HOUSE FILE 768
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 647)
(SUCCESSOR TO HSB 173)

(As Amended and Passed by the House April 24, 2019)
ALL New Language by the House

A BILL FOR

An Act relating to agricultural development, by providing for the Iowa finance authority, a beginning farmer tax credit program, fees, and including effective date and retroactive applicability provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 2.48, subsection 3, paragraph e, subparagraph (1), Code 2019, is amended to read as follows:

(1) The ~~agricultural assets transfer~~ beginning farmer tax credit program as provided in ~~section 16.80~~ chapter 16, subchapter VIII, part 5, subpart B.

Sec. 2. Section 16.2, subsection 1, unnumbered paragraph 1, Code 2019, is amended to read as follows:

An Iowa finance authority board of directors is created. The powers of the authority are vested in and shall be exercised by the board. The authority includes nine members appointed by the governor subject to confirmation by the senate. The authority also includes one ex officio voting member who must be designated by the agricultural development board created in section 16.2C and be a member of that board.

Sec. 3. Section 16.2, subsections 2 and 3, Code 2019, are amended to read as follows:

2. ~~Members~~ The members of the authority ~~shall be~~ appointed by the governor shall serve for staggered terms of six years beginning and ending as provided in section 69.19. A person appointed by the governor to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. The ex officio voting member designated by the agricultural development board shall serve at the pleasure of that board. A member of the authority may be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing.

3. ~~Five~~ Six members of the authority constitute a quorum and the affirmative vote of a majority of the ~~appointed~~ members is necessary for any substantive action taken by the authority. The majority shall not include any member who has a conflict of interest and a statement by a member of a conflict of interest shall be conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the authority.

Sec. 4. Section 16.2B, subsection 3, paragraph b, Code 2019, is amended to read as follows:

b. ~~Obtain agricultural assets transfer~~ Claim beginning farmer tax credits, including tax credit certificates issued pursuant to subchapter VIII, part 5, subpart B.

Sec. 5. Section 16.59, subsection 4, Code 2019, is amended to read as follows:

4. For a family farm limited liability company, an aggregate net worth of all members, including each member's ownership interest in the family farm limited liability company, and each member's spouse and minor children of not greater than twice the low or moderate net worth. However, the aggregate net worth of each member and that member's spouse and minor children shall not exceed the low or moderate net worth.

Sec. 6. NEW SECTION. **16.77 Definitions.**

As used in this subpart B, unless the context otherwise requires:

1. *"Agricultural development board"* means the agricultural development board created in section 16.2C.

2. *"Agricultural lease agreement"* or *"agreement"* means an agreement for the transfer of agricultural assets, that must at least include a lease of agricultural land, from an eligible taxpayer to a qualified beginning farmer as provided in section 16.79A.

3. *"Department"* means the department of revenue.

4. *"Eligible taxpayer"* means a taxpayer who may participate in the beginning farmer tax credit program, including by meeting all the criteria as provided in section 16.79.

5. *"Program"* means the beginning farmer tax credit program created pursuant to section 16.78.

6. *"Qualified beginning farmer"* means a beginning farmer as defined in section 16.58 who meets the requirements to participate in a beginning farmer tax credit program as provided in section 16.79.

7. *"Tax credit"* means the beginning farmer tax credit

allowed under section 16.82.

Sec. 7. NEW SECTION. **16.78 Beginning farmer tax credit program — establishment and administration.**

1. A beginning farmer tax credit program is established under the control of the authority.

2. The authority and the department shall cooperate in administering the program. The department shall have all rulemaking powers necessary to administer its responsibilities under this subpart as it does under chapter 422.

3. To every extent practicable, the authority shall administer the program in a manner that encourages participation by eligible taxpayers and qualifying beginning farmers for the primary purposes of providing beginning farmers access to farmland and enhancing the stability of the beginning farmer's farming business.

4. The authority and the department shall each adopt rules in accordance with chapter 17A as necessary for the administration of their respective responsibilities under this subpart. The eligibility requirements for taxpayers and the qualifications for beginning farmers as provided in the rules shall not be more stringent than provided in this subpart.

5. The authority shall provide for the preparation or revision and publication or distribution of forms necessary to administer their responsibilities under this subpart.

Sec. 8. NEW SECTION. **16.79 Beginning farmer tax credit program — eligibility criteria.**

1. A taxpayer is eligible to participate in the beginning farmer tax credit program if the taxpayer meets all of the following requirements:

a. The taxpayer is a person who may acquire or otherwise obtain or lease agricultural land in this state pursuant to chapter 9H or 9I. However, the taxpayer must not be a person who may acquire or otherwise obtain or lease agricultural land exclusively because of an exception provided in one of those chapters or in a provision of another chapter of this

Code including but not limited to chapter 10, 10D, or 501, or section 15E.207.

b. The taxpayer has entered into an agricultural lease agreement with a qualified beginning farmer to lease agricultural land as provided in section 16.79A.

c. The taxpayer has not been at fault for terminating a prior agreement under the program or another agreement in which the taxpayer was allowed to claim a tax credit under section 175.37 as it existed prior to January 1, 2015, or section 16.80 as it existed prior to January 1, 2018.

d. If the agreement includes the lease of a confinement feeding operation structure as defined in section 459.102, the taxpayer is not a party to a pending administrative or judicial action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

e. The taxpayer is not classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources under chapter 459.

f. The taxpayer is not a partner of a partnership, shareholder of a family farm corporation, or member of a family farm limited liability company that is the lessee of an agricultural asset that is part of an agricultural lease agreement.

2. A beginning farmer is a qualified beginning farmer eligible to participate in the program by meeting all of the following criteria:

a. Is a resident of the state. If the beginning farmer is a partnership, all partners must be residents of the state. If a beginning farmer is a family farm corporation, all shareholders must be residents of the state. If the beginning farmer is a family farm limited liability company, all members must be

residents of the state.

b. Has sufficient education, training, or experience in farming. If the beginning farmer is a partnership, at least one partner who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm corporation, at least one shareholder who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm limited liability company, at least one member who is not a minor must have sufficient education, training, or experience in farming.

c. Has access to adequate working capital and production items.

d. Will materially and substantially participate in farming. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, at least one of the partners, shareholders, or members who is not a minor must materially and substantially participate in farming.

e. Does not own more than a ten percent ownership interest in an agricultural asset included in the agreement.

Sec. 9. NEW SECTION. **16.79A Agricultural lease agreement.**

1. A beginning farmer tax credit is allowed only for agricultural assets that are subject to an agricultural lease agreement entered into by an eligible taxpayer and a qualifying beginning farmer participating in the beginning farmer tax credit program established pursuant to section 16.78.

2. The agreement must include the lease of agricultural land located in this state, including any improvements, and may provide for the rental of agricultural equipment as defined in section 322F.1.

3. *a.* The agreement must include provisions which describe the consideration paid for the agreement in a manner that allows the authority to calculate the value of the lease in order to determine the tax credit amount as provided in section 16.82.

b. The agreement must be in writing.

c. The agreement must be for at least two years, but not more than five years. The agreement may be renewed by the eligible taxpayer and qualified beginning farmer for a term of at least two years, but not more than five years.

d. The agreement shall not include a lease or rental of equipment intended as a security.

e. The agreement cannot be assigned and the agricultural land subject to the agreement shall not be subleased.

f. (1) The agricultural assets shall not be leased or rented at a rate that is substantially higher than the market rate for similar agricultural assets leased or rented within the same community.

(2) As used in subparagraph (1), when referring to an agricultural asset that is cropland, *"substantially higher"* means not more than thirty percent above the average cash rent paid for cropland rented in the same county according to the most recent cash rent survey for cropland published by a unit of Iowa state university of science and technology recognized by the authority.

4. *a.* The agreement may be amended after the authority approves an application and makes a tax credit award without changing the eligibility status of the taxpayer, except as provided in paragraph *"b"*.

b. The underlying lease for agricultural land may only be amended without submitting a new application if any of the following apply:

(1) The terms of the amended lease are more favorable to the qualified beginning farmer, including but not limited to the rent payment being reduced.

(2) A party has changed their name.

(3) The owner of an agricultural asset is changed to the owner's estate or trust upon the eligible taxpayer's death.

c. If an amendment to an agreement changes the total amount that will be paid to the eligible taxpayer under the agreement, the eligible taxpayer shall notify the authority in a manner

and form prescribed by the authority within thirty days of the date the amendment is executed by the parties.

(1) If the amendment will reduce the total amount paid to the eligible taxpayer under the agreement, the authority shall recalculate and reduce the eligible taxpayer's tax credit award under section 16.82A.

(2) If the amendment will increase the total amount paid to the eligible taxpayer under the agreement, the tax credit award shall not be increased unless the eligible taxpayer submits an amended application to the authority in the manner and form prescribed by the authority and that meets the requirements of section 16.81. If the amended application is approved under section 16.81, the authority may increase the amount of the tax credit award. The increased amount of the tax credit award shall be subject to the aggregate award limitation in section 16.82A for the calendar year in which the increased award is made.

(3) This paragraph "*c*" does not apply to an amendment to an agreement that requires a new application under paragraph "*b*" in order to be valid.

5. An eligible taxpayer or qualified beginning farmer may terminate an agreement as provided in the agreement or by law. The eligible taxpayer must notify the authority of the termination within thirty days of the date of termination in the manner and form prescribed by the authority.

Sec. 10. NEW SECTION. **16.81 Beginning farmer tax credit — application.**

1. The deadline for submitting an application to the authority to claim a beginning farmer tax credit is August 1 of each year. The application shall be for a period that is not longer than the term of the lease.

2. *a.* The authority shall impose, assess, and collect application fees on an interim basis until December 31, 2021. The amount of an application fee shall not be more than the following:

(1) For an application that includes an agreement for the lease of one hundred acres or less of agricultural land, a fee of three hundred dollars.

(2) For an application that includes an agreement for the lease of more than one hundred acres, but not more than two hundred fifty acres of agricultural land, a fee of four hundred dollars.

(3) For an application that includes an agreement for the lease of more than two hundred fifty acres of agricultural land, a fee of five hundred dollars.

(4) For an amendment to an agreement that is part of an application that has been previously approved, a fee of one hundred dollars.

b. Any amount of fees collected by the authority under this subsection shall be considered repayment receipts as defined in section 8.2.

c. This subsection is repealed on January 1, 2022.

3. *a.* The authority shall impose, assess, and collect application fees and shall adopt rules as necessary to administer this subsection, including by providing for the rate of those fees.

b. The authority may establish different rates based on separate categories of applications or agricultural lease agreements as determined relevant by the authority.

c. The authority shall calculate the rates of the application fees to be effective for each successive twelve-month period. The total amount of application fees collected by the authority for that period shall not be more than the authority's estimate of the total amount of revenues necessary to administer the provisions of this subpart based on the expected revenue to be collected from the application fees and the expected costs to be incurred by the authority in administering the provisions of this subpart during that period. The authority may adjust the rates throughout that period as the authority determines necessary to comply with

this paragraph.

d. The amount of application fees collected by the authority under this subsection shall be considered repayment receipts as defined in section 8.2.

e. (1) The rules described in this subsection shall first take effect immediately after the repeal of subsection 2.

(2) This paragraph "*e*" is repealed immediately after the rules described in this subsection take effect.

4. An eligible taxpayer shall not participate in the beginning farmer tax credit program for more than ten years, and shall not receive more than ten tax credit certificates under the program.

5. The agricultural development board shall review and recommend approval of an application for a tax credit as provided by rules adopted by the authority. The application must include a copy of the agricultural lease agreement. The authority may require that the parties to an agreement provide additional information as determined relevant by the authority.

6. The authority shall approve all beginning farmer tax credit applications that meet the requirements of this subpart and make tax credit awards on a first-come, first-served basis, subject to the limitations in section 16.82A.

7. After the authority has approved an application and made a tax credit award, all of the following apply:

a. The authority shall issue beginning farmer tax credit certificates to an eligible taxpayer on an annual basis as provided in section 16.82A.

b. An eligible taxpayer may claim the tax credit each tax year as provided in section 16.82.

8. Any financial, contractual, or legal authorization records provided to the authority shall be kept confidential and are not subject to chapter 22.

Sec. 11. NEW SECTION. **16.82 Beginning farmer tax credit —— allowance.**

1. A beginning farmer tax credit is authorized under the

beginning farmer tax credit program as provided in section 16.78. The beginning farmer tax credit is allowed against the taxes imposed in chapter 422, division II, as provided in section 422.11E, and in chapter 422, division III, as provided in section 422.33, subsection 21, to facilitate the transfer of agricultural assets from an eligible taxpayer to a qualifying beginning farmer participating in the program.

2. An individual may claim a beginning farmer tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

3. Subject to the limitations described in subsections 5, 6, and 7, the authority shall determine the amount of the tax credit under an agreement using the following methods:

a. In the case of an agreement on a fixed basis, in which an eligible taxpayer receives a fixed cash rent payment, the amount of the tax credit equals five percent of the amount of the fixed cash rent payment for each year.

b. In the case of an agreement on a commodity share basis, in which an eligible taxpayer receives as a rent payment a percentage of the commodity produced, the amount of the tax credit shall equal fifteen percent of the gross amount that the eligible taxpayer would receive as a rent payment from the sale of the eligible taxpayer's share of the crop in each harvest year. The amount of the tax credit shall be based on an equation established by rule adopted by the authority which shall use data compiled by the United States department of agriculture, which shall include all of the following factors:

(1) The past ten-year average per bushel yield for the same type of grain as produced under the agreement in the same county where the leased agricultural land is located excluding the years of highest and lowest per bushel yields.

(2) The per bushel state price established for the same type of grain harvested as described in subparagraph (1). Price information shall be averaged from the past five years excluding the years of the highest and lowest per bushel state price.

c. In the case of an agreement made on a flexible basis in which an eligible taxpayer receives a rent payment consisting of a fixed cash payment and an amount subject to adjustment according to a risk-sharing arrangement, or receives a rent payment consisting of an amount subject to adjustment according to a risk-sharing arrangement, the amount of the tax credit equals the sum of the following amounts:

(1) To the extent that a portion of the amount of the rent payment is calculated on a fixed basis as described in paragraph *"a"*, that portion of the tax credit equals five percent of the fixed cash payment in the same manner as provided in paragraph *"a"*.

(2) To the extent that a portion of the amount of the rent payment is calculated on a commodity share basis as described in paragraph *"b"*, that portion of the tax credit equals fifteen percent of the amount that the eligible taxpayer would receive from the sale of the eligible taxpayer's share of the commodity in the same manner as provided in paragraph *"b"*.

(3) (a) To the extent that the amount of the rent payment may be adjusted after taking into account all risk-sharing factors provided in the agreement, that portion of the tax credit equals fifteen percent of the highest adjusted amount that the eligible taxpayer could receive in excess of the amounts calculated in subparagraphs (1) and (2) based on an equation adopted by rule by the authority.

(b) As used in subparagraph division (a), *"risk-sharing factor"* means an occurrence or lack of occurrence that may affect the commodity's production or profitability as provided in the agreement, and which may include but is not limited to production costs, per acre crop yield, gross revenue, or market

price.

(c) The authority shall adopt rules establishing criteria for commonly used risk-sharing factors and adjustment limits.

4. The authority shall provide the department with data, in the format prescribed by the department, of eligible taxpayers and persons who have been decertified due to lease termination or other cause of ineligibility by January 31 of each year. The data shall include the amount of the tax credit issued for the most recent year and all expected future tax credits under an agreement for each eligible taxpayer and the type of agreement.

5. The amount of tax credits that may be awarded to an eligible taxpayer for any one year under all agreements shall not exceed fifty thousand dollars.

6. The amount of the tax credit shall be reduced by the percent ownership interest of the qualifying beginning farmer in the agricultural asset.

7. A tax credit in excess of the eligible taxpayer's tax liability for the tax year is not refundable but may be credited to the tax liability for the following ten tax years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the eligible taxpayer redeems the tax credit.

8. *a.* To claim a tax credit under this section, an eligible taxpayer shall include one or more tax credit certificates with the eligible taxpayer's tax return pursuant to rules adopted by the department.

b. A tax credit shall not be transferable to any other person other than the eligible taxpayer's estate or trust upon the eligible taxpayer's death pursuant to rules adopted by the department.

9. If an agreement is terminated by the eligible taxpayer, all of the following shall apply:

a. Any tax credit properly claimed by the eligible taxpayer prior to the date of termination or for the year during which

the termination occurred shall be allowed except as provided in paragraph *"b"*, but no additional tax credits may be issued or claimed under the program for that agreement. The eligible taxpayer may apply for and be awarded another beginning farmer tax credit under a new agreement for the same agricultural assets as provided in this section.

b. If the authority determines that the eligible taxpayer is at fault for the termination, any beginning farmer tax credit that is claimed by the eligible taxpayer for the year during which the termination occurred shall be disallowed and the amount shall be considered a tax payment due. If an eligible taxpayer does not notify the authority of the termination within thirty days of the date of the termination in the manner and form prescribed by the authority, the eligible taxpayer shall be conclusively deemed at fault for the termination.

Sec. 12. NEW SECTION. **16.82A Beginning farmer tax credit awards —— amount and availability.**

1. *a.* Upon approval of an application as provided in section 16.81, the authority shall make a tax credit award to the eligible taxpayer. The tax credit award shall equal the sum of the tax credits calculated by the authority under section 16.82 for all eligible years under the approved agreement.

b. The authority shall notify the eligible taxpayer of the tax credit award under the program. The notification shall include the total tax credit award, the amount of the tax credit award that will be issued by way of a tax credit certificate in each future year under the approved agreement, and a statement that the eligible taxpayer has no right to receive tax credit certificates and claim tax credits under the program if all requirements of the agreement and the program are not satisfied.

c. If after making a tax credit award the eligible taxpayer or qualified beginning farmer no longer meets the requirements of the agreement or the program, the authority may revoke a tax

credit award and may rescind a tax credit certificate.

2. The amount of beginning farmer tax credits that may be awarded by the authority in any one calendar year under the beginning farmer tax credit program shall not in the aggregate exceed a limit of twelve million dollars. Tax credits shall be awarded by the authority not later than December 15 of each calendar year after the agricultural development board reviews applications as provided in section 16.81 and the authority determines tax credit amounts for the approved applications as provided in section 16.82, aggregated for purposes of meeting the annual program award limits.

3. *a.* The authority shall issue tax credit certificates on an annual basis to eligible taxpayers who have received a tax credit award. The tax credit certificate shall contain the information required by the department.

b. The aggregate amount of tax credit certificates issued to an eligible taxpayer shall not exceed the eligible taxpayer's tax credit award.

c. A tax credit certificate, unless rescinded by the authority, shall be accepted by the department as payment for taxes pursuant to chapter 422, divisions II and III, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of the program.

Sec. 13. NEW SECTION. **422.11E Beginning farmer tax credit program.**

The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a beginning farmer tax credit as allowed under chapter 16, subchapter VIII, part 5, subpart B.

Sec. 14. Section 422.33, subsection 21, Code 2019, is amended to read as follows:

21. The taxes imposed under this division shall be reduced by ~~an agricultural assets transfer~~ a beginning farmer tax credit as allowed under ~~section 16.80~~ chapter 16, subchapter

VIII, part 5, subpart B.

Sec. 15. REPEAL. Sections 16.80 and 422.11M, Code 2019, are repealed.

Sec. 16. APPLICABILITY OF PRIOR TAX CREDITS —— APPROVED APPLICATIONS AND CERTIFICATES.

1. Notwithstanding any provision of this Act to the contrary, any agricultural asset transfer tax credit application approved prior to the effective date of this Act under section 16.80 as that section existed on or before December 31, 2018, for a year prior to 2019 but for which tax credit certificates could have been issued for a tax year beginning on or after January 1, 2019, shall be governed by section 16.80, Code 2019, and shall be eligible to receive tax credit certificates for tax years beginning on or after January 1, 2019, for the remainder of the agricultural lease term as provided by section 16.80, Code 2019. Tax credit certificates approved and issued pursuant to this subsection are not considered an award subject to the maximum tax credit award limitation in section 16.82A, as enacted in this Act.

2. a. Any application which was submitted prior to the effective date of this Act for the agricultural assets transfer tax credit pursuant to section 16.80 as that section existed on December 31, 2018, for the tax year beginning January 1, 2019, shall be governed by section 16.80, Code 2019, except as provided in paragraph "b".

b. Any amount of tax credit certificate approved and issued pursuant to this subsection shall not be subject to the maximum tax credit issuance limitation in section 16.80, subsection 10, Code 2019, but shall instead be counted in the same manner as an award for purposes of the twelve million dollar calendar year award limitation in section 16.82A, subsection 2, as enacted in this Act, and shall reduce, dollar-for-dollar, that maximum calendar year award limitation for the calendar year during which the tax credit certificate is issued.

Sec. 17. APPLICABILITY OF PRIOR TAX CREDITS —— CONTINUANCE

OF CARRYOVER PROVISIONS. For any tax year commencing in calendar years 2014 through 2018, a tax credit that could have been first issued, awarded, or allowed and claimed under sections 16.75 through 16.82 as those sections existed on December 31, 2017, or under section 16.80 as that section existed on December 31, 2018, may be credited to the tax liability of that taxpayer for ten tax years following the tax year for which the eligible taxpayer could have first claimed the tax credit, or until depleted, whichever is earlier.

Sec. 18. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 19. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2019, for tax years beginning on or after that date.