

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**SENATE DRS65287-SY-14 (02/05)**

Short Title: Agr. Development Facility Tax Credit. (Public)

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Sponsors: Senator Albertson.

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH A TAX CREDIT FOR CONTRIBUTIONS MADE TO  
3 THE AGRICULTURAL FINANCE AUTHORITY AND TO AUTHORIZE THE  
4 AUTHORITY TO UTILIZE THE CONTRIBUTIONS TO PROMOTE THE  
5 EXPANSION AND GROWTH OF AGRICULTURAL DEVELOPMENT  
6 PROJECTS AND AGRICULTURAL INVESTMENT IN THE STATE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Chapter 105 of the General Statutes is amended by adding a  
9 new article to read:

10 "Article 3H.

11 "Agricultural Development Contribution Tax Credit.

12 **"§ 105-129.70. Legislative findings.**

13 (a) The General Assembly finds that:

- 14 (1) It is the policy of the State to stimulate economic activity and to create  
15 and maintain sustainable jobs for the citizens of the State in  
16 strategically important industries.
- 17 (2) Agriculture has remained the largest industry in our State throughout  
18 its history and continues to be a major generator of investment and  
19 employment in the State.
- 20 (3) The continual change in the State, national, and world economy has  
21 placed challenging demands on North Carolina agriculture through  
22 declining markets and stringent regulations on internationally  
23 marketed food items.
- 24 (4) Considerable investment is needed in facilities that produce  
25 value-added products derived from agricultural commodities to  
26 provide funding for the development of new projects and the  
27 expansion of innovative projects.

1 **"§ 105-129.71. Definitions.**

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

3 (1) 'Agricultural development project' means a project or facility that  
4 produces either a good derived from an agricultural commodity or uses  
5 a process to produce a good derived from an agricultural product.

6 (2) 'Authority' means the North Carolina Agricultural Finance Authority.

7 (3) 'Contributor' means an individual, partnership, corporation, trust,  
8 limited liability company, entity, or person that contributes cash funds  
9 to the Authority.

10 **"§ 105-129.72. Credit.**

11 (a) Credit. – A contributor may receive a credit equal to fifty percent (50%) of  
12 the eligible contributions to the Authority. The State Treasurer shall establish criteria to  
13 determine which contributions to the Authority are eligible for the credit.

14 (b) Taxes Credited. – The credit allowed by this Article may be claimed against  
15 the franchise tax imposed under Article 3 of this Chapter or the income taxes imposed  
16 under Article 4 of this Chapter. The taxpayer may take the credit allowed by this Article  
17 against only one of the taxes against which it is allowed. The taxpayer shall elect the tax  
18 against which a credit will be claimed when filing the return on which it is claimed.  
19 This election is binding. Any carryforwards of the credit must be claimed against the  
20 same tax.

21 (c) Cap. – A credit allowed by this Article may not exceed the amount of the tax  
22 against which it is claimed for the taxable year reduced by the sum of all credits  
23 allowed, except payment of tax made by or on behalf of the taxpayer. Any unused  
24 portion of the credit may be carried forward for the succeeding 10 years.

25 (d) Transferability of Credits. – Credits issued pursuant to this Article may be  
26 assigned, transferred, or sold, and the new owner of the credit shall have the same rights  
27 in the credit as the contributor. Whenever a certificate of credit is assigned, transferred,  
28 sold, or otherwise conveyed, a notarized endorsement shall be filed with the Authority  
29 specifying the name and address of the new owner of the credit and the value of the  
30 credit.

31 (e) Qualification. – The awarding of credits pursuant to this section shall be  
32 approved by the Authority, based on the least amount of credits necessary to provide  
33 incentive for the contributions. A contributor that receives credits shall receive no other  
34 consideration or compensation for the contribution, other than a federal tax deduction, if  
35 applicable.

36 (f) Limitations on Credits Issued. – The aggregate of credits issued during each  
37 fiscal year shall not exceed thirty million dollars (\$30,000,000). Beginning in the  
38 2006-2007 fiscal year, the maximum amount of credits that may be issued shall be  
39 adjusted annually by the rate of change in the Consumer Price Index as reported by the  
40 Bureau of Labor Statistics of the United States Department of Labor.

41 **"§ 105-129.73. Special account; use of funds.**

42 (a) Contributions to Be Deposited in Special Account. – The Authority shall  
43 collect contributions and deposit the moneys collected with the State Treasurer, who  
44 shall maintain the funds in an interest-bearing, nonreverting account. After consulting

1 with the State Treasurer, the Authority shall direct how and when the funds may be  
2 awarded.

3 (b) Use of Funds. – The funds deposited in the special account may be used for  
4 financial assistance or technical assistance to promote rural agricultural development  
5 projects. The funds may be used to provide or facilitate grants, loans, equity  
6 investments, and guaranteed loans. Funds may only be provided to feasible projects and  
7 for an amount that is the least amount necessary to cause the project to occur, as  
8 determined by the Authority. The Authority may structure loans, equity investments, or  
9 guaranteed loans in a way that facilitates the project but also provides for a  
10 compensatory return on investment or loan payment to the Authority, based on the risk  
11 of the project.

12 (c) Award Limitations. – The following conditions shall apply to funds awarded  
13 under this section.

14 (1) At least ten percent (10%) of the funds awarded annually shall be  
15 awarded to grant requests of twenty-five thousand dollars (\$25,000) or  
16 less.

17 (2) No single rural agricultural development project shall receive more  
18 than two hundred thousand dollars (\$200,000) in grant awards from  
19 the Authority.

20 (3) Agricultural development projects proposed by minority members or  
21 women shall be given consideration in the allocation of funds  
22 whenever practicable.

23 (4) The Authority shall consider the geographic distribution of funds as  
24 appropriate."

25 **SECTION 2.** This act is effective for taxable years beginning on or after  
26 January 1, 2006, and applies to contributions made on or after that date.