3. Department of Revenue recommendations on property tax abatement for aging farm machinery (*15 minutes*)  
Tony Simpson, Director, Property Tax Section  
Department of Revenue
4. Comments on property tax abatement for aging farm machinery (*10 minutes*)  
David Baker, Director of Tax and Revenue Outreach  
North Carolina Association of County Commissioners
5. Department of Agriculture recommendations for changes to the North Carolina Handler's Act (*15 minutes*)  
Laura Kilian, Legislative Liaison  
Department of Agriculture and Consumer Services
6. Update on activities of the Industrial Hemp Commission (*30 minutes*)  
Laura Kilian, Legislative Liaison  
Department of Agriculture and Consumer Services
7. Update on federal Food Safety Modernization Act implementation (*30 minutes*)  
Joe Reardon, Assistant Commissioner for Consumer Protection  
Department of Agriculture and Consumer Services
8. Committee discussion and announcements
9. Adjourn

The second meeting of the Agriculture and Forestry Study Awareness Commission was held on Thursday, March 22, 2018 at 1:00 p.m. in Room 544 of the Legislative Office Building. Senator Brent Jackson presided.

Mr. Tony Simpson, Director, Property Tax Section, Department of Revenue (DOR), updated the Commission on the Section's property tax abatement study. The Property Tax Section expanded the study to look at all aging farm equipment, and had input from several counties. DOR proposed moving to a single schedule for all aging farm equipment, using a 10-year lifespan with a 25% residual value.

Mr. Joe Reardon, Assistant Commissioner, Department of Agriculture and Consumer Services, updated the Commission on implementation of the Food Safety Modernization Act (FSMA). FSMA's importance is growing, as demand for foreign food products grows and our population becomes more vulnerable to foodborne illness. The Department is working with North Carolina State University and others to implement FSMA in a uniform, consistent, and productive manner.

The Commission discussed on how our demand for foreign seafood has changed and will change in the future, the benefits of FSMA certification to farmers, the FSMA inspection training and process, and required testing. The Commission also asked the Department of Agriculture and Consumer Services to provide the Secretary's Science Advisory Board with input as the Board works to develop health goals for the emerging contaminant GenX.

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## COMMISSION MEMBERSHIP

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[\[Back to Top\]](#)

2017-2018

### **Co-Chairs**

<a href="#">Rep. Mark Brody</a>	Ex Officio
<a href="#">Rep. Jimmy Dixon</a>	Ex Officio
<a href="#">Rep. Kyle Hall</a>	House Appointment
<a href="#">Rep. Bob Steinburg</a>	Ex Officio
<a href="#">Sen. Bill Cook</a>	Ex Officio
<a href="#">Sen. Brent Jackson</a>	Senate Appointment
<a href="#">Sen. Norman W. Sanderson</a>	Ex Officio
<a href="#">Sen. Andy Wells</a>	Ex Officio

### **Ex Officio Members**

Mr. Jimmy Gentry	Ex Officio
Mr. Boyd McLaurin	Ex Officio
Mr. Mitchell A. Peele	Ex Officio
Mr. Michael S. Regan	Ex Officio
Hon. Steven Troxler	Ex Officio

### **Public Members**

Mr. Albert C. Beatty	Governor's Appointment
Mr. Maurice K. Berry, Jr.	Other Appointment
Mr. David L. Burns	Governor's Appointment
Ms. Donald Butler	Senate Appointment
Ms. Sue M. Gray	House Appointment
Mr. C. Howard Isley	House Appointment
Mr. Danny McConnell	Senate Appointment
Mr. Melvin M. Mitchell	Governor's Appointment
Mr. Sherwood Padgett	Senate Appointment
Ms. Alice H. Scott	House Appointment

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# STATUTORY AUTHORITY

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[\[Back to Top\]](#)

## Article 19.

### Agriculture and Forestry Awareness Study Commission.

#### **§ 120-150. Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

- (1) Three appointed by the Governor.
- (2) Three appointed by the President Pro Tempore of the Senate.
- (3) Three appointed by the Speaker of the House.
- (4) The chairs of the House Agriculture Committee.
- (5) The chairs of the Senate Committee on Agriculture, Environment, and Natural Resources.
- (6) The Commissioner of Agriculture or the Commissioner's designee.
- (7) A member of the Board of Agriculture designated by the chair of the Board of Agriculture.
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
- (9) The President of the North Carolina State Grange or the President's designee.
- (10) The Secretary of Environmental Quality or the Secretary's designee.
- (11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may each appoint an additional member of the Senate and House, respectively, to serve as cochair. If appointed, these cochairs shall be voting members of the Commission.

#### **§ 120-151. Advisory Committee.**

Upon proper motion and by a vote of a majority of the members present, the Commission may appoint an Advisory Committee. Members of the Advisory Committee should be from the various organizations, commodity groups, associations, and councils representing agriculture and forestry. The purpose of the Advisory Committee shall be to render technical advice and assistance to the Commission. The Advisory Committee shall consist of no more than 20 members plus a chairman who shall be appointed by the cochairmen of the Commission.



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# LEGISLATIVE PROPOSALS

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[\[Back to Top\]](#)

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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BILL DRAFT 2017-TQ-34 [v.6]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
04/10/2018 12:40:23 PM

Short Title: NC Farm Act of 2018.

(Public)

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Sponsors:

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS.

3 The General Assembly of North Carolina enacts:

4 SECTION 1. Article 44 of Chapter 106 of the General Statutes reads as rewritten:

5 "Article 44.

6 "Unfair Practices by Handlers of Fruits and Vegetables.

7 "**§ 106-496. Protection against unfair trade practices.**

8 The Board of Agriculture is hereby authorized to ~~make adopt~~ such rules and regulations as it  
9 deems necessary to protect producers of fruits and vegetables from loss caused by financial  
10 irresponsibility and unfair, harmful or unethical trade practices of handlers who incur financial  
11 liability for the purchase or production of fruits and vegetables. A "handler," as used herein, is a  
12 person, firm, corporation or other legal entity or his agent or employee who enters into a written  
13 contract for the purchase from or production by a producer of fruits and vegetables.

14 "**§ 106-496.1. Definitions.**

15 For the purposes of this Article, the following definitions apply:

16 (1) "Certificate of deposit" means a certificate of deposit at any recognized financial  
17 institution doing business in the United States.

18 (2) "Commissioner" means the North Carolina Commissioner of Agriculture.

19 (3) "Consignment" means any transfer of fruits and vegetables by the seller to the custody  
20 of another person who acts as the agent for the seller for the purpose of selling such fruits and  
21 vegetables.

22 (4) "Department" means the North Carolina Department of Agriculture and Consumer  
23 Services.

24 (5) "Handler" means any person in the business of buying, receiving, selling, exchanging,  
25 negotiating, processing for resale, or soliciting the sale, resale, exchange, or transfer of any fruits  
26 and vegetables purchased from a producer, received on consignment from a producer, or received  
27 to be handled on a net return basis from a producer.

1        The Commissioner may decline to grant a license or may suspend or revoke a license already  
2 granted if the Commissioner is satisfied that the applicant or licensee has:

- 3            (1)    Suffered a money judgment which that person cannot satisfy or is otherwise  
4            insolvent or financially irresponsible.
- 5            (2)    Made false charges for handling or services rendered.
- 6            (3)    Failed to promptly and properly account and pay any producer.
- 7            (4)    Made any false statement or statements as to the condition, quality, or quantity  
8            of goods received or held for sale when that person could have ascertained the  
9            true condition, quality, or quantity by reasonable inspection.
- 10          (5)    Made any false or misleading statement or statements as to market conditions  
11          or service rendered.
- 12          (6)    As a handler, hired a person who has been convicted of a crime involving  
13          fraud, deceit, or misrepresentation in any capacity involving the buying,  
14          selling, or the handling of payments for fruits and vegetables.
- 15          (7)    As a handler, failed either to file the required surety bond or certificate of  
16          deposit or to keep such surety bond or certificate of deposit in force.
- 17          (8)    Provided false or misleading information in the person's application for  
18          license.
- 19          (9)    Failed to comply with the terms of this Article or any rules adopted by the  
20          Board of Agriculture.

21 **"§ 106-498. Bond-Surety bond or certificate of deposit required.**

22        ~~No permit shall be issued to a handler until such handler has furnished the Commissioner of~~  
23 ~~Agriculture a bond satisfactory to the Commissioner in an amount of not less than ten thousand~~  
24 ~~dollars (\$10,000). The Commissioner may require a new bond or he may require the amount of~~  
25 ~~any bond to be increased if he finds it necessary for the protection of the producer. Such bond~~  
26 ~~shall be payable to the State and shall be conditioned upon the fulfilling of all financial~~  
27 ~~obligations incurred by the handler with all producers with whom the handler contracts. Any~~  
28 ~~producer alleging any injury by the fraud, deceit, willful injury or failure to comply with the~~  
29 ~~terms of any written contract by a handler may bring suit on the bond against the principal and~~  
30 ~~his surety in any court of competent jurisdiction and may recover the damages found to be caused~~  
31 ~~by such acts complained of.~~

32        (a)    Before any license is issued, the applicant shall make and deliver to the Commissioner  
33 a surety bond executed by a surety corporation authorized to transact business in this State and  
34 approved by the Commissioner or a certificate of deposit approved by the Commissioner. No  
35 certificate of deposit may be accepted unless the issuing institution is properly insured by either  
36 the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance  
37 Corporation.

38        (b)    The surety bond or certificate of deposit to secure the faithful performance of that  
39 person's obligations as a handler shall be based on the maximum amount of gross business the  
40 applicant did in any month in this State during the preceding licensing year, or an estimate for  
41 the upcoming licensing year if the applicant did not engage in business as a handler in this State  
42 during the preceding year, and in accordance with the following schedule:

<u>Maximum Monthly Gross Business</u>	<u>Bond or Deposit Required</u>
<u>Up to \$25,000.....</u>	<u>\$25,000</u>
<u>\$25,001 to \$50,000.....</u>	<u>\$50,000</u>
<u>\$50,001 to \$75,000.....</u>	<u>\$75,000</u>
<u>\$75,001 to \$100,000.....</u>	<u>\$100,000</u>
<u>\$100,001 to \$125,000.....</u>	<u>\$125,000</u>
<u>\$125,001 to \$150,000.....</u>	<u>\$150,000</u>
<u>\$150,001 to \$175,000.....</u>	<u>\$175,000</u>

1           compel testimony; to make written findings of fact and on the basis of these  
2           findings to issue orders in controversies before him, and to revoke the permits  
3           of persons disobeying the terms of this Article or of rules, regulations, and  
4           orders made by the Board or the Commissioner. Any party disobeying any  
5           order or subpoena of the Commissioner shall be guilty of contempt, and shall  
6           be certified to the superior court for punishment. Any party may appeal to the  
7           superior court from any final order of the Commissioner; To suspend or revoke  
8           the licenses of persons disobeying the terms of this Article or of rules adopted  
9           by the Board of Agriculture.

10           (3)    To issue all such rules and regulations, with the approval of the Board, and to  
11           appoint necessary agents and to do all other lawful things necessary to carry  
12           out the purposes of this Article.

13           (4)    ~~This Article will not apply to peanuts and corn grown under contract for seed~~  
14           ~~purposes.~~In addition to the remedies provided in this Article and  
15           notwithstanding the existence of any adequate remedy at law, the  
16           Commissioner is authorized to apply to any court of competent jurisdiction,  
17           and that court shall have jurisdiction upon hearing and for cause shown to  
18           grant a temporary or permanent injunction, or both, restraining any person  
19           from violating or continuing to violate any of the provisions of this Article or  
20           any rule or regulation promulgated thereunder. The injunction shall be issued  
21           without bond.

22           (b)    For the purposes specified in subsection (a) of this section, the Commissioner or the  
23           Commissioner's agents may examine the ledgers, books of accounts, memoranda, and other  
24           documents which relate to the transaction involved, at the place or places of business of the  
25           applicant or licensee, and may take testimony under oath.

26           "**§ 106-501. Violation of Article or rules made misdemeanor.**

27           Any person who violates the provisions of this Article or the rules and regulations  
28           promulgated ~~adopted~~ thereunder shall be guilty of a Class 1 misdemeanor.

29           "**§ 106-501.1. Civil penalty.**

30           The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000)  
31           per violation against any person or business entity who violates a provision of this Article or any  
32           rule adopted thereunder. In determining the amount of the penalty, the Commissioner shall  
33           consider the degree and extent of harm caused by the violation. The clear proceeds of civil  
34           penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture  
35           Fund in accordance with G.S. 115C-457.2.

36           "**§ 106-501.2. Exceptions.**

37           This Article does not apply to:

- 38           (1)    Farmers or groups of farmers in the sale of fruits and vegetables grown by  
39           themselves.
- 40           (2)    Restaurants and retail establishments.
- 41           (3)    A handler of fruits and vegetables who pays at the time of purchase with  
42           United States cash currency or a cash equivalent, such as a money order,  
43           cashier's check, wire transfer, electronic funds transfer, or PIN-based debit  
44           transaction, or who pays with a credit card.
- 45           (4)    Handlers who purchase less than one thousand dollars (\$1,000) worth of fruits  
46           and vegetables from North Carolina producers or their designees during the  
47           peak month of such purchases within the calendar year.
- 48           (5)    A handler to the extent that the handler purchases fruits and vegetables from  
49           a producer that is owned by the handler or if the handler is owned by the  
50           producer, or if both the handler and producer are owned by the same person.