

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 1070

Short Title: Credit for Certain Milk Producers. (Public)

Sponsors: Representatives McNeely, Hurley, and Fraley (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance, if favorable, Agriculture, if favorable, Rules, Calendar, and Operations
of the House

May 14, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A TAX CREDIT FOR CERTAIN MILK PRODUCERS.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 105 of the General Statutes is amended by adding a new
5 Article to read:

"Article 3M.

"Milk Producer Tax Credits.

8 **"§ 105-129.115. Definitions; credit for producing milk.**

9 (a) Definitions. – The following definitions apply in this Article:

10 (1) Announced production price. – Defined in G.S. 106-814.

11 (2) – (5) Reserved.

12 (6) Qualifying milk. – Grade "A" milk, as defined in G.S. 106-266.30.

13 (b) Credit. – A taxpayer engaged in the production of qualifying milk in this State for
14 wholesale and for shipment on a weekly or more frequent basis is allowed a credit for each
15 calendar year quarter in which the uniform price published by the United States Department of
16 Agriculture in Federal Order Number 5 is less than the announced production price. The credit
17 for the taxable year is equal to the product of the number of quarters for the calendar year (i) for
18 which the credit is allowed and (ii) during the entirety of which the taxpayer was engaged in the
19 production and shipment of qualifying milk multiplied by the following applicable quarterly tax
20 credit amount:

<u>Annual Pounds of Qualifying Milk Produced</u>	<u>Quarterly Credit Amount</u>
<u>500,000 to 2,500,000</u>	<u>\$8,750</u>
<u>More than 2,500,000 up to 7,500,000</u>	<u>12,500</u>
<u>More than 7,500,000</u>	<u>15,000</u>

25 **"§ 105-129.116. Tax election; credit refundable.**

26 (a) Tax Election. – The credit provided in this Article is allowed against the franchise tax
27 levied in Article 3 of this Chapter and the income taxes levied in Article 4 of this Chapter. The
28 taxpayer may take the credits allowed by this Article against only one of the taxes against which
29 it is allowed. The taxpayer must elect the tax against which a credit will be claimed when filing
30 the return on which it is claimed. This election is binding.

31 (b) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax
32 against which the credit is claimed for the taxable year reduced by the sum of all credits
33 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is
34 governed by the provisions governing a refund of an overpayment by the taxpayer of the tax



1 imposed. In computing the amount of tax against which multiple credits are allowed,
2 nonrefundable credits are subtracted before refundable credits.

3 **"§ 105-129.117. Substantiation.**

4 To claim a credit allowed by this Article, the taxpayer must provide any information required
5 by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain
6 and make available for inspection by the Secretary of Revenue any records the Secretary
7 considers necessary to determine and verify the amount of the credit to which the taxpayer is
8 entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the
9 taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or
10 to make them available for inspection.

11 **"§ 105-129.118. Reports.**

12 The Department must include in the economic incentives report required by G.S. 105-256 the
13 following information itemized by credit and by taxpayer:

14 (1) The number of taxpayers that took the credits allowed in this Article.

15 (2) The volume of milk produced with respect to which credits were taken.

16 (3) The total cost to the General Fund of the credits taken.

17 **"§ 105-129.119. Sunset.**

18 This Article is repealed effective for milk produced on or after January 1, 2025."

19 **SECTION 2.** The Revenue Laws Study Committee shall biennially review the credit
20 authorized by Section 1 of this act to determine if the economic benefit provided by the credit
21 outweighs the cost of the tax expenditure.

22 **SECTION 3.** G.S. 106-814 is amended by adding a new subsection to read:

23 "(h) By July 1, and quarterly thereafter, the Board of Agriculture shall promulgate the
24 announced production price for milk for the State that takes into consideration, at a minimum, (i)
25 the average price of milk in the top five states where milk is imported to this State, (ii) the average
26 transportation cost of importing milk from those states, and (iii) the cost of production in this
27 State."

28 **SECTION 4.** Section 3 of this act is effective when it becomes law. The remainder
29 of this act is effective for taxable years beginning on or after January 1, 2020.