

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 688**

Short Title: Turfgrass Fertilizer Assessment.

(Public)

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Sponsors: Representatives Gibson, Warwick, Weatherly (Primary Sponsors); Allen, Barbee, Barefoot, Bell, Bowie, Buchanan, Church, Coates, Cole, Cox, Creech, Culp, Culpepper, Decker, Dedmon, Dockham, Edwards, Fitch, Fox, Goodwin, Gray, Haire, Hiatt, Hill, Hilton, Holliman, Hurley, Johnson, Kiser, Lucas, McCombs, McLawhorn, McMahan, Miner, Morris, Oldham, Owens, Rayfield, Rogers, Saunders, Smith, Teague, Thompson, Tolson, Tucker, Wainwright, Walend, Walker, Warner, G. Wilson, Womble, and Yongue.

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Referred to: Finance.

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March 19, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO AUTHORIZE AN ASSESSMENT ON TURFGRASS FERTILIZER  
3 AND TO PROVIDE FOR THE COLLECTION, USE, AND REFUND OF THIS  
4 ASSESSMENT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 106 of the General Statutes is amended by adding a  
7 new Article to read:

"Article 70.

"Turfgrass Fertilizer Assessment.

10 **"§ 106-830. Findings and purpose.**

11 The General Assembly finds that turfgrass production and maintenance makes an  
12 important contribution to the State's economy and that it is appropriate for the State to  
13 provide a means whereby turfgrass fertilizer users may pay an assessment that is  
14 refundable upon request, in order to provide funds for turfgrass research and promotion.

15 **"§ 106-831. Definitions.**

16 The following definitions apply in this Article:

17 (1) 'Council' means the Turfgrass Council of North Carolina, Inc.

18 (2) 'Department' means the Department of Agriculture and Consumer  
19 Services.

1           (3) 'Turfgrass' means grassy areas that are maintained. Turfgrass includes  
2 lawns; golf courses; commercial, industrial, and institutional lawn  
3 areas; athletic fields; sod production fields; roadsides; and cemeteries.

4           (4) 'Turfgrass fertilizer' means commercial fertilizer, as defined in G.S.  
5 106-657, that is dry and that is sold for use on turfgrass or labeled for  
6 use on turfgrass. Turfgrass fertilizer also means bulk fertilizer, as  
7 defined in G.S. 106-657, that is dry and that is sold for use on  
8 turfgrass.

9 **"§ 106-832. Turfgrass assessment; collection; penalties; audits.**

10       (a) Collection of Assessment. – An assessment in the amount of five dollars  
11 (\$5.00) per ton shall be added to the purchase price of all turfgrass fertilizer sold in  
12 North Carolina. The Department shall notify all manufacturers of turfgrass fertilizer of  
13 the assessment under this section and shall provide forms to the manufacturers to be  
14 used to report the assessment under subsection (b) of this section.

15       (b) Duties of Manufacturers. – Each manufacturer of turfgrass fertilizer shall  
16 provide each wholesale purchaser of turfgrass fertilizer with an invoice that contains a  
17 statement that states the amount of the assessment collected on the purchase covered by  
18 the invoice, as follows: 'TURFGRASS RESEARCH ASSESSMENT.....(amount of  
19 assessment collected on the purchase covered by the invoice)'. No later than the  
20 fifteenth of each month, each manufacturer of turfgrass fertilizer shall report on the  
21 forms provided by the Department the tonnage of turfgrass fertilizer sold during the  
22 previous month and shall remit to the Department the assessments on turfgrass fertilizer  
23 sold during the previous month.

24       (c) Duties of Purchasers. – Persons who purchase turfgrass fertilizer on which the  
25 assessment was not paid within 30 days by the manufacturer shall report these  
26 purchases and pay the assessment to the Department.

27       (d) Penalty. – Any manufacturer of turfgrass fertilizer who fails to report and  
28 remit the assessment under subsection (b) of this section for the previous month's sales  
29 by the end of the month in which it is due shall pay a penalty of five percent (5%) of the  
30 unpaid assessment, plus an additional penalty of one percent (1%) of the unpaid  
31 assessment for each month that the assessment remains unpaid.

32       (e) Audits. – The Department may conduct audits and check the remittances paid  
33 by the manufacturers under this section in the same manner and at the same time as  
34 audits are made with regard to the inspection tax on commercial fertilizers under G.S.  
35 106-671. If the audit reveals that a manufacturer of turfgrass fertilizer has willfully  
36 failed to remit assessments when due, the manufacturer shall pay the Department the  
37 reasonable costs of the audit.

38       (f) Action to Collect. – The Council may bring an action to collect unpaid  
39 assessments, penalties, and reasonable costs of any audit as provided in this section,  
40 against any manufacturer of turfgrass fertilizer who fails to pay the assessment and  
41 penalties due. If the Council prevails in the action brought, the manufacturer is liable for  
42 the cost of the action, including attorneys' fees.

43 **"§ 106-833. Use of funds.**

1 Uses of Assessments Collected. – The Department shall remit all assessments it  
2 collects under G.S. 106-832, less reasonable administrative costs not to exceed six  
3 percent (6%) of the revenue generated in the previous fiscal year, as follows:

4 (1) Seventy-five percent (75%) shall be transferred to the North Carolina  
5 Agricultural Foundation, Inc., to be used for research concerning  
6 turfgrass production and maintenance.

7 (2) Twenty-five percent (25%) shall be transferred to the Council to be  
8 used for promoting turfgrass and its uses.

9 **"§ 106-834. Turfgrass Funding Committee.**

10 (a) Turfgrass Funding Committee Established. – The Turfgrass Funding  
11 Committee is established. No moneys shall be disbursed from assessments collected  
12 under this Article unless approved by the Turfgrass Funding Committee. The Turfgrass  
13 Funding Committee shall consist of nine members as follows:

14 (1) Six members shall be members of the Council and shall be appointed  
15 by the Board of Directors of the Council.

16 (2) Three members shall be members of the faculty of the College of  
17 Agriculture and Life Sciences at North Carolina State University, shall  
18 be nominated by the Dean of that College, and shall be appointed by  
19 the Commissioner of Agriculture.

20 (b) Terms. – The terms of three of the members appointed by the Board of  
21 Directors of the Council shall expire on June 30 of years that precede by one year those  
22 years that are evenly divisible by three. The terms of three of the members appointed by  
23 the Board of Directors of the Council shall expire on June 30 of years that are evenly  
24 divisible by three. The terms of the three members appointed by the faculty of the  
25 College of Agriculture and Life Sciences at North Carolina State University shall expire  
26 on June 30 of years that follow by one year years that are evenly divisible by three.  
27 Upon the expiration of a term, a member may continue to serve until a successor is  
28 appointed. After the terms of the initial appointments expire, the term of office of a  
29 member is three years.

30 (c) Chair. – The Board of Directors of the Council shall appoint one member to  
31 serve as Chair.

32 (d) Vacancies. – An appointment to fill a vacancy shall be for the unexpired  
33 balance of the term.

34 (e) Meetings. – The Turfgrass Funding Committee shall meet at least once each  
35 year and may meet more often if called by the Chair to meet.

36 (f) Quorum. – A majority of the Turfgrass Funding Committee is a quorum for  
37 the transaction of business.

38 (g) Annual Report. – The Turfgrass Funding Committee shall make a report to  
39 the Dean of the College of Agriculture and Life Sciences at North Carolina State  
40 University and the Commissioner of Agriculture regarding total receipts and  
41 disbursements of assessments collected for the previous year.

42 (h) Reimbursement of Expenses. – Turfgrass Funding Committee members may  
43 be reimbursed for necessary expenses, as determined by the Board of Directors of the  
44 Council.

1 **"§ 106-835. Refund of assessment.**

2 Any person who has purchased for use turfgrass fertilizer upon which the assessment  
3 has been paid has the right to receive a refund of the assessment by making demand in  
4 writing to the Department within 30 days of purchase of the turfgrass fertilizer. Such  
5 demand must be accompanied by proof of purchase of the fertilizer satisfactory to the  
6 Turfgrass Funding Committee."

7 **SECTION 2.** The Department of Agriculture and Consumer Services may  
8 adopt rules to implement this act.

9 **SECTION 3.** The initial appointments of the Turfgrass Funding Committee,  
10 created by G.S. 106-834, as enacted in Section 1 of this act, shall be appointed no later  
11 than October 1, 2001.

12 **SECTION 4.** G.S. 106-832(d), as enacted by Section 1 of this act, becomes  
13 effective July 1, 2002, and applies to unpaid assessments and resulting penalties under  
14 G.S. 106-832, as enacted in Section 1 of this act, that accrue on or after that date. The  
15 remainder of this act becomes effective July 1, 2001, and applies to turfgrass fertilizer  
16 sold on or after that date.