

1 **Chapter 106.**

2 **Agriculture.**

3 Article 1.

4 Department of Agriculture and Consumer Services.

5 Part 1. Board Of Agriculture.

6 **§ 106-1: Repealed by Session Laws 1995, c. 509, s. 52.**

7  
8 **§ 106-2. Department of Agriculture and Consumer Services established; Board of**  
9 **Agriculture, membership, terms of office, etc.**

10 The Department of Agriculture and Consumer Services is created and established and shall  
11 be under the control of the Commissioner of Agriculture, with the consent and advice of a  
12 board to be styled "The Board of Agriculture." The Board of Agriculture shall consist of the  
13 Commissioner of Agriculture, who shall be ex officio a member and chairman thereof and shall  
14 preside at all meetings, and of 10 other members from the State at large, so distributed as to  
15 reasonably represent the different sections and agriculture of the State. In the appointment of  
16 the members of the Board the Governor shall also take into consideration the different  
17 agricultural interests of the State, and shall appoint one member who shall be a practical  
18 tobacco farmer to represent the tobacco farming interest, one who shall be a practical cotton  
19 grower to represent the cotton interest, one who shall be a practical truck farmer or general  
20 farmer to represent the truck and general farming interest, one who shall be a practical dairy  
21 farmer to represent the dairy and livestock interest of the State, one who shall be a practical  
22 poultryman to represent the poultry interest of the State, one who shall be a practical peanut  
23 grower to represent the peanut interests, one who shall be experienced in marketing to represent  
24 the marketing of products of the State. The members of such Board shall be appointed by the  
25 Governor by and with the consent of the Senate, when the terms of the incumbents respectively  
26 expire. The term of office of such members shall be six years and until their successors are duly  
27 appointed and qualified. The terms of office of the five members constituting the present Board  
28 of Agriculture shall continue for the time for which they were appointed. In making  
29 appointments for the enlarged Board of Agriculture, the Governor shall make the appointments  
30 so that the term of three members will be for two years, three for four and four for six years.  
31 Thereafter the appointments shall be made for six years. Vacancies in such Board shall be filled  
32 by the Governor for the unexpired term. The Commissioner of Agriculture and the members of  
33 the Board of Agriculture shall be practical farmers engaged in their profession. (Code, s. 2184;  
34 1901, c. 479, ss. 2, 4; Rev., s. 3931; 1907, c. 497, s. 1; C.S., s. 4667; 1931, c. 360, s. 1; 1937, c.  
35 174; 1995, c. 509, s. 53; 1997-261, ss. 15, 16.)

36  
37 **§ 106-3: Repealed by Session Laws 1995, c. 509, s. 54.**

38  
39 **§ 106-4. Meetings of Board.**

40 The Board of Agriculture, herein established, hereafter called "the Board," shall meet for  
41 the transaction of business in the City of Raleigh at least twice a year, and oftener, if called by  
42 the Commissioner of Agriculture. (1901, c. 479, s. 3; Rev., s. 3935; C.S., s. 4669; 1921, c. 24;  
43 1929, c. 252; 1931, c. 360, s. 2.)

44  
45 **§ 106-5: Repealed by Session Laws 1997-74, s. 1.**

46  
47 **§ 106-6: Repealed by Session Laws 1995, c. 509, s. 54.**

48  
49 **§ 106-6.1. Fees.**

50 (a) A board or commission within the Department of Agriculture and Consumer  
51 Services may establish fees or charges for the services it provides. The Board of Agriculture,

1 subject to the provisions of Chapter 146 of the General Statutes, may establish a rate schedule  
2 for the use of facilities operated by the Department of Agriculture and Consumer Services.

3 (b) Repealed by Session Laws 2011-145, s. 11.2, effective July 1, 2011. (1981, c. 495,  
4 s. 10; 1987, c. 827, s. 25; 1997-261, s. 109; 1999-413, s. 5; 2009-451, s. 11.3; 2011-145, s.  
5 11.2.)  
6

7 **§ 106-6.2. Create special revenue funds for certain agricultural centers.**

8 (a) The Eastern North Carolina Agricultural Center Fund is created within the  
9 Department of Agriculture and Consumer Services as a special revenue fund. This Fund shall  
10 consist of receipts from the sale of naming rights to any facility located at the Eastern North  
11 Carolina Agricultural Center at Williamston, investments earnings on these monies, and any  
12 gifts, devises, or grants from any source for the benefit of the Eastern North Carolina  
13 Agricultural Center. All interest that accrues to this Fund shall be credited to this Fund. Any  
14 balance remaining in this Fund at the end of any fiscal year shall not revert. The Department  
15 may use this Fund only to promote, improve, repair, maintain, or operate the Eastern North  
16 Carolina Agricultural Center.

17 (b) The Southeastern North Carolina Agricultural Center Fund is created within the  
18 Department of Agriculture and Consumer Services as a special revenue fund. This Fund shall  
19 consist of receipts from the sale of naming rights to any facility located at the Southeastern  
20 North Carolina Agricultural Center at Lumberton, investments earnings on these monies, and  
21 any gifts, devises, or grants from any source for the benefit of the Southeastern North Carolina  
22 Agricultural Center. All interest that accrues to this Fund shall be credited to this Fund. Any  
23 balance remaining in this Fund at the end of any fiscal year shall not revert. The Department  
24 may use this Fund only to promote, improve, repair, maintain, or operate the Southeastern  
25 North Carolina Agricultural Center. (1998-212, s. 13.2; 2011-284, s. 72.)  
26

27 **§§ 106-7 through 106-8: Repealed by Session Laws 1995, c. 509, s. 54.**

28  
29 **§ 106-9: Repealed by Session Laws 1997-74, s. 2.**  
30

31 **§ 106-9.1: Repealed by Session Laws 1995, c. 509, s. 54.**  
32

33 Part 1A. Collection and Refund of Fees and Taxes.

34 **§ 106-9.2. Records and reports required of persons paying fees or taxes to Commissioner**  
35 **or Department; examination of records; determination of amount due by**  
36 **Commissioner in case of noncompliance.**

37 (a) Every person paying fees or taxes to the Commissioner of Agriculture or to the  
38 Department of Agriculture and Consumer Services under the provisions of this Chapter shall  
39 keep such records as the Commissioner may prescribe to indicate accurately the fees or taxes  
40 due to the Commissioner or Department, and such records shall be preserved for a period of  
41 three years, and shall at all times during the business hours of the day be subject to inspection  
42 by the Commissioner or his deputies or such other agents as may be duly authorized by the  
43 Commissioner. Any person failing to comply with or violating any of the provisions of this  
44 section shall be guilty of a Class 1 misdemeanor.

45 (b) It shall be the duty of the Commissioner of Agriculture, by competent auditors, to  
46 have the books and records of every person paying fees or taxes to the Commissioner or  
47 Department examined at least once each year to determine if such persons are keeping  
48 complete records as provided by this section, and to determine if correct reports have been  
49 made to the Commissioner or Department covering the total amount of fees or taxes due by  
50 such persons.

1 (c) If any person shall fail, neglect or refuse to keep such records or to make such  
2 reports or pay fees or taxes due as required, and within the time provided in this Chapter, the  
3 Commissioner shall immediately inform himself as best he may as to the matters and things  
4 required to be set forth in such records and reports, and from such information as he may be  
5 able to obtain, determine and fix the amount of fees or taxes due the State from such delinquent  
6 person for the period covering the delinquency. The Commissioner shall proceed immediately  
7 to collect the fees or taxes due the State, including any penalties and interest thereon, in the  
8 manner provided in this Article. (1963, c. 458; 1993, c. 539, s. 736; 1994, Ex. Sess., c. 24, s.  
9 14(c); 1997-261, s. 109.)

10  
11 **§ 106-9.3. Procedure for assessment of fees and taxes.**

12 (a) If the Commissioner of Agriculture discovers from the examination of any report  
13 filed by a taxpayer or otherwise that any fee or tax or additional fee or tax is due from any  
14 taxpayer, he shall give notice to the taxpayer in writing of the kind and amount of fee or tax  
15 which is due and of his intent to assess the same, which notice shall contain advice to the effect  
16 that unless application for a rehearing is made within the time specified in subsection (c), the  
17 proposed assessment will become conclusive and final.

18 If the Commissioner is unable to obtain from the taxpayer adequate and reliable  
19 information upon which to base such assessment, the assessment may be made upon the basis  
20 of the best information available and, subject to the provisions hereinafter made, such  
21 assessment shall be deemed correct.

22 (b) The notice required to be given in subsection (a) may be delivered to the taxpayer  
23 by an agent of the Commissioner or may be sent by mail to the last known address of the  
24 taxpayer and such notice will be deemed to have been received in due course of the mail unless  
25 the taxpayer shall make an affidavit to the contrary within 90 days after such notice is mailed,  
26 in which event the taxpayer shall be heard by the Commissioner in all respects as if he had  
27 made timely application.

28 (c) Any taxpayer who objects to a proposed assessment of fee or tax or additional fee or  
29 tax shall be entitled to a hearing before the Commissioner of Agriculture, provided application  
30 therefor is made in writing within 30 days after the mailing or delivery of the notice required by  
31 subsection (a). If application for a hearing is made in due time, the Commissioner of  
32 Agriculture shall set a time and place for the hearing and after considering the taxpayer's  
33 objections shall give written notice of his decision to the taxpayer. The amount of fee or tax or  
34 additional fee or tax due from the taxpayer as finally determined by the Commissioner shall  
35 thereupon be assessed and upon assessment shall become immediately due and collectible.

36 Provided, the taxpayer may request the Commissioner at any time within 30 days of notice  
37 of such proposed assessment for a written statement, or transcript, of the information and the  
38 evidence upon which the proposed assessment is based, and the Commissioner of Agriculture  
39 shall furnish such statement, or transcript, to the taxpayer. Provided, further, after request by  
40 the taxpayer for such written statement, or transcript, the taxpayer shall have 30 days after the  
41 receipt of the same from the Commissioner of Agriculture to apply in writing for such hearing,  
42 explaining in detail his objections to such proposed assessment. If no request for such hearing  
43 is so made, such proposed assessment shall be final and conclusive.

44 (d) If no timely application for a hearing is made within 30 days after notice of a  
45 proposed assessment of fee or tax or additional fee or tax is given pursuant to subsection (a),  
46 such proposed fee or tax or additional fee or tax assessment shall become final without further  
47 notice and shall be immediately due and collectible.

48 (e) Where a proper report has been filed by a taxpayer and in the absence of fraud, the  
49 Commissioner of Agriculture shall assess any fee or tax or additional fee or tax due from the  
50 taxpayer within three years after the date upon which such report is filed or within three years  
51 after the date upon which such report was required by law to be filed, whichever is the later. If

1 no report has been filed, and in the absence of fraud, any fee or tax or additional fee or tax due  
2 from a taxpayer may be assessed at any time within five years after the date upon which such  
3 report was required by law to be filed. In the event a false and fraudulent report has been filed  
4 or there has been an attempt in any manner to fraudulently defeat or evade a fee or tax, any fee  
5 or tax or additional fee or tax due from the taxpayer may be assessed at any time.

6 (f) Except as hereinafter provided in subsection (g), the Commissioner of Agriculture  
7 shall have no authority to assess any fee or tax or additional fee or tax under this section until  
8 the notice required by subsection (a) shall have been given and the period within which an  
9 application for a hearing may be filed has expired, or if a timely application for a hearing if  
10 filed, until written notice of the Commissioner's decision has been given to the taxpayer,  
11 provided, however that if the notice required by subsection (a) shall be mailed or delivered  
12 within the limitation prescribed in subsection (e), such limitation shall be deemed to have been  
13 complied with and the proceeding may be carried forward to its conclusion.

14 (g) Notwithstanding any other provision of this section, the Commissioner of  
15 Agriculture shall have authority at any time within the applicable period of limitations to  
16 proceed at once to assess any fee or tax or additional fee or tax which he finds is due from a  
17 taxpayer if, in his opinion, the collection of such fee or tax is in jeopardy and immediate  
18 assessment is necessary in order to protect the interest of the State, provided, however, that if  
19 an assessment is made pursuant to the authority set forth in this subsection before the notice  
20 required by subsection (a) is given, such assessment shall not be valid unless the notice  
21 required by subsection (a) shall be given within 30 days after the date of such assessment.

22 (h) All assessments of fees or taxes or additional fees or taxes (exclusive of penalties  
23 assessed thereon) shall bear interest at the rate of one half of one percent (0.5%) per month or  
24 fraction thereof from the time said fees or taxes or additional fees or taxes were due to have  
25 been paid until paid. (1963, c. 458.)  
26

#### 27 **§ 106-9.4. Collection of delinquent fees and taxes.**

28 (a) If any fee or tax imposed by this Chapter, or any other fee or tax levied by the State  
29 and payable to the Commissioner of Agriculture or the Department of Agriculture and  
30 Consumer Services, or any portion of such fee or tax, be not paid within 30 days after the same  
31 becomes due and payable, and after the same has been assessed, the Commissioner of  
32 Agriculture shall issue an order under his hand and official seal, directed to the sheriff of any  
33 county of the State commanding him to levy upon and sell the real and personal property of the  
34 taxpayer found within his county for the payment of the amount thereof, with the added  
35 penalties, additional taxes, interest, and cost of executing the same, and to return to the  
36 Commissioner of Agriculture the money collected by virtue thereof within a time to be therein  
37 specified, not less than 60 days from the date of the order. The said sheriff shall, thereupon,  
38 proceed upon the same in all respects with like effect and in the same manner prescribed by law  
39 in respect to executions issued against property upon judgments of a court of record, and shall  
40 be entitled to the same fees for his services in executing the order, to be collected in the same  
41 manner.

42 (b) Bank deposits, rents, salaries, wages, and all other choses in action or property  
43 incapable of manual levy or delivery, hereinafter called the intangible, belonging, owing, or to  
44 become due to any taxpayer subject to any of the provisions of this Chapter, or which has been  
45 transferred by such taxpayer under circumstances which would permit it to be levied upon if it  
46 were tangible, shall be subject to attachment or garnishment as herein provided, and the person  
47 owing said intangible, matured or unmatured, or having same in his possession or control,  
48 hereinafter called the garnishee, shall become liable for all sums due by the taxpayer under this  
49 Chapter to the extent of the amount of the intangible belonging, owing, or to become due to the  
50 taxpayer subject to the setoff of any matured or unmatured indebtedness of the taxpayer to the  
51 garnishee. To effect such attachment or garnishment the Commissioner of Agriculture shall

1 serve or cause to be served upon the taxpayer and the garnishee a notice as hereinafter  
2 provided, which notice may be served by any deputy or employee of the Commissioner of  
3 Agriculture or by any officer having authority to serve summonses. Said notice shall show:

- 4 (1) The name of the taxpayer and his address, if known;
- 5 (2) The nature and amount of the fee or tax, and the interest and penalties  
6 thereon, and the year or years for which the same were levied or assessed,  
7 and
- 8 (3) Shall be accompanied by a copy of this subsection, and thereupon the  
9 procedure shall be as follows:

10 If the garnishee has no defense to offer or no setoff against the taxpayer, he shall, within 10  
11 days after service of said notice, answer the same by sending to the Commissioner of  
12 Agriculture by registered mail a statement to that effect, and if the amount due or belonging to  
13 the taxpayer is then due or subject to his demand, it shall be remitted to the Commissioner with  
14 said statement, but if said amount is to mature in the future, the statement shall set forth that  
15 fact and the same shall be paid to the Commissioner upon maturity, and any payment by the  
16 garnishee hereunder shall be a complete extinguishment of any liability therefor on his part to  
17 the taxpayer. If the garnishee has any defense or setoff, he shall state the same in writing under  
18 oath, and, within 10 days after service of said notice, shall send two copies of said statement to  
19 the Commissioner by registered mail; if the Commissioner admits such defense or setoff, he  
20 shall so advise the garnishee in writing within 10 days after receipt of such statement and the  
21 attachment or garnishment shall thereupon be discharged to the amount required by such  
22 defense or setoff, and any amount attached or garnished hereunder which is not affected by  
23 such defense or setoff shall be remitted to the Commissioner as above provided in cases where  
24 the garnishee has no defense or setoff, and with like effect. If the Commissioner shall not admit  
25 the defense or setoff, he shall set forth in writing his objections thereto and shall send a copy  
26 thereof to the garnishee within 10 days after receipt of the garnishee's statement, or within such  
27 further time as may be agreed on by the garnishee, and at the same time he shall file a copy of  
28 said notice, a copy of the garnishee's statement, and a copy of his objections thereto in the  
29 superior court of the county where the garnishee resides or does business where the issues  
30 made shall be tried as in civil actions.

31 If judgment is entered in favor of the Commissioner of Agriculture by default or after  
32 hearing, the garnishee shall become liable for the fee or taxes, interest and penalties due by the  
33 taxpayer to the extent of the amount over and above any defense or setoff of the garnishee  
34 belonging, owing, or to become due to the taxpayer, but payments shall not be required from  
35 amounts which are to become due to the taxpayer until the maturity thereof, nor shall more than  
36 ten percent (10%) of any taxpayer's salary or wages be required to be paid hereunder in any one  
37 month. The garnishee may satisfy said judgment upon paying said amount, and if he fails to do  
38 so, execution may issue as provided by law. From any judgment or order entered upon such  
39 hearing either the Commissioner of Agriculture or the garnishee may appeal as provided by  
40 law. If, before or after judgment, adequate security is filed for the payment of said taxes,  
41 interest, penalties, and costs, the attachment or garnishment may be released or execution  
42 stayed pending appeal, but the final judgment shall be paid or enforced as above provided. The  
43 taxpayer's sole remedies to question his liability for said fees or taxes, interest, and penalties  
44 shall be those provided in this Article, as now or hereinafter amended or supplemented. If any  
45 third person claims any intangible attached or garnished hereunder and his lawful right thereto,  
46 or to any part thereof, is shown to the Commissioner, he shall discharge the attachment or  
47 garnishment to the extent necessary to protect such right, and if such right is asserted after the  
48 filing of said copies as aforesaid, it may be established by interpleader as now or hereafter  
49 provided by the General Statutes in cases of attachment and garnishment. In case such third  
50 party has no notice of proceedings hereunder, he shall have the right to file his petition under  
51 oath with the Commissioner at any time within 12 months after said intangible is paid to him

1 and if the Commissioner finds that such party is lawfully entitled thereto or to any part thereof,  
2 he shall pay the same to such party as provided for refunds by G.S. 105-407 and if such  
3 payment is denied, said party may appeal from the determination of the Commissioner to the  
4 Superior Court of Wake County or to the superior court of the county wherein he resides or  
5 does business. The intangibles of a taxpayer shall be paid or collected hereunder only to the  
6 extent necessary to satisfy said fees or taxes, interest, penalties, and costs. Except as hereinafter  
7 set forth, the remedy provided in this section shall not be resorted to unless a warrant for  
8 collection or execution against the taxpayer has been returned unsatisfied: Provided, however,  
9 if the Commissioner is of opinion that the only effective remedy is that herein provided, it shall  
10 not be necessary that a warrant for collection or execution shall be first returned unsatisfied,  
11 and in no case shall it be a defense to the remedy herein provided that a warrant for collection  
12 or execution has not been first returned unsatisfied: Provided, however, that no salary or wage  
13 at the rate of less than two hundred dollars (\$200.00) per month, whether paid weekly or  
14 monthly, shall be attached or garnished under the provisions of this section.

15 (c) In addition to the remedy herein provided, the Commissioner of Agriculture is  
16 authorized and empowered to make a certificate setting forth the essential particulars relating to  
17 the said fee or tax, including the amount thereof, the date when the same was due and payable,  
18 the person, firm, or corporation chargeable therewith, and the nature of the fee or tax, and under  
19 his hand and seal transmit the same to the clerk of the superior court of any county in which the  
20 delinquent taxpayer resides or has property; whereupon, it shall be the duty of the clerk of the  
21 superior court of the county to docket the said certificate and index the same on the cross index  
22 of judgments, and execution may issue thereon with the same force and effect as an execution  
23 upon any other judgment of the superior court; said tax shall become a lien on realty only from  
24 the date of the docketing of such certificate in the office of the clerk of the superior court and in  
25 personalty only from the date of the levy on such personalty and upon execution thereon no  
26 homestead or personal property exemption shall be allowed.

27 (d) The remedies herein given are cumulative and in addition to all other remedies  
28 provided by law for the collection of said fees and taxes. (1963, c. 458; 1997-261, s. 109.)  
29

### 30 **§ 106-9.5. Refund of overpayment.**

31 If the Commissioner of Agriculture discovers from the examination of any report, or  
32 otherwise, that any taxpayer has overpaid the correct amount of any fee or tax (including  
33 penalties, interest and costs, if any), such overpayment shall be refunded to the taxpayer within  
34 60 days after it is ascertained together with interest thereon at the rate of six percent (6%) per  
35 annum: Provided, that interest on any such refund shall be computed from a date 90 days after  
36 date tax was originally paid by the taxpayer. Provided, further, that demand for such refund is  
37 made by the taxpayer within three years from the date of such overpayment or the due date of  
38 the report, whichever is later. (1963, c. 458.)  
39

### 40 **§ 106-9.6. Suits to prevent collection prohibited; payment under protest and recovery of 41 fee or tax so paid.**

42 No court of this State shall entertain a suit of any kind brought for the purpose of  
43 preventing the collection of any fee or tax imposed in this Chapter. Whenever a person shall  
44 have a valid defense to the enforcement of the collection of a fee or tax assessed or charged  
45 against him or his property, such person shall pay such fee or tax to the proper officer, and  
46 notify such officer in writing that he pays the same under protest. Such payment shall be  
47 without prejudice to any defense or rights he may have in the premises, and he may, at any time  
48 within 30 days after such payment, demand the same in writing from the Commissioner of  
49 Agriculture; and if the same shall not be refunded within 90 days thereafter, may sue such  
50 official in the courts of the State for the amount so demanded. Such suit must be brought in the  
51 Superior Court of Wake County, or in the county in which the taxpayer resides. (1963, c. 458.)

1  
2 Part 2. Commissioner of Agriculture.

3 **§ 106-10. Election; term; vacancy.**

4 The Commissioner of Agriculture shall be elected at the general election for other State  
5 officers, shall be voted for on the same ballot with such officers, and his term of office shall be  
6 four years, and until his successor is elected and qualified. Any vacancy in the office of such  
7 Commissioner shall be filled by the Governor, the appointee to hold until the next regular  
8 election to the office and the qualification of his successor. (1901, c. 479, s. 4; Rev., s. 3938;  
9 C.S., s. 4675.)  
10

11 **§ 106-11. Salary of Commissioner of Agriculture.**

12 The salary of the Commissioner of Agriculture shall be set by the General Assembly in the  
13 Current Operations Appropriations Act. In addition to the salary set by the General Assembly  
14 in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as  
15 is provided to employees of the State who are subject to the State Personnel Act. (1901, c. 479,  
16 s. 4; 1905, c. 529; Rev., s. 2749; 1907, c. 887, s. 1; 1913, c. 58; C.S., s. 3872; 1921, c. 25, s. 1;  
17 1933, c. 282, s. 5; 1935, c. 293; 1937, c. 415; 1939, c. 338; 1943, c. 499, s. 1; 1947, c. 1041;  
18 1949, c. 1278; 1953, c. 1, s. 2; 1957, c. 1; 1963, c. 1178, s. 4; 1967, c. 1130; c. 1237, s. 4; 1969,  
19 c. 1214, s. 4; 1971, c. 912, s. 4; 1973, c. 778, s. 4; 1975, 2nd Sess., c. 983, s. 19; 1977, c. 802, s.  
20 42.10; 1983, c. 761, s. 208; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b).)  
21

22 **§§ 106-12 through 106-13: Repealed by Session Laws 1997-74, ss. 3, 4.**  
23

24 **§ 106-14. To establish regulations for transportation of livestock.**

25 The Commissioner of Agriculture, by and with the consent and advice of the Board of  
26 Agriculture, shall promulgate and enforce such rules and regulations as may be necessary for  
27 the proper transporting of livestock by motor vehicle, and may require a permit for such  
28 vehicles if it becomes necessary in order to prevent the spread of animal diseases. This section  
29 shall not apply to any county having a local law providing for the vaccination of hogs against  
30 cholera. (1937, c. 427, ss. 1, 2.)  
31

32 Part 3. Powers and Duties of Department and Board.

33 **§§ 106-15 through 106-19: Repealed by Session Laws 1997-74, s. 5.**  
34

35 **§ 106-20: Repealed by Session Laws 1987, c. 244, s. 1(a).**  
36

37 **§ 106-21: Repealed by Session Laws 1997-74, s. 7.**  
38

39 **§ 106-21.1. Feed Advisory Service; fee.**

40 The Department of Agriculture and Consumer Services shall operate a Feed Advisory  
41 Service for the analysis of animal feeds in order to provide a feeding management service to all  
42 animal producers in North Carolina. A fee of ten dollars (\$10.00) shall accompany each feed  
43 sample sent to the Department for testing. A fee of seventy-five dollars (\$75.00) shall  
44 accompany each feed sample which is to be tested for the presence of fumonisin. (1979, c.  
45 1026; 1989, c. 544, s. 9; 1991, c. 649, s. 1; 1997-261, s. 21.)  
46

47 **§ 106-21.2. Food Bank information and referral service.**

48 The Department of Agriculture and Consumer Services may maintain an information and  
49 referral service for persons and organizations that have notified the department of their desire to  
50 donate food to a nonprofit organization or a nonprofit corporation. (1979, 2nd Sess., c. 1188, c.  
51 2; 1997-261, s. 22.)

1  
2 **§ 106-22. Joint duties of Commissioner and Board.**

3 The Commissioner of Agriculture, by and with the consent and advice of the Board of  
4 Agriculture shall:

- 5 (1) General. – Investigate and promote such subjects relating to the  
6 improvement of agriculture, the beneficial use of commercial fertilizers and  
7 composts, and for the inducement of immigration and capital as he may  
8 think proper; but he is especially charged:
- 9 (2) Commercial Fertilizers. – With such supervision of the trade in commercial  
10 fertilizers as will best protect the interests of the farmers, and shall report to  
11 district attorneys and to the General Assembly information as to the  
12 existence or formation of trusts or combinations in fertilizers or fertilizing  
13 materials which are or may be offered for sale in this State, whereby the  
14 interests of the farmers may be injuriously affected, and shall publish such  
15 information in the Bulletin of the Department;
- 16 (3) Cattle and Cattle Diseases. – With investigations adapted to promote the  
17 improvement of milk and beef cattle, and especially investigations relating  
18 to the diseases of cattle and other domestic animals, and shall publish and  
19 distribute from time to time information relative to any contagious diseases  
20 of stock, and suggest remedies therefor, and shall have power in such cases  
21 to quarantine the infected animals and to regulate the transportation of stock  
22 in this State, or from one section of it to another, and may cooperate with the  
23 United States Department of Agriculture in establishing and maintaining  
24 cattle districts or quarantine lines, to prevent the infection of cattle from  
25 splenic or Spanish fever. Any person willfully violating such regulations  
26 shall be liable in a civil action to any person injured, and for any and all  
27 damages resulting from such conduct, and shall also be guilty of a Class 1  
28 misdemeanor;
- 29 (4) Honey and Bee Industry. – With investigations adapted to promote the  
30 improvement of the honey and bee industry in this State, and especially  
31 investigations relating to the diseases of bees, and shall publish and  
32 distribute from time to time information relative to such diseases, and such  
33 remedies therefor, and shall have power in such cases to quarantine the  
34 infected bees and to control or eradicate such infections and to regulate the  
35 transportation or importation into North Carolina from any other state or  
36 country of bees, honey, hives, or any apiary equipment, or from one section  
37 of the State to another, and may cooperate with the United States  
38 Department of Agriculture in establishing and maintaining quarantine lines  
39 or districts. The Commissioner of Agriculture, by and with the consent and  
40 advice of the Board of Agriculture, shall have power to make rules and  
41 regulations to carry out the provisions of this section; and in event of failure  
42 to comply with any such rules and regulations, the Commissioner of  
43 Agriculture or his duly authorized agent is authorized to confiscate and  
44 destroy any infected bees and equipment and any bees and/or used apiary  
45 equipment moved in violation of these regulations;
- 46 (5) Insect Pests. – With investigations relative to the ravages of insects and with  
47 the dissemination of such information as may be deemed essential for their  
48 abatement, and making regulations for destruction of such insects. The  
49 willful violation of any of such regulations by any person shall be a Class 1  
50 misdemeanor;

- 1 (6) New Agricultural Industries. – With investigations and experiments directed  
2 to the introduction and fostering of new agricultural industries, adapted to  
3 the various climates and soils of the State, especially the culture of truck and  
4 market gardens, the grape and other fruits;
- 5 (7) Drainage and Irrigation; Fertilizer Sources. – With the investigations of the  
6 subject of drainage and irrigation and publication of information as to the  
7 best methods of both, and what surfaces, soils, and locations may be most  
8 benefited by such improvements; also with the collection and publication of  
9 information in regard to localities, character, accessibility, cost, and modes  
10 of utilization of native mineral and domestic sources of fertilizers, including  
11 formulae for composting adapted to the different crops, soils, and materials;
- 12 (8) Farm Fences. – With the collection of statistics relating to the subject of  
13 farm fences, with suggestions for diminishing their cost, and the conditions  
14 under which they may be dispensed with altogether;
- 15 (9) Sales of Fertilizers, Seeds, and Food Products. – With the enforcement and  
16 supervision of the laws which are or may be enacted in this State for the sale  
17 of commercial fertilizers, seeds and food products, with the authority to  
18 make regulations concerning the same;
- 19 (10) Inducement of Capital and Immigration. – With the inducement of capital  
20 and immigration by the dissemination of information relative to the  
21 advantages of soil and climate and to the natural resources and industrial  
22 opportunities offered in this State, by the keeping of a land registry and by  
23 the publication of descriptions of agricultural, mineral, forest, and trucking  
24 lands which may be offered the Department for sale; which publication shall  
25 be in tabulated form, setting forth the county, township, number of acres,  
26 names and addresses of owners, and such other information as may be  
27 needful in placing inquiring homeseekers in communication with  
28 landowners; and he shall publish a list of such inquiries in the Bulletin for  
29 the benefit of those who may have land for sale;
- 30 (11) Diversified Farming. – With such investigations as will best promote the  
31 improvement and extension of diversified farming, including the rotation of  
32 crops, the raising of home supplies, vegetables, fruits, stock, grasses, etc.;
- 33 (12) Farmers' Institutes. – With the holding of farmers' institutes in the several  
34 counties of the State, as frequently as may be deemed advisable, in order to  
35 instruct the people in improved methods in farming, in the beneficial use of  
36 fertilizers and composts, and to ascertain the wants and necessities of the  
37 various farming communities; and may collect the papers and addresses  
38 made at these institutes and publish the same in pamphlet form annually for  
39 distribution among the farmers of the State. He may secure such assistants as  
40 may be necessary or beneficial in holding such institutes;
- 41 (13) Publication of Bulletin. – The Commissioner shall publish bulletins which  
42 shall contain a list of the fertilizers and fertilizing materials registered for  
43 sale each year, the guaranteed constituents of each brand, reports of analyses  
44 of fertilizers, the dates of meeting and reports of farmers' institutes and  
45 similar societies, description of farm buildings suited to our climate and  
46 needs, reports of interesting experiments of farmers, and such other matters  
47 as may be deemed advisable. The Department may determine the number of  
48 bulletins which shall be issued each year;
- 49 (14) Reports to Legislature. – He shall transmit to the General Assembly at each  
50 session a report of the operations of the Department with suggestions of such  
51 legislation as may be deemed needful;

- 1 (15) Repealed by Session Laws 1993, c. 561, s. 116.
- 2 (16) State Agricultural Policies. – Establish State government policies relating to
- 3 agriculture.
- 4 (17) Agronomic Testing. – Provide agronomic testing services and charge
- 5 reasonable fees for plant analysis, nematode testing, out-of-state soil testing,
- 6 and expedited soil testing. The Board shall charge at least four dollars
- 7 (\$4.00) for plant analysis, at least two dollars (\$2.00) for nematode testing,
- 8 at least five dollars (\$5.00) for out-of-state soil testing, and at least one
- 9 hundred dollars (\$100.00) for expedited soil testing.
- 10 (18) Forests. – Have charge of forest maintenance, forest fire protection,
- 11 reforestation, and the protection of the forests.
- 12 (19) State forests. – Have charge of all State forests and measures for forest fire
- 13 prevention.
- 14 (20) Property for State forests. – Acquire real and personal property as desirable
- 15 and necessary for the performance of the duties and functions of the
- 16 Department under subdivision (19) of this section and pay for the property
- 17 out of any funds appropriated for the Department or available
- 18 unappropriated revenues of the Department, when such acquisition is
- 19 approved by the Governor and Council of State. The title to any real estate
- 20 acquired under this subdivision shall be in the name of the State of North
- 21 Carolina for the use and benefit of the Department.
- 22 (21) State recreational forests. – Have charge of all State recreational forests.
- 23 (22) Property for State recreational forests. – Acquire real and personal property
- 24 as desirable and necessary for the performance of the duties and functions of
- 25 the Department under subdivision (21) of this section and pay for the
- 26 property out of any funds appropriated for the Department or available
- 27 unappropriated revenues of the Department, when such acquisition is
- 28 approved by the Governor and Council of State. The title to any real estate
- 29 acquired under this subdivision shall be in the name of the State of North
- 30 Carolina for the use and benefit of the Department.
- 31 (23) Administration of North Carolina Century Farms Program. – Administer the
- 32 North Carolina Century Farms Program, which recognizes farms in the State
- 33 that have been continuously owned by the same family for at least 100 years.
- 34 (1901, c. 479, s. 4; Rev., ss. 3294, 3724, 3944; 1917, c. 16; C.S., s. 4688;
- 35 1939, c. 173; 1973, c. 47, s. 2; 1979, c. 344, s. 1; 1981, c. 495, s. 9; 1989, c.
- 36 544, s. 4; 1993, c. 539, ss. 737, 738; c. 561, s. 116(d); 1994, Ex. Sess., c. 24,
- 37 s. 14(c); 2011-145, ss. 13.25(i), (l), 31.7; 2011-201, s. 1; 2011-391, s. 33(a).)
- 38

39 **§ 106-22.1. State farms.**

40 State-owned farmland, including timberland, allocated to the Department of Agriculture

41 and Consumer Services for the State Farm Program, shall be managed by the Department for

42 research, teaching, and demonstration in agriculture, forestry, and aquaculture. Research

43 projects on the State farms shall be approved by the Department. The Department may sell

44 surplus commodities produced on the farms. (1989, c. 500, s. 107(c); 1997-261, s. 23.)

45

46 **§ 106-22.2: Recodified as § 143B-344.23 by Session Laws 1998-212, s. 21(a).**

47

48 **§ 106-22.3. Organic Production Program.**

49 (a) The Board of Agriculture may establish rules, standards, guidelines, and policies for

50 the establishment and implementation of a voluntary program for the certification of

51 organically produced agricultural products.

1 (b) The Commissioner of Agriculture may enter into agreements with the United States  
2 Department of Agriculture and may apply for approval, accreditation, certification, or similar  
3 authority as may be necessary to comply with the requirements of the Organic Foods  
4 Production Act of 1990, Public Law 101-624. (1993, c. 147.)

5  
6 **§ 106-22.4. Llamas as livestock.**

7 Any rules adopted by the Board of Agriculture that affect llamas shall not refer to llamas as  
8 exotic or wild animals. It is the intent of the General Assembly that llamas be treated as  
9 domesticated livestock in order to promote the development and improvement of the llama  
10 industry in the State. This section does not prohibit the Board of Agriculture from classifying  
11 llamas for animal health purposes in accordance with generally accepted standards of  
12 veterinary medicine. For purposes of the section, "llama" means a South American camelid that  
13 is an animal of the genus llama. Llama includes llamas, alpacas, and guanacos. Llama does not  
14 include vicunas. (1997-84, s. 3.)

15  
16 **§ 106-22.5. Agricultural tourism signs.**

17 (a) The Department of Agriculture and Consumer Services shall provide directional  
18 signs on major highways at or in reasonable proximity to the nearest interchange or within one  
19 mile leading to an agricultural facility that promotes tourism by providing tours and on-site  
20 sales or samples of North Carolina agricultural products to area tourists.

21 (b) An agricultural facility must be open for business at least four days a week, 10  
22 months of the year in order to qualify for the directional signs provided for in this section. The  
23 Department shall assess the facility the actual reasonable costs of the sign and its installation.  
24 (1999-356, s. 1.)

25  
26 Part 4. Cooperation of Federal and State Governments in Agricultural Work.

27 **§ 106-23. Legislative assent to Adams Act for experiment station.**

28 Legislative assent be and the same is hereby given to the purpose of an act of Congress  
29 approved March 16, 1906, entitled "An Act to provide for an increased annual appropriation for  
30 agricultural experiment stations, and regulating the expenditure thereof," known as the Adams  
31 Act, and the money appropriated by this act be and the same is hereby accepted on the part of  
32 the State for the use of the agricultural experiment station, and the whole amount shall be used  
33 for the benefit of the said agricultural experiment station, in accordance with the act of  
34 Congress making appropriations for agricultural experiment stations and governing the  
35 expenditure thereof. (1907, c. 793; C.S., s. 4689.)

36  
37 Part 5. Cooperation Between Department and United States Department of Agriculture, and  
38 County Commissioners.

39 **§ 106-24. Collection and publication of information relating to agriculture; cooperation.**

40 (a) The Department of Agriculture and Consumer Services shall collect, compile,  
41 systematize, tabulate, and publish statistical information relating to agriculture. The  
42 Department is authorized to use sample surveys to collect primary data relating to agriculture.  
43 The Department is authorized to cooperate with the United States Department of Agriculture  
44 and the several boards of county commissioners of the State, to accomplish the purpose of this  
45 Part.

46 (b) The Department of Agriculture and Consumer Services shall annually collect  
47 information on water use by persons who withdraw 10,000 gallons per day or more of water  
48 from the surface or groundwater sources of the State for activities directly related or incidental  
49 to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy products,  
50 livestock, poultry, and other agricultural products. The information shall be collected by survey  
51 conducted pursuant to subsection (a) of this section and in accordance with Title 7 United

1 States Code Section 2276 (Confidential Information Protection and Statistical Efficiency Act).  
2 The Department shall develop the survey form in consultation with the Department of  
3 Environment and Natural Resources. The Department shall report the results of the water use  
4 survey to the Environmental Review Commission no later than July 1 of each year and shall  
5 provide a copy of the report to the Department of Environment and Natural Resources. The  
6 report shall include recommendations about modifications to the survey, including changes in  
7 the gallons per day threshold for water use data collection. The report shall provide agricultural  
8 water use data by county. If the county is located in more than one river basin, the report shall  
9 separate the county data to show agricultural water use by river basin within the county. If  
10 publication of county or watershed data would result in disclosure of an individual operation's  
11 water use, the data will be combined with data from another county or watershed. (1921, c.  
12 201, s. 1; C.S., s. 4689(a); 1941, c. 343; 1975, c. 611, s. 1; 1979, c. 228, s. 1; 1997-261, s. 25;  
13 2008-143, s. 2(a).)

14  
15 **§ 106-24.1. Confidentiality of information collected and published.**

16 All information published by the Department of Agriculture and Consumer Services  
17 pursuant to this Part shall be classified so as to prevent the identification of information  
18 received from individual farm operators. All information received pursuant to this Part from  
19 individual farm operators shall be held confidential by the Department and its employees.  
20 Information collected by the Department from individual farm operators for the purposes of its  
21 animal health programs may be disclosed by the State Veterinarian when, in his judgment, the  
22 disclosure will assist in the implementation of these programs. Animal disease diagnostic tests  
23 that identify the owner of the animal shall not be disclosed without the permission of the owner  
24 unless the State Veterinarian determines that disclosure is necessary to prevent the spread of an  
25 animal disease or to protect the public health. (1979, c. 228, s. 3; 1993, c. 5, s. 1; 1997-261, s.  
26 26; 2002-179, s. 8.)

27  
28 **§§ 106-25 through 106-26.2. Repealed by Session Laws 1979, c. 288, s. 2.**

29  
30 **§§ 106-26.3 through 106-26.6. Reserved for future codification purposes.**