

**Senate File 433 - Introduced**

SENATE FILE 433  
BY COMMITTEE ON NATURAL  
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SSB 1258)

**A BILL FOR**

1 An Act providing for an environmental practices tax credit,  
2 and including effective date and retroactive and other  
3 applicability provisions.

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

1 Section 1. Section 2.48, subsection 3, Code 2015, is amended  
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *g.* In 2018, the environmental practices tax  
4 credit under chapter 467.

5 Sec. 2. NEW SECTION. **422.11K Environmental practices tax**  
6 **credit.**

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

10 Sec. 3. Section 422.33, Code 2015, is amended by adding the  
11 following new subsection:

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

15 Sec. 4. NEW SECTION. **467.1 Environmental practices tax**  
16 **credit — creation and purpose.**

17 1. An environmental practices tax credit is established.

18 2. The purpose of the tax credit is to assist eligible  
19 crop farmers to participate in establishing new qualified  
20 environmental practices that do all of the following:

21 *a.* Reduce soil erosion and sediment loss.

22 *b.* Manage nutrients and reduce contaminant loads  
23 contributing to receiving surface waters.

24 *c.* Improve surface water quality.

25 Sec. 5. NEW SECTION. **467.2 Definitions.**

26 1. "*Agreement*" means an environmental practices agreement  
27 as provided in section 467.7.

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

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

34 4. *a.* "*Cropland*" means real estate that meets all of the  
35 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 a crop.

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

7 5. "*Department*" means the department of agriculture and land  
8 stewardship.

9 6. *a.* "*Environmental practice*" means a permanent  
10 conservation measure established on cropland, or as part of  
11 cropland's field drainage tile system, in order to reduce  
12 nutrients or contaminant loads contributed by soil or sediment  
13 to receiving surface waters.

14 *b.* "*Environmental practice*" includes any of the following:

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

17 (2) (a) Filtering sediment-laden water.

18 (b) Detaining sediment-laden water for a period in order  
19 to allow the sediments to settle out, or to allow bacteria to  
20 digest contaminants.

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

23 7. "*Holder*" means a person who is either an eligible crop  
24 farmer who has been issued an environmental practices tax  
25 credit certificate, or a person who has been transferred such  
26 tax credit certificate.

27 8. "*Nutrient*" includes nitrogen and phosphorus.

28 9. "*Practice*" means a qualified environmental practice as  
29 provided in section 467.6.

30 10. "*Tax credit*" means the environmental practices tax  
31 credit as established in section 467.1.

32 11. "*Tax credit certificate*" means the environmental  
33 practices tax credit certificate issued pursuant to section  
34 467.9.

35 Sec. 6. NEW SECTION. 467.3 Administration.

1 1. The department, in cooperation with the department of  
2 revenue, shall administer and enforce the provisions of this  
3 chapter.

4 2. The departments shall prescribe forms as required to  
5 administer this chapter.

6 3. The departments may provide procedures for the receipt,  
7 filing, processing, and return of documents in an electronic  
8 format, including but not limited to the transmission of  
9 documents by the internet. The departments may provide for  
10 authentication of the documents that may include electronic  
11 signatures as provided in chapter 554D.

12 4. The departments shall adopt rules necessary to  
13 administer this chapter pursuant to chapter 17A.

14 Sec. 7. NEW SECTION. **467.4 Allowance.**

15 1. The environmental practices tax credit is allowed  
16 under this chapter against the taxes imposed in chapter 422,  
17 divisions II and III.

18 2. An individual may claim a tax credit of a partnership,  
19 limited liability company, S corporation, estate, or trust  
20 electing to have income taxed directly to the individual. The  
21 amount claimed by the individual shall be based upon the pro  
22 rata share of the individual's earnings from the partnership,  
23 limited liability company, S corporation, estate, or trust.

24 3. A tax credit in excess of the taxpayer's liability for  
25 the tax year is not refundable but may be credited to the tax  
26 liability for the following five years or until depleted,  
27 whichever is earlier. A tax credit shall not be carried back  
28 to a tax year prior to the tax year in which the taxpayer claims  
29 the tax credit.

30 4. A tax credit shall not be allowed for the portion of the  
31 cost of a qualified environmental practice that was financed  
32 by federal or state moneys, including but not limited to  
33 moneys credited to the state treasury or a state fund or state  
34 account.

35 Sec. 8. NEW SECTION. **467.5 Eligibility — crop farmers.**

1 1. An environmental practices tax credit is only allowed  
2 under section 467.4 if the tax credit is claimed by a crop  
3 farmer meeting the eligibility requirements of this section  
4 or a taxpayer transferred the tax credit pursuant to section  
5 467.10.

6 2. A crop farmer is not eligible, unless the crop farmer  
7 is an Iowa taxpayer who has an annual gross income of less  
8 than four million dollars computed as an average of the crop  
9 farmer's three preceding tax years according to the crop  
10 farmer's filed federal tax returns.

11 3. a. In the case of a crop farmer holding title to  
12 cropland in joint tenancy or tenancy in common, the annual  
13 gross incomes of all such joint tenants or tenants in common  
14 are considered together when determining eligibility.

15 b. In the case of married taxpayers, the annual gross  
16 incomes of both spouses are considered together when  
17 determining eligibility.

18 Sec. 9. NEW SECTION. 467.6 **Qualified environmental**  
19 **practices.**

20 1. The environmental practices tax credit is only allowed  
21 under section 467.4, if it is an environmental practice that  
22 qualifies under this section.

23 2. a. A qualified environmental practice must be any of the  
24 following:

25 (1) A bioreactor installed as part of or connected to a  
26 field drainage tile line.

27 (2) A saturated buffer that includes all of the following:

28 (a) A subsurface drain outlet with permanent vegetation.

29 (b) A water control structure and subsurface distribution  
30 piping capable of diverting drainage system discharge to create  
31 an elevated zone of soil saturation.

32 (3) Cropland integrated with prairie grass strips  
33 established in a drainage area as follows:

34 (a) A minimum of ten percent of the drainage area must be  
35 comprised of strips of prairie grass established as permanent

1 vegetation that is used to filter runoff.

2 (b) The remaining percent of the drainage area must be  
3 comprised of crops, with the crops alternating with the strips  
4 of prairie grass.

5 (4) A grassed waterway, as defined in section 459A.102,  
6 if constructed and maintained in compliance with standards of  
7 the United States department of agriculture, natural resources  
8 conservation service.

9 (5) An area maintained in permanent vegetation cover,  
10 including perennial vegetation cover consisting of grasses,  
11 legumes, or both, and includes but is not limited to grasslands  
12 or forages.

13 (6) A wetland area of at least one-half acre so long as the  
14 area is mostly under water or waterlogged during the growing  
15 season and is characterized by vegetation of hydric soils.

16 b. The department shall adopt rules pursuant to chapter  
17 17A further defining a qualified environmental practice as  
18 described in paragraph "a".

19 3. The department may establish similar qualified  
20 environmental practices by rule. The practice must accomplish  
21 the purposes of this chapter as provided in section 467.1 in  
22 a manner comparable to a qualified environmental practice  
23 described in subsection 2.

24 4. The department may rank qualified environmental  
25 practices according to a cost-benefit analysis to be used  
26 in prioritizing the approval of applications under section  
27 467.8 for the issuance of environmental practices tax credit  
28 certificates.

29 **Sec. 10. NEW SECTION. 467.7 Environmental practices**  
30 **agreement.**

31 1. As a condition for allowing an environmental practices  
32 tax credit, the eligible crop farmer and the department must  
33 execute an environmental practices agreement as provided in  
34 this section.

35 2. The agreement shall be signed by the eligible crop farmer

1 and a copy of the agreement shall be attached to an application  
2 for an environmental practices tax credit certificate as  
3 required in section 467.8. The department's execution of the  
4 agreement is contingent upon the department's approval of the  
5 application.

6 3. *a.* The agreement shall also require that the eligible  
7 crop farmer maintain the qualified environmental practice  
8 so that when placed in service it effectively performs the  
9 function for which it was originally established for the period  
10 specified in the agreement.

11 *b.* In order to be maintained, a qualified environmental  
12 practice must be kept in good repair, or be reconstructed  
13 if necessary. A qualified environmental practice is not  
14 maintained if it is removed, altered, or modified so that it  
15 no longer effectively performs the function for which it was  
16 originally established.

17 4. The agreement is a charge against the eligible crop  
18 farmer who shall be personally liable for the maintenance of  
19 the qualified environmental practice for the remaining period  
20 of the agreement. A successor in interest to the cropland  
21 shall not be responsible for the maintenance of the qualified  
22 environmental practice. The agreement does not create a legal  
23 or equitable interest in the cropland.

24 5. The term of the agreement commences on the date that  
25 the department approves the application for the environmental  
26 practices tax credit. The term of the agreement shall not  
27 exceed twenty years.

28 6. *a.* The eligible crop farmer must consent to the  
29 department inspecting the location where the qualified  
30 environmental practice is established. Nothing in this section  
31 prevents the department from inspecting the location of a  
32 proposed environmental practice.

33 *b.* Upon approving an application and executing the  
34 agreement, the department may inspect the location where the  
35 qualified environmental practice is established upon consent

1 of the eligible crop farmer or under an administrative search  
2 warrant obtained under section 808.14.

3 *c.* The department may arrange that any inspection  
4 be conducted by the commissioners of the soil and water  
5 conservation district where the cropland is located as provided  
6 in chapter 161A.

7 7. The department may enforce the terms and conditions of  
8 the agreement by administrative order. The courts of this  
9 state may prevent and restrain a breach of an agreement through  
10 the issuance of an injunction. The attorney general may bring  
11 an action on behalf of the department to enforce the terms and  
12 conditions of the agreement.

13 8. *a.* If an agreement is terminated after the tax credit  
14 is claimed, the department shall rescind the tax credit  
15 certificate and demand a refund of the amount of the tax credit  
16 claimed multiplied by an effective interest rate as provided  
17 in this subsection. The payment due must be remitted to the  
18 department for deposit in the state treasury within thirty days  
19 from the date the department delivers notice of payment due to  
20 the crop farmer or the farmer's estate.

21 *b.* The effective interest rate is based on the current rate  
22 published in the Iowa administrative bulletin by the department  
23 of revenue pursuant to section 421.7 on the date that the  
24 department notifies the eligible crop farmer or the farmer's  
25 estate of the payment amount due.

26 *c.* (1) The termination is nonhostile under any of the  
27 following circumstances:

28 (a) The cropland is transferred for fair value to another  
29 person, so long as each person who executed the agreement has  
30 relinquished any apparent, real, or contingent interest in the  
31 cropland, and the department is notified of the transfer not  
32 more than ninety days after the transfer is effective.

33 (b) The cropland is to be converted to a use incompatible  
34 with crop production, and the department is notified of the  
35 change in use not more than ninety days after the effective

1 date of the change.

2 (2) Under the circumstance described in subparagraph (1),  
3 the effective interest rate for a nonhostile termination equals  
4 the current rate.

5 (3) A refund of tax credit amounts claimed and carried  
6 forward is not owing or required to be paid under this  
7 paragraph "c", if the successor titleholder of the cropland  
8 agrees in writing to assume the liability of the eligible crop  
9 farmer under the agreement.

10 d. The termination is hostile under any circumstances not  
11 described in paragraph "a". The effective interest rate for a  
12 hostile termination equals ten times the current rate.

13 Sec. 11. NEW SECTION. **467.8 Tax credit certificates —**  
14 **applications.**

15 1. The department shall accept applications submitted  
16 by eligible crop farmers for the issuance of environmental  
17 practices tax credit certificates. The department shall not  
18 approve an application until all of the following occurs:

19 a. The department and the crop farmer execute an  
20 environmental practices agreement as provided in section 467.7.

21 b. The crop farmer has established a qualified environmental  
22 practice placed in service as provided in section 467.7.

23 c. The crop farmer submits federal tax returns, including  
24 all supporting schedules, for at least the prior three tax  
25 years.

26 2. The department may require that the eligible crop  
27 farmer submit additional information as determined relevant  
28 by the department. The department may require the additional  
29 information be submitted with the application or after the  
30 application has been accepted.

31 3. The department may approve an application submitted by an  
32 eligible crop farmer, regardless of any of the following:

33 a. The farmer was issued a tax credit certificate under  
34 this chapter for a prior tax year, or may be issued a tax  
35 credit certificate for a future tax year, regardless of whether

1 the tax credit certificate was or may be used, not used, or  
2 transferred.

3     *b.* The farmer has submitted two or more applications under  
4 this chapter for separate tax credit certificates to be used  
5 in the same tax year. However, the department is not required  
6 to approve such applications.

7     4. The department shall approve applications on a  
8 first-come, first-served basis, unless the department  
9 prioritizes applications according to cost-benefit analysis of  
10 environmental practices as provided in section 467.6.

11     5. The department shall not approve an application, if any  
12 of the following applies:

13     *a.* The amount of the tax credit would exceed seventy-five  
14 percent of the actual and reasonable cost of establishing a  
15 practice.

16     *b.* The eligible crop farmer would otherwise be allowed to  
17 claim a tax credit in excess of ten thousand dollars for that  
18 tax year.

19     *c.* The taxpayer is at fault for breaching any environmental  
20 practice agreement as provided in section 467.7.

21     Sec. 12. NEW SECTION. **467.9 Tax credit certificates —**  
22 **issuance.**

23     1. A taxpayer is not allowed an environmental practices  
24 tax credit, unless an environmental practices tax credit  
25 certificate issued by the department of agriculture and land  
26 stewardship is included with the taxpayer's tax return received  
27 by the department of revenue for the tax year for which the tax  
28 credit is claimed.

29     2. A tax credit certificate, unless rescinded by the  
30 department of agriculture and land stewardship, shall  
31 be accepted by the department of revenue, subject to any  
32 conditions or restrictions placed by the department of  
33 agriculture and land stewardship upon the face of the tax  
34 credit certificate.

35     Sec. 13. NEW SECTION. **467.10 Tax credit certificates —**

1 **transfer.**

2 1. An eligible crop farmer issued a tax credit certificate,  
3 or other holder of an environmental practice tax certificate,  
4 may transfer the tax credit certificate to a transferee. A tax  
5 credit certificate shall be transferable by the holder and any  
6 subsequent holders. A transferee may use the amount of the  
7 tax credit transferred against the taxes imposed in chapter  
8 422, divisions II and III, for any future tax year the farmer  
9 could have claimed the tax credit. A transferred tax credit  
10 equals the amount of the tax credit that would otherwise remain  
11 eligible to be credited to the future tax liability of the  
12 prior holder.

13 2. Any consideration received for the transfer of the tax  
14 credit shall not be included as income under chapter 422,  
15 divisions II and III. Any consideration paid for the transfer  
16 of the tax credit shall not be deducted from income under  
17 chapter 422, divisions II and III.

18 3. Nothing in this section prevents a tax credit certificate  
19 from validly passing to the estate or trust of an eligible crop  
20 farmer or transferee under chapter 633.

21 4. *a.* A taxpayer who has already claimed the tax credit  
22 and surrendered the tax credit certificate to the department  
23 of revenue, but who is intending to transfer the remaining tax  
24 credit amount to a transferee, shall apply to the department of  
25 revenue for a replacement tax credit certificate in the manner  
26 and form prescribed by the department of revenue.

27 *b.* Paragraph "a" does not apply if the department of revenue  
28 provides for the transfer of the tax credit by another method  
29 including by recording the transfer on the face of the original  
30 tax credit certificate.

31 5. If the tax credit has not been claimed, within ninety  
32 days of the transfer, the transferee shall submit the  
33 transferred tax credit certificate to the department of revenue  
34 along with a statement containing the transferee's name, tax  
35 identification number, and address, the denomination that the

1 tax credit certificate is to carry, and any other information  
2 required by the department of revenue.

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

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

17 Sec. 14. NEW SECTION. 467.11 Tax credits — availability.

18 The amount of environmental practices tax credit  
19 certificates that may be issued under this chapter shall not in  
20 the aggregate exceed three million dollars in any tax year.

21 Sec. 15. EFFECTIVE UPON ENACTMENT. This Act, being of  
22 immediate importance, takes effect upon enactment.

23 Sec. 16. APPLICABILITY. This Act applies to environmental  
24 practices first established on or after the effective date of  
25 this Act.

26 Sec. 17. RETROACTIVE APPLICABILITY. This Act applies  
27 retroactively to January 1, 2015, for tax years beginning on  
28 or after that date.

29

#### EXPLANATION

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

32 This bill establishes an environmental practices tax credit.  
33 The purpose of the tax credit is to assist eligible crop  
34 farmers in reducing soil erosion and sediment loss, managing  
35 nutrients and reducing contaminant loads contributing to

1 receiving surface waters, and improving surface water quality.

2 The bill provides that the tax credit is to be administered  
3 by the department of agriculture and land stewardship and the  
4 department of revenue. The tax credit is allowed against  
5 individual and corporate income taxes. The tax credit cannot  
6 be used for any part of the cost of a practice that was financed  
7 in whole or in part by federal or state moneys. The tax credit  
8 must be claimed by an eligible crop farmer who has an annual  
9 gross income of less than \$4 million. In addition, the tax  
10 credit is only available for certain qualified environmental  
11 practices as set forth in the bill or as established by  
12 departmental rule that meets the purposes of the tax credit.

13 The bill requires an eligible crop farmer to submit  
14 an application to the department of agriculture and land  
15 stewardship for approval which must include a qualified  
16 environmental practices agreement to be executed by the  
17 department and the eligible crop farmer if the department  
18 approves the application. The application must require that  
19 the practice be maintained for a specific number of years.  
20 The agreement does not create a lien on the land or bind a  
21 successor in interest. It provides for the inspection of  
22 the qualified environmental practice and the agreement's  
23 enforcement. It also provides for the termination of the  
24 agreement and rescission of the tax credit and refund to the  
25 state of a prorated portion of the tax credit claimed together  
26 with interest.

27 The bill provides for the issuance of a tax credit  
28 certificate which must be included with the taxpayer's state  
29 tax return in order to claim the tax credit. It also provides  
30 for the transferability of the tax credit certificate to any  
31 number of subsequent transferees. Not more than \$3 million in  
32 tax credit certificates may be issued in any tax year.

33 The bill takes effect upon enactment for environmental  
34 practices first conducted or installed on or after that date  
35 and applies retroactively to tax years beginning on and after

S.F. 433

1 January 1, 2015.