

By: Senator(s) Williamson, Pickering, Harvey To: Agriculture; Finance

## SENATE BILL NO. 2780

1 AN ACT TO CREATE THE BEGINNING FARMER TAX CREDIT ACT; TO  
2 CREATE THE BEGINNING FARMER BOARD TO BE HOUSED WITHIN THE  
3 DEPARTMENT OF AGRICULTURE AND COMMERCE; TO PROVIDE FOR THE POWERS  
4 AND DUTIES OF SUCH BOARD; TO PROVIDE FOR THE MEMBERSHIP OF SUCH  
5 BOARD; TO PROVIDE THAT THE BOARD SHALL DETERMINE WHO IS QUALIFIED  
6 AS A BEGINNING FARMER OR LIVESTOCK PRODUCER AND TO PROVIDE THE  
7 QUALIFICATIONS TO A BEGINNING FARMER OR LIVESTOCK PRODUCER; TO  
8 PROVIDE FOR AN ANNUAL REPORT BY THE BOARD; TO AUTHORIZE AN INCOME  
9 TAX CREDIT FOR THE OWNER OF AGRICULTURAL ASSETS FOR AGRICULTURAL  
10 ASSETS RENTED ON A SHARE-RENTAL AGREEMENT BASIS; TO PROVIDE THAT  
11 SUCH CREDIT SHALL BE GRANTED BY THE STATE TAX COMMISSION ONLY  
12 AFTER APPROVAL AND CERTIFICATION BY THE BOARD AND A WRITTEN  
13 THREE-YEAR SHARE-RENTAL AGREEMENT FOR SUCH ASSETS IS ENTERED INTO  
14 BETWEEN AN OWNER OF AGRICULTURAL ASSETS AND A QUALIFIED BEGINNING  
15 FARMER OR LIVESTOCK PRODUCER; TO PROVIDE FOR THE AMOUNT OF THE TAX  
16 CREDIT; TO REQUIRE THE BOARD TO CONDUCT CERTAIN STUDIES; AND FOR  
17 RELATED PURPOSES.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

19 **SECTION 1.** This act may be cited as the Beginning Farmer Tax  
20 Credit Act.

21 **SECTION 2.** (1) The Legislature hereby finds and declares  
22 that:

23 (a) Current farm economic conditions in the State of  
24 Mississippi have resulted in unemployment, out-migration of  
25 people, loss of agricultural jobs, and difficulty in attracting  
26 and retaining farm operations; and

27 (b) Major revisions in Mississippi's tax structure are  
28 necessary to accomplish economic revitalization of rural  
29 Mississippi and to be competitive with other states involved in  
30 economic revitalization and development of agriculture.

31 (2) It is the policy of this state to make revisions in  
32 Mississippi's tax structure in order to encourage persons to seek  
33 careers in the farming industry, retain existing and established  
34 farm operations, promote the creation and retention of new farm

35 jobs in Mississippi, and attract and retain investment capital in  
36 rural Mississippi.

37 **SECTION 3.** For purposes of this act:

38 (a) "Agricultural assets" mean agricultural land,  
39 livestock, farming or livestock production facilities or buildings  
40 and machinery used for farming or livestock production located in  
41 Mississippi;

42 (b) "Board" means the Beginning Farmer Board created by  
43 this act;

44 (c) "Farm" means any tract of land over ten (10) acres  
45 in area used for or devoted to the commercial production of farm  
46 products;

47 (d) "Farm product" means those plants and animals  
48 useful to man and includes, but is not limited to, forages and sod  
49 crops, grains and feed crops, dairy and dairy products, poultry  
50 and poultry products, livestock, including breeding and grazing  
51 livestock, fruits and vegetables;

52 (e) "Farming or livestock production" means the active  
53 use, management and operation of real and personal property for  
54 the production of a farm product;

55 (f) "Financial management program" means a program  
56 for beginning farmers or livestock producers which includes, but  
57 is not limited to, assistance in the creation and proper use of  
58 record keeping systems, periodic private consultations with  
59 licensed financial management personnel, year-end monthly cash  
60 flow analysis, and detailed enterprise analysis;

61 (g) "Owner of agricultural assets" means:

62 (i) An individual or trustee who:

- 63 1. Is a resident individual of Mississippi;  
64 2. In the case of an individual, has derived  
65 at least fifty percent (50%) of his or her gross annual income for  
66 income tax purposes from farming or livestock production, or in  
67 the case of a trustee, the trust has derived at least fifty

68 percent (50%) of its income for income tax purposes from farming  
69 or livestock production;

70 3. Has provided the majority of  
71 the day-to-day physical labor and management of a farm  
72 over a period of time deemed sufficient to qualify for the  
73 granting of tax credits under this act by the board; and

74 4. Has other such qualifications as  
75 determined by the board.

76 (ii) A partnership:

77 1. Which has at least one (1) general partner  
78 that is a resident of this state;

79 2. Which derives at least fifty percent (50%)  
80 of its income from farming or livestock production; and

81 3. In which one or more partners have  
82 provided the majority of the day-to-day physical labor and  
83 management of a farm over a period of time deemed sufficient to  
84 qualify for the granting of tax credits by the board; or

85 (h) "Qualified beginning farmer" or "livestock  
86 producer" means an individual who is a resident of Mississippi who  
87 has entered farming or livestock production or is seeking entry  
88 into farming or livestock production, who intends to farm or raise  
89 crops or livestock on land located within Mississippi, and who  
90 meets the eligibility guidelines established in Section 9 of this  
91 act and such other qualifications as determined by the board.

92 **SECTION 4.** For the purpose of developing and directing  
93 programs to provide increased and enhanced opportunities for  
94 beginning farmers and livestock producers, the Beginning Farmer  
95 Board is created. For administrative and budgetary purposes only,  
96 the board shall be housed within the Department of Agriculture and  
97 Commerce. The board shall be vested with the following duties and  
98 responsibilities:

99                   (a) To approve and certify beginning farmers and  
100 livestock producers as eligible for the programs provided by the  
101 board;

102                   (b) To approve and certify owners of agricultural  
103 assets as eligible for the tax credits authorized by Sections 11  
104 through 13;

105                   (c) To advocate joint ventures between beginning  
106 farmers or livestock producers and existing private and public  
107 credit and banking licensed institutions, as well as to advocate  
108 joint ventures with owners of agricultural assets desiring to  
109 assist beginning farmers and livestock producers seeking entry  
110 into farming or livestock production;

111                   (d) To provide necessary and reasonable assistance and  
112 support to beginning farmers and livestock producers for  
113 qualification and participation in financial management programs  
114 approved by the board;

115                   (e) To advocate appropriate changes in policies and  
116 programs of other public and private institutions or agencies  
117 which will directly benefit beginning farmers and livestock  
118 producers and may include changes regarding financing, taxation  
119 and any other existing policies which prohibit or impede  
120 individuals from entering into farming or livestock production;

121                   (f) To provide adequate explanations of facts and  
122 aspects of available programs offered or recommended by the board  
123 intended for beginning farmers and livestock producers;

124                   (g) To assist and educate beginning farmers and  
125 livestock producers;

126                   (h) To encourage licensed financial institutions and  
127 individuals to use alternative amortization schedules for loans  
128 and land contracts granted to beginning farmers and livestock  
129 producers;

130 (i) To refer beginning farmers and livestock producers  
131 to agencies and organizations which may provide additional  
132 pertinent information and assistance;

133 (j) To provide any other assistance and support  
134 the board deems necessary and appropriate in order for entry into  
135 farming or livestock production;

136 (k) To adopt and promulgate rules and regulations  
137 necessary to carry out the purposes of the Beginning Farmer Tax  
138 Credit Act, including criteria required for tax credit eligibility  
139 and financial management program certification and guidelines  
140 which constitute a viably sized farm that is necessary to  
141 adequately support a beginning farmer or livestock producer. Such  
142 guidelines shall vary and take into account the region of the  
143 state, number of acres, land quality and type, type of  
144 operation, type of crops or livestock raised, and other factors of  
145 farming or livestock production.

146 (l) To keep minutes of the board's meetings and other  
147 books and records which will adequately reflect actions and  
148 decisions of the board and to file an annual report to the  
149 Governor, the Secretary of the Senate and the Clerk of the House  
150 of Representatives by December 1 of each year.

151 **SECTION 5.** (1) The board shall consist of the following:

152 (a) The Commissioner of Agriculture and Commerce, or  
153 his or her designee;

154 (b) The Chairman of the State Tax Commission, or his or  
155 her designee;

156 (c) One (1) member representing lenders of agricultural  
157 credit;

158 (d) One (1) member of the academic community with  
159 extensive knowledge and insight in the analysis of agricultural  
160 economic issues; and

161 (e) Four (4) members, one (1) from each congressional  
162 district, who are currently engaged in farming or livestock

163 production and are representative of a variety of farming or  
164 livestock production interests based on size of farm, type of farm  
165 operation, net worth of farm operation, and geographic location.

166 (2) All members of the board shall be resident individuals  
167 of the State of Mississippi. Members of the board listed in  
168 subsection (1)(c),(d) and (e) of this section shall be appointed  
169 by the Governor with the advice and consent of the Senate. All  
170 appointments shall be for terms of four (4) years.

171 (3) Vacancies in the appointed membership of the board shall  
172 be filled for the unexpired term by appointment by the Governor  
173 with the advice and consent of the Senate. Members of the board  
174 shall serve the full term and until a successor has been appointed  
175 by the Governor and approved by the Senate. Any member may be  
176 removed from the board by the Governor or by an affirmative vote  
177 by any four (4) members of the board for incompetence, neglect of  
178 duty or malfeasance.

179 **SECTION 6.** Once every two (2) years, the members of the  
180 board shall elect a chairperson and a vice chairperson. A member  
181 of the board may be reelected to the position of chairperson or  
182 vice chairperson in the discretion of the board. Each member of  
183 the board shall receive per diem compensation as provided in  
184 Section 25-3-69 for attendance at board meetings, together with  
185 necessary travel and other expenses incurred in the discharge of  
186 his or her official duties as a board member.

187 **SECTION 7.** Four (4) of the members of the board shall  
188 constitute a quorum for the transaction of official business. The  
189 affirmative vote of at least four (4) members shall be necessary  
190 for any action to be taken by the board. No vacancy in the  
191 membership of the board shall constitute an impairment of a quorum  
192 to exercise any and all rights and perform all duties of the  
193 board.

194 **SECTION 8.** The board shall meet quarterly during the year  
195 and shall review pending applications in order to approve and

196 certify beginning farmers and livestock producers as eligible for  
197 the programs provided by the board and to approve and certify  
198 owners of agricultural assets as eligible for the tax credits  
199 authorized by Sections 11 through 13 of this act. Any action  
200 taken by the board regarding approval and certification of program  
201 eligibility, granting of tax credits, or termination of  
202 share-rental agreements shall require the affirmative vote of at  
203 least four (4) members of the board.

204        SECTION 9. (1) The board shall determine who is qualified  
205 as a beginning farmer or livestock producer based on the  
206 qualifications found in this section. A qualified beginning  
207 farmer or livestock producer shall be an individual who:

208           (a) Has a net worth of not more than One Hundred  
209 Thousand Dollars (\$100,000.00), including any holdings by a spouse  
210 or dependent based on fair market value;

211           (b) Provides the majority of the day-to-day physical  
212 labor and management of the farm;

213           (c) Has, in the judgment of the board, adequate farming  
214 or livestock production experience or demonstrates knowledge in  
215 the type of farming or livestock production for which he or she  
216 seeks assistance from the board;

217           (d) Demonstrates to the board a profit potential by  
218 submitting board approved projected earnings statements and agrees  
219 that farming or livestock production is intended to become his or  
220 her principal source of income;

221           (e) Demonstrates to the board a need for assistance;

222           (f) Participates in a financial management program  
223 approved by the board;

224           (g) Submits nutrient management plan and a soil  
225 conservation plan to the board for approval on any applicable  
226 agricultural assets purchased or rented from an owner of  
227 agricultural assets; and

228 (h) Has such other qualifications as specified by the  
229 board.

230 (2) A qualified beginning farmer or livestock producer who  
231 has participated in board approved and certified three-year  
232 share-rental agreement with an owner of agricultural assets shall  
233 not be eligible to file a subsequent application with the board  
234 but may refer to the board for additional support and participate  
235 in programs, including educational and financial programs and  
236 seminars established or recommended by the board that are  
237 applicable to the continued success of such farmer or livestock  
238 producer.

239 **SECTION 10.** (1) The board shall submit an annual report of  
240 the activities and actions of the board for the preceding fiscal  
241 year to the Governor, Secretary of the Senate and the Clerk of the  
242 House of Representative by December 1 of each year. Each member  
243 of the Legislature shall receive a copy of such report by making a  
244 request to the chairperson of the board. Each report shall  
245 include the following information:

246 (a) A complete operating and financial statement for  
247 the board for the prior fiscal year;

248 (b) The number of qualified beginning farmers and  
249 livestock producers receiving assistance from the board;

250 (c) The number of owners of agricultural assets  
251 claiming tax credits and the monetary amount of credits granted by  
252 the board; and

253 (d) Any other relevant information which the board  
254 deems necessary to report.

255 (2) No information furnished to the board shall be disclosed  
256 in the report in such a way as to reveal information from a tax  
257 return of any person.

258 **SECTION 11.** Beginning January 1, 2005, an owner of  
259 agricultural assets shall be allowed a credit to be applied  
260 against the taxes imposed pursuant to Chapter 7, Title 27,



261 Mississippi Code of 1972, for agricultural assets rented on a  
262 share-rental agreement basis, including cash rent of agricultural  
263 assets or cash equivalent of a share-crop rental, to qualified  
264 beginning farmers or livestock producers. The credit shall be in  
265 the amount allowed under Section 13 of this act. Such asset shall  
266 be rented at prevailing community rates as determined by the  
267 board. The credit allowed shall be for renting agricultural  
268 assets used for farming or livestock production. Such credit  
269 shall be granted by the State Tax Commission only after approval  
270 and certification by the board and a written three-year  
271 share-rental agreement for such assets is entered into between an  
272 owner of agricultural assets and a qualified beginning farmer or  
273 livestock producer. An owner of agricultural assets or qualified  
274 beginning farmer or livestock producer may terminate such  
275 agreement for reasonable cause upon approval by the board. If an  
276 agreement is terminated without fault on the part of the owner of  
277 agricultural assets as determined by the board, the tax credit  
278 shall not be retroactively disallowed. If an agreement is  
279 terminated with fault on the part of the owner of agricultural  
280 assets as determined by the board, any prior tax credits claimed  
281 by such owner shall be disallowed and recaptured and shall be  
282 immediately due and payable to the State of Mississippi. A credit  
283 may be granted to an owner of agricultural assets for renting  
284 agricultural assets, including cash rent of agricultural assets or  
285 cash equivalent of a share-crop rental, to any qualified beginning  
286 farmer or livestock producer for a period of three (3) years. An  
287 owner of agricultural assets shall not be eligible for further  
288 credits under the Beginning Farmer Tax Credit Act unless the  
289 share-rental agreement is terminated prior to the end of the  
290 three-year period through no fault of the owner of agricultural  
291 assets. If the board finds that such a termination was not the  
292 fault of the owner of agricultural assets, it may approve the  
293 owner for credits arising from a subsequent qualifying

294 share-rental agreement with a different qualified beginning farmer  
295 or livestock producer. Any credit allowable to a partnership, a  
296 corporation or an estate or trust may be distributed to the  
297 partners, members, shareholders or beneficiaries. Any credit  
298 distributed shall be distributed in the same manner as income is  
299 distributed.

300 **SECTION 12.** (1) In evaluating a share-rental agreement  
301 between an owner of agricultural assets and a qualified beginning  
302 farmer or livestock producer, the board shall not approve and  
303 certify credit for an owner of agricultural assets who:

304 (a) Has, with fault, terminated a prior board approved  
305 and certified share-rental agreement with a qualified beginning  
306 farmer or livestock producer; or

307 (b) Is proposing a share-rental agreement of  
308 agricultural assets which, if rented to a qualified beginning  
309 farmer or livestock producer, would cause the lessee to be  
310 responsible for managing or maintaining a farm which, based on the  
311 discretion of the board, is of greater scope and scale than  
312 necessary for a viably sized farm as established by the guidelines  
313 implemented by the board in order to adequately support a  
314 beginning farmer or livestock producer.

315 (2) Any person aggrieved by a decision of the board may  
316 appeal the decision to the Circuit Court of the First Judicial  
317 District of Hinds County.

318 **SECTION 13.** The tax credit approved and certified by the  
319 board under Section 11 of this act for an owner of agricultural  
320 assets shall be equal to five percent (5%) of the gross rental  
321 income on any share-rental agreement that is approved and  
322 certified by the board under the Beginning Farmer Tax Credit Act,  
323 including the renting of agricultural assets by an owner of such  
324 assets to a qualified beginning farmer or livestock producer. The  
325 board shall review each existing three-year share-rental agreement  
326 between a beginning farmer or livestock producer and an owner of

327 agricultural assets on a quarterly basis and shall either certify  
328 or terminate program eligibility for beginning farmers or  
329 livestock producers or tax credits granted to owners of  
330 agricultural assets on an annual basis.

331       **SECTION 14.** The board shall conduct a study in order to  
332 ascertain the fiscal impact of future tax credits granted by the  
333 board to owners of agricultural assets. Such study shall attempt  
334 to reasonably estimate the number of qualified beginning farmers  
335 or livestock producers that would be eligible to enter into a  
336 board approved and certified three-year share-rental agreement  
337 with an owner of agricultural assets and other such relevant facts  
338 and information for review by the board. The findings of such  
339 study by the board shall be submitted to the Governor, the Clerk  
340 of the House of Representatives and the Secretary of the Senate by  
341 January 3, 2005. In order to carry out the study and the  
342 provisions of the Beginning Farmer Tax Credit Act, the Department  
343 of Agriculture and Commerce shall provide any and all of the  
344 necessary support and assistance to the board.

345       **SECTION 15.** This act shall take effect and be in force from  
346 and after July 1, 2004.