



# NORTH CAROLINA GENERAL ASSEMBLY

2023 Session

## Legislative Fiscal Note

**Short Title:** North Carolina Farm Act of 2024.  
**Bill Number:** Senate Bill 355 (Third Edition)  
**Sponsor(s):** Sen. Brent Jackson

### SUMMARY TABLE

Note: The Third Edition of SB 355 makes the credit for certain real property donations effective for the 2025 tax year. Previously (Second Edition), the credit was effective for the 2024 tax year. This change modifies the estimated fiscal impact of the bill from -\$25 million to \$0 in FY 2024-25.

#### FISCAL IMPACT OF SB 355 (V.3) (\$ in millions)

	<u>FY 2024-25</u>	<u>FY 2025-26</u>	<u>FY 2026-27</u>	<u>FY 2027-28</u>	<u>FY 2028-29</u>
<b>State Impact</b>					
General Fund Revenue		(52.3)	(54.7)	(57.2)	(59.8)
Less Expenditures	-	-	-	-	-
<b>General Fund Impact</b>	-	<b>(52.3)</b>	<b>(54.7)</b>	<b>(57.2)</b>	<b>(59.8)</b>
<b>NET STATE IMPACT</b>	-	<b>(\$52.3)</b>	<b>(\$54.7)</b>	<b>(\$57.2)</b>	<b>(\$59.8)</b>

**TECHNICAL CONSIDERATIONS:** See Technical Considerations Section

### FISCAL IMPACT SUMMARY

Section 1(c) may reduce State and local revenue by exempting certain types of horse facilities from the Sedimentation Pollution Control Act of 1973 (Article 4 of G.S. 113A).

Section 1(d) of the proposed legislation will have no fiscal impact on the State.

Section 6 of the proposed legislation will have no fiscal impact on the State.

Section 14 will reduce local revenue by exempting property used for a bona fide farm purpose from county or city stormwater utility fees. FRD is unable to estimate the magnitude of the reduction.

Section 15 will reduce State revenue by enacting an individual and a corporate income tax credit for a donation of an interest in real property that is useful for one of several specified conservation purposes. The credit is 25% of the fair market value of the donated property interest. The credit is limited each year to \$250,000 for an individual taxpayer and to \$500,000 for a corporate taxpayer.

The credit is not refundable, but unused portions may be carried forward and used for the next five succeeding tax years.

## **FISCAL ANALYSIS**

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**Section 1(c) - Clarify that Agriculture Includes Horse Boarding and Training.** This section clarifies that horse-related activities, such as horse boarding and training, are included in the definition of agriculture as defined in Article 4 of the Sedimentation Pollution Control Act of 1973 (Act) (G.S. 113A), thereby exempting those types of facilities from the Act. The Act requires the submission of erosion and sedimentation control plans for land-disturbing activities. The Department of Environmental Quality (DEQ) or delegated local programs review, inspect, and enforce the plans, for which they charge a fee. There are currently 53 delegated erosion and sedimentation control programs (21 county and 32 city) with varying fees. State fees are \$100 per acre of disturbed land. According to the NC Horse Council, 421,000 acres of land in North Carolina are used for horse-related purposes, down from 559,000 reported in their 2019 Annual Report.

Since “horses” were included in the definition of livestock in the existing statute, it is unclear whether or not this change will have an impact. To the extent that the State or delegated programs were not exempting horse boarding and training facilities from their programs, there may be a fiscal impact from lost fee revenue. However, the impact is expected to be minimal, because fees are paid only when there are land-disturbing activities, such as new or expanded construction.

**Section 1(d) - Clarify that Agriculture Includes Horse Boarding and Training.** This section clarifies that horse-related activities, such as horse boarding and training, are included in the definition of agriculture as defined in G.S. 122D-3(2) a section of the North Carolina Agricultural Finance Act. The NC Agricultural Finance Authority provides loans to agricultural related business and utilizes this definition to determine which entities might qualify for various loans. In consultation with Department of Agriculture leadership and the State’s Agriculture Finance Authority, it was determined that this clarification would have no fiscal impact on the State. The clarification that agriculture includes horse boarding will not impact the activities or funding related to the Agricultural Finance Authority.

**Section 6 - Limit Agronomic Soil Testing to In-State Samples.** This section restricts the Department of Agriculture from processing out-of-State soil samples at its soil diagnostic labs. The Department’s Soil and Water Division processes and tests soil samples from across the State and has had the option to process out-of-State samples for a higher fee. Due to staffing and equipment limitations, the Division has not been accepting out of State soil samples. Therefore, there will be no fiscal impact on the Department as this section will only be codifying an existing practice.

**Section 14 - Exempt Agricultural Land from Stormwater Fees.** This section exempts property used for a bona fide farm purpose (as provided in G.S. 160D-903) from county or city stormwater utility fees. There are 101 stormwater utilities in the State – five county-run and 96 municipal. Rate structures vary by utility, and in the case of three county systems, within the utility by watershed. According to data from the UNC School of Government Environmental Finance Center, in 2019 the

61 stormwater utilities for which data was available generated between \$26,020 (Haw River) and \$74.3 million (Charlotte).

G.S. 160D-903 exempts property used for a bona fide farm purpose from county zoning regulations. Property owners can claim bona fide farm purposes for property used for all forms of agriculture and the activities related to them. Buildings used for the storage of cotton, peanuts, and sweet potatoes are also bona fide farm purposes, as are buildings or structures related to agritourism, with certain restrictions. There is no comprehensive, statewide list of properties utilizing the bona fide farm purpose exemption.

Because there is not a list of bona fide farm properties and because stormwater utility fees vary so widely among the counties and municipalities that have them, FRD cannot estimate the impact of this section on local revenues.

**Section 15 - Credit for Certain Real Property Donations.** FRD reviewed information from neighboring states that have conservation income tax credits. Georgia's credit is used as a significant reference because the basis for the credit, the credit percentage, and the limitations on the amount of credit available for a taxpayer are similar. The revenue impact of the Georgia credit reached nearly \$60 million before the total amount of credit available was capped. The proposed North Carolina credit is not capped, and FRD's estimate assumes a fiscal impact comparable to the Georgia credit, prior to Georgia's implementation of a cap. FRD's comparative analysis yields an initial full-year estimate of around \$50 million. Since the Third Edition of the bill would make the credit available beginning with the 2025 tax year, the fiscal impact is expected to be realized beginning in FY 25-26.

## **TECHNICAL CONSIDERATIONS**

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**Section 15-Credit for Certain Real Property Donations.** Ultimately the level of individual and corporate participation and the appraised fair market value of potential donations of property is unknown, so this estimate carries significant uncertainty. Additionally, significant compliance concerns about tax reductions tied to donations of real property for conservation purposes are noted by the North Carolina Department of Revenue and the federal Internal Revenue Service. Consequently, FRD's fiscal estimate carries more forecast risk than is typical. The forecast risk could be decreased if the legislation were modified to limit the total amount of credit available to a defined maximum amount of tax expenditure permitted per tax year.

## **DATA SOURCES**

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NC Departments of Agriculture and Revenue, Internal Revenue Service, Georgia Department of Revenue, South Carolina Department of Revenue, Virginia Department of Taxation, NC Farm Council, UNC School of Government Environmental Finance Center.

## **LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS**

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This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this

analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

## **CONTACT INFORMATION**

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Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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June 13, 2024



**Signed copy located in the NCGA Principal Clerk's Offices**