

House Study Bill 653 - Introduced

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

A BILL FOR

1 An Act establishing an environmental practices tax credit, and
2 including applicability provisions.

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

1 Section 1. Section 159.5, Code 2016, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 15. Cooperate with the department of
4 revenue in administering the environmental practices tax
5 credit as provided in chapter 467. The department may enter
6 onto land in order to inspect an environmental practice and
7 verify that it has been established as required in chapter
8 467. In entering onto the land, the department shall have
9 all the powers conferred upon commissioners of soil and
10 water conservation districts under chapter 161A as if the
11 environmental practice were a soil and water conservation
12 practice or erosion control practice established on a voluntary
13 or mandatory basis using cost-share moneys. However, nothing
14 in this subsection requires the department to enter onto land
15 to inspect and verify an environmental practice.

16 Sec. 2. NEW SECTION. 161A.11 **Environmental practices**
17 **— cooperation with the department of agriculture and land**
18 **stewardship.**

19 The commissioners of a district where an environmental
20 practice is to be or has been established under chapter 467 are
21 deemed to be the agents of the department and shall act under
22 the direction and supervision of the department in entering
23 onto land located in the district in order to inspect an
24 environmental practice and verify that it has been established
25 as required in chapter 467. In entering onto the land, the
26 commissioners have all the powers conferred upon them under
27 this chapter as if the environmental practice were a soil
28 and water conservation practice or erosion control practice
29 established on a voluntary or mandatory basis using cost-share
30 moneys.

31 Sec. 3. NEW SECTION. 161A.77 **Environmental practices —**
32 **limitations on financial assistance.**

33 A person is not eligible to receive an award of financial
34 assistance that is not required to be repaid by the recipient,
35 including but not limited to cost-share moneys under this

1 chapter, for that portion of the cost of establishing an
2 environmental practice that is claimed as an environmental
3 practices tax credit under chapter 467.

4 Sec. 4. NEW SECTION. **422.11K Environmental practices tax**
5 **credit.**

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

9 Sec. 5. Section 422.33, Code 2016, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 24. The taxes imposed under this division
12 shall be reduced by an environmental practices tax credit
13 allowed under chapter 467.

14 Sec. 6. Section 427C.1, Code 2016, is amended to read as
15 follows:

16 **427C.1 Tax exemption.**

17 1. Any person who establishes a forest or fruit-tree
18 reservation as provided in **this chapter** shall be entitled to
19 the tax exemption provided by law.

20 2. A person shall not be entitled to a tax exemption under
21 this chapter if the person claims an environmental practices
22 tax credit for establishing an environmental practice under
23 chapter 467 on the same land as the forest or fruit-tree
24 reservation.

25 Sec. 7. NEW SECTION. **467.101 Purpose.**

26 The purpose of this chapter is to assist persons in
27 establishing new environmental practices in order to reduce
28 soil erosion and sediment loss, manage nutrients and reduce
29 contributing contaminant loads to receiving surface waters, and
30 improve surface water quality.

31 Sec. 8. NEW SECTION. **467.102 Definitions.**

32 As used in this chapter, unless the context otherwise
33 requires:

34 1. a. *"Cropland"* means real estate located in this state
35 that meets all of the following criteria:

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

4 (2) Is used to grow alfalfa, corn, soybeans, straw, oats,
5 wheat, or other similar crop ordinarily utilized for, or
6 ordinarily added as an ingredient in, animal feed or bedding,
7 food intended for human consumption, or fiber.

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

10 2. "Department" means the department of agriculture and land
11 stewardship.

12 3. "State fiscal year" means the fiscal year described in
13 section 3.12.

14 Sec. 9. NEW SECTION. 467.103 **Qualifications for**
15 **environmental practices.**

16 1. An environmental practice qualifying for an
17 environmental practices tax credit under this chapter must
18 be an edge-of-field soil and water conservation practice or
19 edge-of-field erosion control practice that would otherwise
20 be eligible to be established using cost-share moneys under
21 chapter 161A. However, the environmental practice is limited
22 to the following:

23 *a.* A bioreactor that is part of or connected to a field
24 drainage tile line.

25 *b.* A saturated buffer.

26 *c.* Prairie grass strips located in a drainage area.

27 *d.* A grassed waterway, as defined in section 459A.102.

28 *e.* An area which is devoted to permanent vegetation cover.

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

32 *g.* A wetland area.

33 2. The department of agriculture and land stewardship shall
34 further define by rule an environmental practice qualifying
35 under subsection 1.

1 Sec. 10. NEW SECTION. **467.104 Tax credit to establish**
2 **an environmental practice — administration by department of**
3 **revenue.**

4 1. An environmental practices tax credit is allowed
5 under this chapter against the taxes imposed in chapter 422,
6 divisions II and III.

7 2. A taxpayer may claim a tax credit for establishing an
8 environmental practice on cropland if all of the following
9 apply:

10 *a.* The taxpayer holds title to cropland where the
11 environmental practice is established.

12 *b.* The environmental practice qualifies under section
13 467.103.

14 *c.* The environmental practice was established in the tax
15 year for which the environmental practices tax credit is
16 claimed.

17 *d.* The taxpayer includes with the tax return in which the
18 environmental practices tax credit is claimed a tax credit
19 certificate issued by the department pursuant to section
20 467.105.

21 3. *a.* The environmental practices tax credit certificate
22 shall be redeemed for the value of the tax credit stated on the
23 certificate.

24 *b.* The environmental practices tax credit shall be allowed
25 for seventy-five percent of the actual and necessary costs of
26 establishing the environmental practice, not to exceed ten
27 thousand dollars.

28 *c.* The environmental practices tax credit shall not
29 be allowed for that portion of the cost of establishing
30 an environmental practice that is financed by an award of
31 financial assistance that is granted by a federal or state
32 agency or local government and that is not required to be
33 repaid by the recipient.

34 4. An individual may claim a tax credit of a partnership,
35 limited liability company, S corporation, estate, or trust

1 electing to have income taxed directly to the individual. The
2 amount claimed by the individual shall be based upon the pro
3 rata share of the individual's earnings from the partnership,
4 limited liability company, S corporation, estate, or trust.

5 5. An environmental practices tax credit in excess of the
6 taxpayer's liability for the tax year is not refundable but may
7 be credited to the tax liability for the following five years
8 or until depleted, whichever is earlier. An environmental
9 practices tax credit shall not be carried back to a tax
10 year prior to the tax year in which the taxpayer claims the
11 environmental practices tax credit. An environmental practices
12 tax credit is transferable as provided in section 467.106.

13 6. The department of revenue shall, in cooperation with the
14 department of agriculture and land stewardship, adopt rules as
15 necessary to administer this section.

16 Sec. 11. NEW SECTION. **467.105 Tax credit certificates —**
17 **issuance by department of agriculture and land stewardship.**

18 1. The department shall, in cooperation with the department
19 of revenue, establish criteria and procedures for the review
20 and approval or disapproval of applications submitted by
21 taxpayers seeking to be issued tax credit certificates
22 under section 467.104, and for the issuance of tax credit
23 certificates under section 467.104 or 467.106.

24 2. An application submitted to the department for a tax
25 credit certificate must include a statement containing the
26 taxpayer's name, tax identification number, and address,
27 the actual and necessary costs incurred by the taxpayer
28 in establishing the environmental practice, and any other
29 information required by the department or the department
30 of revenue. The application shall include a copy of any
31 supporting documentation verifying that the taxpayer is
32 eligible to be issued the tax credit certificate. The
33 department may enter onto cropland where the environmental
34 practice is located in order to conduct an inspection of the
35 environmental practice and verify that it was established as

1 required in this chapter. The department may authorize the
2 commissioners of a soil and water conservation district where
3 the environmental practice is located to conduct the inspection
4 and verification on behalf of the department. However, the
5 department may approve an application without conducting an
6 inspection or verification.

7 3. A taxpayer may apply for more than one tax credit
8 certificate for establishing more than one environmental
9 practice for one or more tax years, so long as each tax credit
10 is for the establishment of separate and distinct environmental
11 practices. The department shall establish criteria, by rule,
12 for determining what constitutes a separate and distinct
13 environmental practice. The department shall not approve an
14 application or issue tax credit certificates to a taxpayer for
15 an amount in excess of ten thousand dollars in the aggregate
16 for any tax year.

17 4. The department shall issue tax credit certificates under
18 this section on a first-come, first-served basis. However,
19 the department shall not issue tax credit certificates in an
20 aggregate amount that exceeds three million dollars in any
21 state fiscal year. If the department determines that it cannot
22 issue additional tax credit certificates for the state fiscal
23 year because of the dollar limitation in this subsection,
24 the department shall compile a wait list for taxpayers who
25 have applied for tax credit certificates. Applications that
26 were approved by the department but for which tax credit
27 certificates were not issued shall be placed on the wait list
28 in the order the applications were received by the department
29 and shall be given priority for being issued tax credit
30 certificates in succeeding state fiscal years.

31 5. A tax credit certificate and related tax credit issued
32 pursuant to this section shall be deemed a vested right of the
33 taxpayer claiming the tax credit under section 467.105 as the
34 original holder or of any transferee of the original holder
35 under section 467.106 as the subsequent holder. The state

1 shall not cause a tax credit certificate to be redeemed in such
2 a way that amends or rescinds the tax credit certificate or
3 that curtails, limits, or withdraws the related tax credit,
4 except upon consent of the proper holder.

5 **Sec. 12. NEW SECTION. 467.106 Tax credit certificates —**
6 **transfers — department of revenue.**

7 1. A tax credit certificate issued pursuant to section
8 467.105 may be transferred, in whole or in part, by the
9 taxpayer to any person. However, a tax credit certificate
10 shall only be transferred once.

11 2. Within ninety days of the transfer of the tax credit
12 certificate, the transferee shall submit the transferred tax
13 credit certificate to the department of revenue along with a
14 statement containing the transferee's name, tax identification
15 number, and address, the denomination that the replacement
16 tax credit certificate is to carry, and any other information
17 required by the department of revenue.

18 3. Within thirty days of receiving the transferred tax
19 credit certificate and the transferee's statement, the
20 department of revenue shall issue a replacement tax credit
21 certificate to the transferee. The replacement tax credit
22 certificate must contain the information required for
23 the original tax credit certificate. The replacement tax
24 credit certificate may designate a different tax than the
25 tax designated on the original tax credit certificate. A
26 tax credit shall not be claimed by a transferee until the
27 replacement tax credit certificate identifying the transferee
28 as the proper holder has been issued.

29 4. A transferee may use the amount of the tax credit
30 transferred against the taxes imposed in chapter 422, divisions
31 II, III, and V, and in chapter 432, and against the moneys and
32 credits tax imposed in section 533.329, for any tax year the
33 original transferor could have claimed the tax credit. Any
34 consideration received for the transfer of the tax credit shall
35 not be included as income under chapter 422, divisions II, III,

1 and V. Any consideration paid for the transfer of the tax
2 credit shall not be deducted from income under chapter 422,
3 divisions II, III, and V.

4 Sec. 13. APPLICABILITY. This Act applies to tax years
5 beginning on or after January 1, 2017.

6 EXPLANATION

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

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

18 TAX CREDIT CERTIFICATES. The bill allows a taxpayer who is
19 a landowner establishing an environmental practice on cropland,
20 as defined in the bill, to claim a tax credit by applying to
21 DALs for the issuance of a tax credit certificate. A taxpayer
22 may apply for more than one tax credit certificate for each
23 separate and distinct environmental practice established. The
24 bill allows DALs or commissioners to inspect the land where the
25 practice has been established. Not more than \$3 million in tax
26 credit certificates may be issued in any state fiscal year. If
27 an applicant is approved but moneys are not available to issue
28 a tax credit certificate, the approved applicant is placed on a
29 wait list. A tax credit certificate is transferable but cannot
30 be transferred more than once.

31 TAX CREDIT. A tax credit in excess of a taxpayer's liability
32 is not refundable and cannot be carried back but may be carried
33 forward for the following five tax years. The tax credit is
34 limited to 75 percent of the actual and necessary cost of
35 establishing the environmental practice. The amount cannot

1 include that part of the cost financed by an award of financial
2 assistance granted by a public entity (e.g., cost-share
3 moneys) that is not required to be repaid by the recipient.
4 The tax credit is allowed against individual and corporate
5 income taxes. A transferred tax credit is allowed against the
6 individual and corporate income taxes, the franchise tax, the
7 insurance premiums tax, and the moneys and credits tax.
8 APPLICABILITY DATE. The bill applies to tax years beginning
9 on or after January 1, 2017.