

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 553

Short Title: Tobacco Check-Off.

(Public)

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Sponsors: Representatives James, Thompson; Albertson and Mercer.

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Referred to: Agriculture.

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April 1, 1991

A BILL TO BE ENTITLED

1 AN ACT TO CREATE THE "TOBACCO RESEARCH COMMISSION",  
2 AUTHORIZE A REFERENDUM OF TOBACCO GROWERS REGARDING  
3 ESTABLISHMENT OF A "TOBACCO CHECK-OFF" FOR TOBACCO  
4 RESEARCH, AND TO MAKE CONFORMING CHANGES IN THE LAWS  
5 CONCERNING AGRICULTURAL RESEARCH.  
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 106-568.2 reads as rewritten:

9 **"§ 106-568.2. Policy as to referendum and assessment.**

10 It is further declared to be in the public interest and highly advantageous to the  
11 economic development of the State that farmers, producers, and growers of agricultural  
12 commodities using commercial feed and/or fertilizers or their ingredients be permitted  
13 by referendum held among themselves to levy upon themselves an assessment of ten  
14 cents (10¢) per ton on mixed fertilizers, commercial feed, and their ingredients (except  
15 lime and land plaster) to provide funds through the Agricultural Foundation to  
16 supplement the established program of agricultural research and dissemination of  
17 research facts. Provided further, that the assessment authorized by this Article for  
18 tobacco shall not exceed ten cents (10¢) per 100 pounds on all tobacco marketed by  
19 each farmer."

20 Sec. 2. G.S. 106-568.3 reads as rewritten:

21 **"§ 106-568.3. Action of Board of Agriculture on petition for ~~referendum.~~**  
22 **referendum; creation of the Tobacco Research Commission.**

23 (a) The State Board of Agriculture, upon a petition being filed with it so  
24 requesting and signed by the governing boards of the North Carolina Farm Bureau

1 Federation, the North Carolina State Grange, and the North Carolina Agricultural  
2 Foundation, Inc., shall examine such petition and upon finding that it complies with the  
3 provisions of this Article shall authorize the holding of a referendum as hereinafter set  
4 out and the governing boards of the North Carolina Farm Bureau Federation, the North  
5 Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall  
6 thereupon be fully authorized and empowered to hold and conduct on the part of the  
7 producers and growers of the commodities herein mentioned a referendum on the  
8 question of whether or not such growers and producers shall levy upon themselves an  
9 assessment under and subject to and for the purposes stated in this Article. Provided,  
10 that the petition for a tobacco referendum shall be signed by the governing boards of the  
11 North Carolina Farm Bureau Federation, Inc., and the Tobacco Growers Association of  
12 North Carolina, Incorporated.

13 (b) There is hereby created a North Carolina Tobacco Research Commission  
14 within the Department of Agriculture. The Commission shall consist of the  
15 Commissioner of Agriculture, or his designee; the President of the North Carolina Farm  
16 Bureau Federation, Inc., or his designee; the President of the Tobacco Growers  
17 Association of North Carolina, Incorporated, or his designee; and, the President of the  
18 North Carolina Tobacco Foundation, Inc., or his designee. The Tobacco Research  
19 Commission shall direct the Department of Agriculture in the use and management of  
20 funds for tobacco research received from assessments authorized by referendum of the  
21 tobacco farmers and producers of this State."

22 Sec. 3. G.S. 106-568.4 reads as rewritten:

23 "**§ 106-568.4. By whom referendum to be managed; announcement.**

24 The governing boards of the North Carolina Farm Bureau Federation, the North  
25 Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall  
26 arrange for and manage any referendum conducted under the provisions of this Article  
27 but shall, 60 days before the date upon which it is to be held, fix, determine, and  
28 publicly announce in each county the date, hours, and polling places in that county for  
29 voting in such referendum, the amount and basis proposed to be collected, the means by  
30 which such assessment shall be collected as authorized by the growers and producers,  
31 and the general purposes for which said funds so collected shall be applied. Provided,  
32 that the governing boards of the North Carolina Farm Bureau Federation, Inc., and the  
33 Tobacco Growers of North Carolina, Incorporated, shall arrange for and manage any  
34 referendum conducted for tobacco under the provisions of this Article."

35 Sec. 4. G.S. 106-568.6 reads as rewritten:

36 "**§ 106-568.6. Determination and notice of date, area, hours, voting places, etc.**

37 The three organizations herein designated to hold such referendum shall fix the date,  
38 area, hours, voting places, rules and regulations with respect to the holding of such  
39 referendum and cause the same to be published in the press of the State at least 60 days  
40 before holding such referendum and shall certify such information to the State  
41 Commissioner of Agriculture and to each of the farm organizations of the State. Such  
42 notice, so published and furnished to the several agencies, shall contain, in addition to  
43 the other information herein required, a statement of the amount of annual assessment  
44 proposed to be levied, and the purposes for which such assessment shall be applied.

1 Provided, that the two organizations designated to hold the referendum for tobacco shall  
2 perform the functions set forth in this section."

3 Sec. 5. G.S. 106-568.7 reads as rewritten:

4 **"§ 106-568.7. Preparation and distribution of ballots; poll holders; canvass and**  
5 **announcement of results.**

6 The governing boards of the North Carolina Farm Bureau Federation, the North  
7 Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall  
8 prepare and distribute in advance of such referendum all necessary ballots and shall  
9 under rules and regulations, adopted and promulgated by the organizations holding such  
10 referendum, arrange for the necessary poll holders and shall, within 10 days after the  
11 date of such referendum, canvass and publicly declare the results thereof. Provided, that  
12 for the tobacco referendum, the North Carolina Farm Bureau Federation, Inc., and the  
13 Tobacco Growers of North Carolina, Incorporated, shall perform the functions set forth  
14 in this section."

15 Sec. 6. G.S. 106-568.8 reads as rewritten:

16 **"§ 106-568.8. Collection and disposition of assessment; report of receipts and**  
17 **disbursements; audit.**

18 In the event two thirds or more of the eligible farmers and producers participating in  
19 said referendum vote in favor of such assessment, then said assessment shall be  
20 collected for a period of six years under rules, regulations, and methods as provided for  
21 in this Article. The assessments shall be added to the wholesale purchase price of each  
22 ton of fertilizer, commercial feed, and/or their ingredients (except lime and land plaster)  
23 by the manufacturer of said fertilizer and feed. The assessment so collected shall be paid  
24 by the manufacturer into the hands of the North Carolina Commissioner of Agriculture  
25 on the same tonnage and at the same time and in the same manner as prescribed for the  
26 reporting of the inspection tax on commercial feeds and fertilizers as prescribed by G.S.  
27 106-284.40 and 106-671. The Commissioner shall then remit said ten cents (10¢) per  
28 ton for the total tonnage as reported by all manufacturers of commercial feeds,  
29 fertilizers, and their ingredients to the treasurer of the North Carolina Agricultural  
30 Foundation, Inc., who shall disburse such funds for the purposes herein enumerated and  
31 not inconsistent with provisions contained in the charter and bylaws of the North  
32 Carolina Agricultural Foundation, Inc. Signed copies of the receipts for such  
33 remittances made by the Commissioner to the treasurer of the North Carolina  
34 Agricultural Foundation, Inc., shall be furnished the Commissioner of Agriculture, the  
35 North Carolina Farm Bureau Federation, and the North Carolina State Grange. The  
36 treasurer of the North Carolina Agricultural Foundation, Inc., shall make an annual  
37 report at each annual meeting of the Foundation directors of total receipts and  
38 disbursements for the year and shall file a copy of said report with the Commissioner of  
39 Agriculture and shall make available a copy of said report for publication. Provided,  
40 that with respect to tobacco, the assessment shall be collected for a period of three years  
41 under rules, regulations, and methods as provided for by the North Carolina Tobacco  
42 Research Commission.

43 It shall be the duty of the Commissioner of Agriculture to audit and check the  
44 remittances of ten cents (10¢) per ton by the manufacturer to the Commissioner in the

1 same manner and at the same time as audits and checks are made of remittances of the  
2 inspection tax on commercial feeds and fertilizers.

3 Any commercial feed excluded from the payment of the inspection fee required by  
4 G.S. 106-284.40 shall nevertheless be subject to the assessment provided for by this  
5 Article and to quarterly tonnage reports to the Department of Agriculture as provided  
6 for in G.S. 106- 284.40(c)."

7 Sec. 7. G.S. 106-568.9 reads as rewritten:

8 **"§ 106-568.9. Refunds to farmers.**

9 In the event such a referendum is carried in the affirmative and the assessment is  
10 levied and collected as herein provided and under the regulations to be promulgated by  
11 the duly certified agencies conducting the same, any farmer upon whom and against  
12 whom any such assessment shall have been added and collected under the provisions of  
13 this Article, if dissatisfied with the said assessment, shall have the right to demand of  
14 and receive from the treasurer of said North Carolina Agricultural Foundation, Inc., a  
15 refund of such amount so collected from such farmer or producer provided such demand  
16 for refund is made in writing within 30 days from the date of which said assessment is  
17 collected from such farmer or producer. Provided, that the Department of Agriculture  
18 shall make refunds to tobacco farmers in accordance with this section."

19 Sec. 8. G.S. 106-568.10 reads as rewritten:

20 **"§ 106-568.10. Subsequent referenda; continuation of assessment.**

21 If the assessment is defeated in the referendum, the governing boards of the North  
22 Carolina Farm Bureau Federation, the North Carolina State Grange, and the North  
23 Carolina Agricultural Foundation, Inc., shall have full power and authority to call  
24 another referendum for the purposes herein set out in the next succeeding year on the  
25 question of the annual assessment for six years. In the event the assessment carried in a  
26 referendum by two thirds or more of the eligible farmers participating therein, such  
27 assessment shall be levied annually for the six years set forth in the call for such  
28 referendum and a new referendum may be called and conducted during the sixth year of  
29 such period on the question of whether or not such assessment shall be continued for the  
30 next ensuing six years. Provided, that if the tobacco assessment is defeated in the  
31 referendum, the governing boards of the North Carolina Farm Bureau Federation, Inc.,  
32 and Tobacco Growers Association of North Carolina, Incorporated, may call another  
33 referendum in the next succeeding year on the question of the annual assessment for  
34 three years. If the tobacco assessment carried in a referendum by two-thirds or more of  
35 the eligible farmers participating therein, the assessment shall be levied annually for the  
36 three years set forth in the call for the referendum and a new referendum may be called  
37 and conducted during the third year of the period on the question of whether or not the  
38 assessment shall be continued for the next ensuing three years."

39 Sec. 9. This act is effective upon ratification.