

House Study Bill 251 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SANDS)

A BILL FOR

1 An Act providing for an environmental practices agreement
2 and related tax credit, and including effective date and
3 retroactive and other applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 159.5, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 15. Administer and enforce environmental
4 practices agreements as provided in chapter 467.

5 Sec. 2. NEW SECTION. 161A.11 **Environmental practices**
6 **— cooperation with the department of agriculture and land**
7 **stewardship.**

8 The commissioners of a district where an environmental
9 practice is to be or has been established under chapter 467,
10 are deemed to be the agents of the department and shall
11 act under the direction and supervision of the department
12 in administering that chapter. In addition to the powers
13 conferred upon the commissioners under that chapter, the
14 commissioners have all the powers conferred upon them under
15 this chapter to enter onto and remain on land as if the
16 environmental practice were a soil and water conservation
17 practice or erosion control practice.

18 Sec. 3. NEW SECTION. 422.11K **Environmental practices tax**
19 **credit.**

20 The taxes imposed under this division, less the credits
21 allowed under section 422.12, shall be reduced by an
22 environmental practices tax credit allowed under chapter 467.

23 Sec. 4. Section 422.33, Code 2015, is amended by adding the
24 following new subsection:

25 NEW SUBSECTION. 24. The taxes imposed under this division
26 shall be reduced by an environmental practices tax credit
27 allowed under chapter 467.

28 Sec. 5. Section 427C.1, Code 2015, is amended to read as
29 follows:

30 **427C.1 Tax exemption.**

31 1. Any person who establishes a forest or fruit-tree
32 reservation as provided in this chapter shall be entitled to
33 the tax exemption provided by law.

34 2. A person shall not be entitled to a tax exemption under
35 this chapter, if the person claims an environmental practice

1 income tax credit for establishing an environmental practice
2 under chapter 467 on the same land as the forest or fruit-tree
3 reservation.

4 Sec. 6. NEW SECTION. 467.101 **Purpose.**

5 The purpose of this chapter is to assist crop farmers in
6 establishing and maintaining new environmental practices.

7 Sec. 7. NEW SECTION. 467.102 **Chapter definitions.**

8 As used in this chapter, unless the context otherwise
9 requires:

10 1. "*Agreement*" means an environmental practices agreement
11 entered into pursuant to section 467.204.

12 2. "*Crop*" means alfalfa, corn, soybeans, straw, oats, wheat,
13 or other similar crop ordinarily utilized for, or ordinarily
14 added as an ingredient in, animal feed or bedding, food
15 intended for human consumption, or fiber.

16 3. "*Crop farmer*" means a person who holds title to cropland.

17 4. *a.* "*Cropland*" means real estate located in this state
18 that meets all of the following criteria:

19 (1) Includes at least thirty contiguous acres not divided
20 into lots for the purpose of sale or lease, and not divided by
21 city streets or alleys.

22 (2) Is used to grow a crop.

23 *b.* "*Cropland*" may include real estate that is located within
24 the limits of a city.

25 5. "*Environmental practice*" means a conservation measure
26 established on cropland or as part of cropland's field drainage
27 tile system as provided under section 467.202.

28 6. "*State fiscal year*" means the fiscal year described in
29 section 3.12.

30 Sec. 8. NEW SECTION. 467.103 **Administration and**
31 **enforcement.**

32 1. *a.* The department of agriculture and land stewardship
33 shall administer and enforce provisions relating to
34 environmental practices agreements under subchapter II.

35 *b.* The commissioners of a soil and water conservation

1 district where an environmental practice is proposed to be
2 established or has been established are deemed to be the
3 agent of the department and shall act under the direction and
4 supervision of the department as provided in section 161A.11.

5 2. The department of revenue shall administer and enforce
6 provisions relating to environmental practices tax credits
7 under subchapter III.

8 3. The departments shall prescribe forms as required to
9 administer their respective subchapters.

10 4. The departments may prescribe procedures for the
11 receipt, filing, processing, and return of documents in
12 an electronic format, including but not limited to the
13 transmission of documents using the internet. The departments
14 may provide for authentication of the documents that may
15 include electronic signatures as provided in chapter 554D.

16 5. The departments, acting in cooperation, shall adopt
17 rules necessary to administer this chapter pursuant to chapter
18 17A.

19 Sec. 9. NEW SECTION. 467.201 **Subchapter definitions.**

20 As used in this subchapter, unless the context otherwise
21 requires, "*department*" means the department of agriculture and
22 land stewardship.

23 Sec. 10. NEW SECTION. 467.202 **Environmental practices —**
24 **qualifying and departmental requirements.**

25 1. An environmental practice must do all of the following:

26 a. Reduce soil erosion and sediment loss, including by doing
27 any of the following:

28 (1) Stabilizing the soil or otherwise limiting sediment
29 from being conveyed by surface water runoff.

30 (2) Filtering sediment-laden water.

31 b. Manage nutrients and reduce contributing contaminant
32 loads to receiving surface waters, including by doing any of
33 the following:

34 (1) Detaining sediment-laden water for a period in order
35 to allow the sediments to settle out, or to allow bacteria to

1 digest contaminants.

2 (2) Reducing the volume or velocity of
3 precipitation-induced surface water.

4 *c.* Improve surface water quality.

5 2. Any of the following qualifies as an environmental
6 practice:

7 *a.* A bioreactor installed as part of or connected to a field
8 drainage tile line.

9 *b.* A saturated buffer that includes all of the following:

10 (1) A subsurface drain outlet with permanent vegetation.

11 (2) A water control structure and subsurface distribution
12 piping capable of diverting drainage system discharge to create
13 an elevated zone of soil saturation.

14 *c.* Cropland integrated with prairie grass strips installed
15 in a drainage area as follows:

16 (1) A minimum of ten percent of the drainage area must be
17 comprised of strips of prairie grass established as permanent
18 vegetation that is used to filter runoff.

19 (2) The remaining percent of the drainage area must be
20 comprised of crops, with the crops alternating with the strips
21 of prairie grass.

22 *d.* A grassed waterway, as defined in section 459A.102, if
23 established and maintained in compliance with standards of the
24 United States department of agriculture, natural resources
25 conservation service.

26 *e.* An area maintained in permanent vegetation cover,
27 including perennial vegetation cover consisting of grasses,
28 legumes, or both, and includes but is not limited to grasslands
29 or forages.

30 *f.* An area devoted to trees, excluding an area for which a
31 property tax exemption as a forest or fruit-tree reservation
32 under chapter 427C is claimed.

33 *g.* A wetland area of at least one-half acre if the area is
34 mostly under water or waterlogged during the growing season and
35 is characterized by vegetation of hydric soils.

1 3. The department shall further define by rule an
2 environmental practice qualifying under subsection 2.

3 4. The department may adopt rules creating similar
4 environmental practices. The environmental practice must
5 comply with the requirements of subsection 1 in a manner
6 comparable to an environmental practice qualifying under
7 subsection 2.

8 Sec. 11. NEW SECTION. **467.203 Environmental practices**
9 **agreements — applications.**

10 1. A crop farmer may submit an application to the department
11 to enter into an environmental practices agreement with
12 the department that may be the basis for issuance of an
13 environmental tax credit certificate under section 467.303.

14 The application shall include all of the following:

15 *a.* The identification of the crop farmer and cropland.

16 *b.* A description of the environmental practice to be
17 established. The department may require that a technician
18 approved by the department plan, design, or lay out a proposed
19 environmental practice.

20 *c.* Information required by the department of revenue
21 pursuant to section 467.303.

22 *d.* Any additional information deemed relevant by the
23 department or department of revenue.

24 2. The department shall approve applications on a
25 first-come, first-served basis unless the department
26 prioritizes applications based on criteria adopted by the
27 department. The criteria may include but are not limited to
28 any of the following:

29 *a.* The cost, performance, or permanence of the environmental
30 practice according to a cost-benefit analysis.

31 *b.* Whether the department and the crop farmer have
32 previously entered into an agreement and the department's
33 experience with the crop farmer.

34 *c.* The past performance of the environmental practice to be
35 established.

1 3. The submission and approval of an application is a
2 promise by the crop farmer and department to negotiate the
3 terms and conditions of an agreement which may be contingent
4 upon the availability of unobligated or unencumbered moneys
5 used to finance the environmental practices tax credit as
6 provided in section 467.306.

7 4. The department may approve an application submitted
8 by a crop farmer under this section for the issuance of an
9 environmental practices tax credit certificate in a future
10 state fiscal year according to the terms and conditions of the
11 agreement as provided in section 467.204.

12 **Sec. 12. NEW SECTION. 467.204 Environmental practices**
13 **agreements — terms and conditions.**

14 1. If the department approves an application submitted by
15 a crop farmer as provided in section 467.203, the department
16 and crop farmer shall negotiate the terms and conditions of a
17 written environmental practices agreement to be entered into by
18 both parties.

19 2. The agreement shall require that the crop farmer
20 establish an environmental practice by doing all of the
21 following:

22 a. To the extent required by the department, obtain
23 assistance to plan, design, or lay out the environmental
24 practice by a technician approved by the department.

25 b. Install the environmental practice which shall be placed
26 in service.

27 3. a. The agreement shall require that the crop farmer
28 maintain the environmental practice so that when placed in
29 service it effectively performs the function for which it
30 was designed for the duration of its life as provided in the
31 agreement.

32 b. In order to be maintained, the environmental practice
33 must be kept in good repair or be reconstructed if necessary.
34 An environmental practice is not maintained if it is removed,
35 altered, or modified so that it no longer effectively performs

1 the function for which it was originally placed in service.

2 4. The agreement shall provide for the inspection of
3 cropland under section 467.206.

4 5. The agreement shall provide for all of the following:

5 a. The crop farmer's possible transfer of title to the
6 cropland where the environmental practice is to be established
7 or has been established.

8 b. The possible suspension or termination of the agreement
9 under section 467.205.

10 6. a. The agreement shall establish the amount of the
11 environmental practices tax credit allowed under section
12 467.302.

13 b. The agreement shall include any conditions imposed by the
14 department on the issuance of an environmental practices tax
15 credit certificate by the department of revenue under section
16 467.303, and any provisions affecting the transfer of the tax
17 credit certificate under section 467.304.

18 c. The department and crop farmer may enter into more than
19 one agreement and the crop farmer may be allowed to claim more
20 than one tax credit for each environmental practice established
21 under section 467.302.

22 7. The agreement shall provide for its execution, effective
23 date, and duration. The agreement shall not take effect later
24 than the date that the environmental practices tax credit
25 certificate is issued by the department of revenue. The
26 agreement's duration shall not exceed twenty years from its
27 effective date.

28 **Sec. 13. NEW SECTION. 467.205 Environmental practices**
29 **agreements — suspension or termination.**

30 1. The department shall provide for the suspension or
31 termination of an environmental practices agreement if the crop
32 farmer who is a party to the agreement is in breach of the
33 agreement.

34 2. a. An environmental practices agreement is automatically
35 terminated on a nonhostile basis under any of the following

1 circumstances:

2 (1) The crop farmer transfers the cropland for fair value
3 to another person, if the crop farmer has relinquished any
4 apparent, real, or contingent interest in the cropland, and the
5 department is notified of the transfer not more than ninety
6 days after the transfer is effective.

7 (2) The cropland is to be converted to a use incompatible
8 with crop production, and the department is notified of the
9 change in use not more than ninety days after the effective
10 date of the change.

11 *b.* The department may refuse to enter into an agreement with
12 a crop farmer whose prior agreement has been terminated on a
13 nonhostile basis.

14 3. *a.* An environmental practices agreement is terminated by
15 a crop farmer on a hostile basis under any circumstance other
16 than that described in subsection 2.

17 *b.* The department shall not enter into an agreement with
18 a crop farmer whose prior agreement has been terminated on a
19 hostile basis.

20 4. *a.* The department shall notify the department of revenue
21 if an agreement has been suspended or terminated.

22 *b.* An agreement is not terminated if in the agreement the
23 department requires that a person transferred title to the
24 cropland become a successor party to the agreement.

25 Sec. 14. NEW SECTION. **467.206 Inspections and enforcement.**

26 1. The department may inspect the location where an
27 environmental practice is proposed to be established or is
28 established, under any of the following circumstances:

29 *a.* As provided in an environmental practices agreement under
30 section 467.204.

31 *b.* Upon consent of the crop farmer who is an applicant under
32 section 467.203 or a party to the agreement. As a condition of
33 entering into the agreement, the crop farmer must consent to
34 the department's inspection of cropland where an environmental
35 practice is proposed to be established or has been established.

1 c. Under an administrative search warrant obtained under
2 section 808.14.

3 2. The department may enforce the terms and conditions of an
4 agreement by administrative order. The courts of this state
5 may prevent and restrain a breach of an agreement through the
6 issuance of an injunction. The attorney general may bring an
7 action on behalf of the department to enforce the terms and
8 conditions of the agreement.

9 Sec. 15. NEW SECTION. **467.301 Subchapter definitions.**

10 As used in this subchapter, unless the context otherwise
11 requires:

12 1. "*Department*" means the department of revenue.

13 2. "*Holder*" means a person who is either a crop farmer
14 who has been issued an environmental practices tax credit
15 certificate or a person to whom such a tax credit certificate
16 has been transferred under section 467.304.

17 3. "*Tax credit*" means an environmental practices tax credit
18 allowed under section 467.302.

19 4. "*Tax credit certificate*" means an environmental practices
20 tax credit certificate issued pursuant to section 467.303.

21 Sec. 16. NEW SECTION. **467.302 Environmental practices tax**
22 **credits — allowance.**

23 1. A tax credit is allowed under this chapter against the
24 taxes imposed in chapter 422, divisions II and III.

25 2. An individual may claim a tax credit of a partnership,
26 limited liability company, S corporation, estate, or trust
27 electing to have income taxed directly to the individual. The
28 amount claimed by the individual shall be based upon the pro
29 rata share of the individual's earnings from the partnership,
30 limited liability company, S corporation, estate, or trust.

31 3. A tax credit in excess of the taxpayer's liability for
32 the tax year is not refundable but may be credited to the tax
33 liability for the following five years or until depleted,
34 whichever is earlier. A tax credit shall not be carried back
35 to a tax year prior to the tax year in which the taxpayer claims

1 the tax credit.

2 4. A tax credit shall be allowed for seventy-five percent
3 of the actual and necessary costs of establishing the
4 environmental practice, not to exceed ten thousand dollars,
5 as provided in the environmental practices agreement entered
6 into by the crop farmer and department of agriculture and land
7 stewardship pursuant to section 467.204.

8 5. A taxpayer may claim more than one tax credit for one
9 or more tax years, but may claim only one tax credit for
10 establishing each separate and distinct environmental practice
11 as set out in the agreement described in subsection 4. The
12 department of agriculture and land stewardship shall establish
13 criteria, by rule, for determining what constitutes a separate
14 and distinct environmental practice.

15 6. A tax credit shall not be allowed for that portion of the
16 cost of establishing an environmental practice that is financed
17 by a nonrepayable award granted by a public or private entity,
18 including but not limited to a federal or state agency or local
19 government.

20 Sec. 17. NEW SECTION. 467.303 **Environmental practices tax**
21 **credit certificates — issuance.**

22 1. A tax credit may be claimed by a taxpayer who is a holder
23 of a tax credit certificate. The holder must be any of the
24 following:

25 a. A crop farmer who has been issued a tax credit
26 certificate by the department according to the terms and
27 conditions of an environmental practices agreement entered
28 into by the crop farmer and department of agriculture and land
29 stewardship pursuant to section 467.204.

30 b. A person to whom a tax credit certificate has been
31 transferred pursuant to section 467.304.

32 2. The department of agriculture and land stewardship shall
33 do all of the following:

34 a. Notify the department that it has entered into an
35 environmental practices agreement with the taxpayer who is a

1 crop farmer pursuant to section 467.204.

2 *b.* Notify the department that an environmental practice
3 covered in the agreement described in paragraph "a" has been
4 placed in service.

5 *c.* Provide the department information regarding the
6 taxpayer's name, address, and tax identification number;
7 the amount of the allowed tax credit; and other information
8 required by the department of revenue.

9 *d.* Transmit the agreement to the department as required by
10 the department.

11 3. A taxpayer is not allowed to claim a tax credit unless
12 a tax credit certificate is included with the taxpayer's tax
13 return received by the department for the tax year for which
14 the tax credit is claimed.

15 **Sec. 18. NEW SECTION. 467.304 Environmental practices tax**
16 **credit certificate — transfer.**

17 1. A crop farmer who is the holder of a tax credit
18 certificate under section 467.303 may transfer the tax credit
19 certificate. A tax credit certificate is transferable by that
20 transferee and any subsequent holder.

21 2. A transferee of a tax credit certificate may use the
22 amount of the tax credit transferred against the taxes imposed
23 in chapter 422, divisions II and III, for any future tax year
24 the crop farmer could have claimed the tax credit.

25 3. Any consideration received for the transfer of the tax
26 credit shall not be included as income under chapter 422,
27 divisions II and III. Any consideration paid for the transfer
28 of the tax credit shall not be deducted from income under
29 chapter 422, divisions II and III.

30 4. A transferee shall apply to the department for a
31 replacement tax credit certificate. However, the department
32 may provide for the transfer of the tax credit by another
33 method including by recording the transfer on the face of the
34 original tax credit certificate.

35 5. If the tax credit has not been claimed by a holder,

1 within ninety days of the transfer, the transferee shall submit
2 the transferred tax credit certificate to the department
3 along with a statement containing the transferee's name, tax
4 identification number, and address, the denomination that the
5 tax credit certificate is to carry, and any other information
6 required by the department.

7 6. Within thirty days of receiving an application under
8 subsection 4 or the transferred tax credit certificate and
9 the transferee's statement as provided in subsection 5, the
10 department shall issue a replacement tax credit certificate to
11 the transferee. Each replacement tax credit certificate shall
12 contain the same information required for the original tax
13 credit certificate and shall have the same expiration date that
14 appeared on the transferred tax credit certificate.

15 7. A tax credit shall not be claimed by a transferee until
16 a replacement tax credit certificate identifying the transferee
17 as the proper holder has been issued by the department.

18 Sec. 19. NEW SECTION. **467.305 Tax credit certificates —**
19 **departmental action — liability.**

20 1. The department may suspend or rescind a tax credit
21 certificate if the department determines that a taxpayer
22 claiming the tax credit is not otherwise complying with
23 the department's requirements for claiming the tax credit.
24 The department shall rescind a tax credit certificate upon
25 notification or discovery that an environmental practices
26 agreement was terminated with respect to the crop farmer who
27 is a party to the agreement. The department shall notify
28 the department of agriculture and land stewardship that the
29 tax credit certificate has been suspended or rescinded. An
30 action taken under this subsection shall suspend or rescind the
31 remaining value of the tax credit.

32 2. A crop farmer whose environmental practices agreement
33 has been terminated under section 467.205 shall be liable to
34 the state for repaying the remaining value of the tax credit
35 rescinded plus interest as provided in this section.

1 3. The remaining value of the tax credit shall be calculated
2 on a prorated basis by dividing the total dollar amount of
3 the tax credit that could be received under the environmental
4 practices agreement by the total number of months that the
5 environmental practice could be in service under that agreement
6 and then multiplying the quotient by the total number of
7 months that the environmental practice should have stayed in
8 service but was removed from service due to the agreement's
9 termination.

10 4. *a.* If the termination is nonhostile, the interest rate
11 equals the current interest rate computed by the department
12 pursuant to section 421.7.

13 *b.* If the termination is hostile, the interest rate equals
14 the current interest rate described in paragraph "a" multiplied
15 by ten.

16 5. A person who claims a tax credit as a transferee shall
17 be jointly and severally liable to the state for the remaining
18 value of the tax credit as provided in subsection 3 plus
19 interest at the current rate as provided in subsection 4.
20 However, the transferee shall not be liable if the tax credit
21 was obtained for value, in good faith, and without actual or
22 constructive notice of the agreement's termination when the tax
23 credit certificate was obtained.

24 **Sec. 20. NEW SECTION. 467.306 Environmental practices tax**
25 **credit certificate — availability.**

26 The amount of tax credit certificates that may be issued
27 under this chapter shall not in the aggregate exceed three
28 million dollars in any state fiscal year.

29 **Sec. 21. EFFECTIVE UPON ENACTMENT.** This Act, being deemed
30 of immediate importance, takes effect upon enactment.

31 **Sec. 22. APPLICABILITY.** This Act applies to environmental
32 practices first established on or after the effective date of
33 this Act.

34 **Sec. 23. RETROACTIVE APPLICABILITY.** This Act applies
35 retroactively to January 1, 2015, for tax years beginning on

1 or after that date.

2

EXPLANATION

3

The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

4

5 GENERAL. This bill provides for an environmental practices
6 agreement and related tax credit (credit). The purpose of the
7 credit is to assist crop farmers in reducing soil erosion and
8 sediment loss, managing nutrients, and reducing contaminant
9 loads contributing to surface waters, and improving surface
10 water quality. The bill provides that such agreements are
11 to be administered by the department of agriculture and land
12 stewardship (DALs) in cooperation with the soil and water
13 conservation commissioners (commissioners). The tax credit is
14 to be administered by the department of revenue (DOR).

15 ENVIRONMENTAL PRACTICES AGREEMENTS. The bill allows a crop
16 farmer to enter into an environmental practices agreement
17 (agreement) with DALs. The agreement requires the crop farmer
18 to establish and maintain an environmental practice (practice)
19 on the crop farmer's cropland for the period specified in the
20 agreement but not more than 20 years. The bill provides for
21 the inspection of the cropland where the practice is to be
22 installed or has been installed. The commissioners of a soil
23 and water conservation district where a practice is proposed
24 to be or has been installed is deemed to be the agent of the
25 department. The agreement does not create a lien on the land
26 or bind a successor in interest unless the successor agrees.
27 The bill provides that DALs must notify DOR that the crop
28 farmer has executed an agreement and installed a practice.

29 TAX CREDIT — ALLOWANCE. A credit in excess of a taxpayer's
30 liability is not refundable and cannot be carried back but
31 may be carried forward for the following five tax years. The
32 credit is limited to 75 percent of the actual and necessary
33 cost of establishing the practice which includes both planning
34 and installation costs, not to exceed \$10,000. The amount
35 cannot include that part of the cost financed by a nonrepayable

1 award granted by a public or private entity (e.g., cost-share
2 moneys). The credit is allowed against individual and
3 corporate income taxes.

4 TAX CREDIT CERTIFICATES. Upon receipt of DALs' notice, DOR
5 is required to issue a tax credit certificate (certificate)
6 to the crop farmer. However, not more than \$3 million in
7 tax credit certificates may be issued in any state fiscal
8 year. A certificate is transferable to another person who may
9 claim or transfer the credit. DOR must rescind a certificate
10 if an agreement is terminated and it may suspend or rescind
11 a certificate if its holder is not in compliance with the
12 bill's requirements. If a credit is rescinded due to the
13 termination of an agreement, the crop farmer is liable for
14 repaying the unclaimed value of credit on a prorated basis plus
15 interest. The interest rate to be applied depends on whether
16 the termination is considered nonhostile or hostile. The
17 termination is nonhostile if the cropland is to be transferred
18 to another person who converts it to a use incompatible with
19 crop production. Under these circumstances, the interest rate
20 is that published by DOR in the Iowa Administrative Bulletin.
21 The termination is hostile under any other circumstances and
22 under those circumstances the interest rate is the published
23 rate multiplied by 10. A transferee is also liable for
24 repayment, unless the credit was obtained by the transferee for
25 value, in good faith, and without actual or constructive notice
26 of the agreement's breach.

27 EFFECTIVE AND APPLICABILITY DATES. The bill takes effect
28 upon enactment for environmental practices first established
29 on or after that date and applies retroactively to tax years
30 beginning on and after January 1, 2015.