

Sustainable Funding for Natural Resources Legislative Study Committee

Mark C. Ackelson, President
Iowa Natural Heritage Foundation
November 1, 2007

SECURING A FUTURE FOR FISH, WILDLIFE, NATURAL AREAS AND WATER QUALITY

A CONSERVATION LEGACY FOR IOWANS

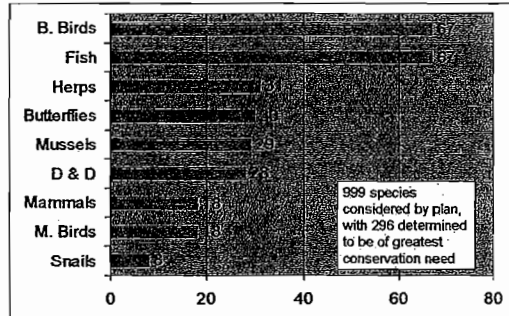


Upper Iowa River Corridor

Natural Lands and Water Conservation Challenges

- Housing and land clearing is destroying priceless natural areas faster than conservation programs can protect them
- Prices for recreation land is inflating so fast that conservation budgets cannot possibly keep up
- High land prices increase the state treasury but those added revenues are not appropriated for ever greater conservation needs
- The buying power of land protection programs is rapidly disappearing due to land inflation

Number of Species of Conservation Concern



Iowa Wildlife Action Plan, 2006

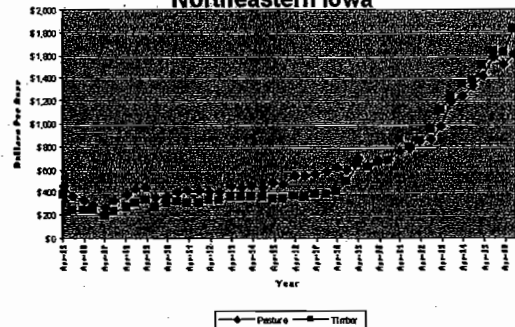
What's the Alternative?

- Offer incentives for landowners to financially contribute
- Use state income tax credits to double conservation benefits compared to market value purchases
- State tax credits are leveraged with Federal tax deductions for charitable contribution to get conservation lands protected for future generations

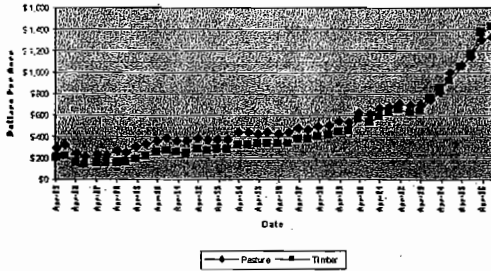


Acheson
Conservation
Easement

Timber & Pasture Land Values in Northeastern Iowa



Timber and Pasture Land Values in South Central Iowa



Why State Tax Incentives?

- Credits stimulate a 3 to 4 fold increase in charitable conservation gifts by landowners
- Incentives self-adjust to land inflation-appropriations don't
- Tax policies tend to be stable, even when budgets get cut
- 74% of adult Iowan's support tax credits for conservation
- Land protection decisions are made sooner before land protection becomes even more costly

Who Uses Conservation Tax Credits?

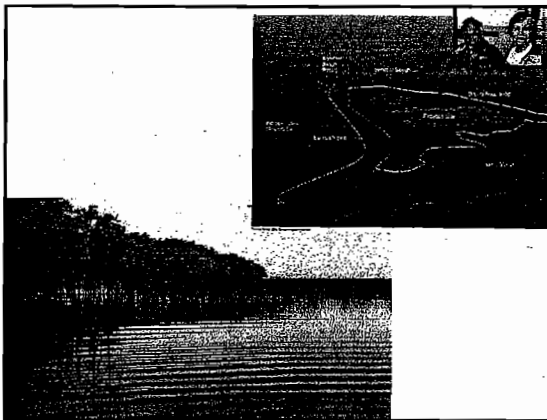
- The wealthiest households are most likely to gift conservation lands rewarded by state and federal tax deductions
- State income tax credits allow the middle class to participate in conservation philanthropy
- "land rich and cash poor" farmers find opportunity to protect the land they love
- Owners of recreation land participate
- Heirs of natural areas participate
- Sellers of farms owing capital gains taxes protect natural areas when rewarded with tax credits

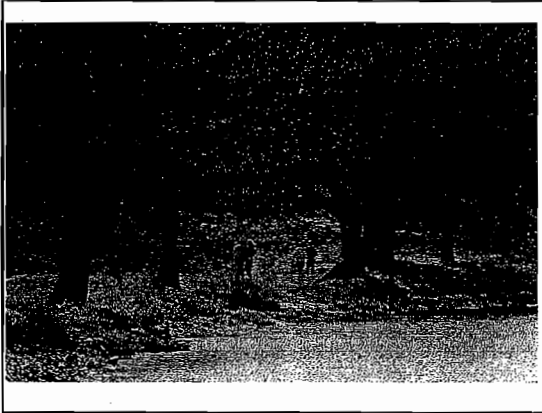
What Gifts Would be Eligible?



- Fee title interests
- Permanent conservation easements
- Contributed value of bargain sales of conservation lands

Conservation Easement Donor





Proposed Tax Credit Criteria



- A 50% credit for gift applied toward state income tax obligation
- Up to 20 years to carry-over and use the income tax credit
- Upper limit on the amount of tax credit earned is \$100,000
- No annual limit on the tax credits available state-wide
- Available to individuals, partnerships and corporations
- Donations must meet criteria of Internal Revenue Code for tax deductible gifts

Will Tax Credits Be Used?

- Cash receipts for wheat, corn, soybeans and rice are all expected to rise to all time highs
- Receipts for cattle, dairy and poultry are all expected to set record highs
- Farm real estate values expected to rise 14% in 2007
- The farm sector's debt-to-asset ratio should drop further to a new historic low level of 10.7% in 2007

Source: Keith Collins, USDA Chief Economist, 10/16/07

Iowa's outdoors jewels are being auctioned to the highest bidder. A tax expenditure that protects irreplaceable lands for 50¢ on the dollar in a rapidly inflating land market is a very good deal.



Snyder Farm, Polk County

The Tax Credit Message to Iowa's Landowners

The people of Iowa ask you to consider leaving a personal legacy for public benefit - to share your good fortune with future generations.



Not discussed by committee or in current legislation but for future consideration



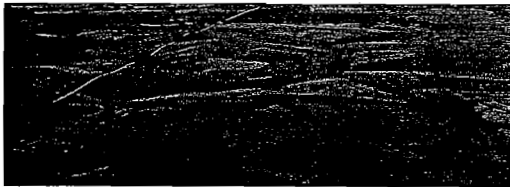
Soil & Water Conservation Tax credit incentives

Reasons for the Biofuels Industry to Invest in Conservation



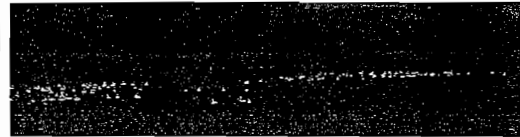
Note: The state of Iowa provided \$422 million of tax credits to 64 biofuels projects from 6/03 to 2/07

A proactive corporate partnership with government would prepare for sustainable biomass production at the community level in order to avoid negative consequences for the entire industry.



Proposed Sustainable Biomass Energy Tax Credits

- State tax credits can be the incentive for public/private conservation partnerships
- A 50% tax credit for corporate contributions to approved programs could effectively double conservation investment compared to direct appropriations to state agencies



Proposed Eligible Program Activities

- Improved management practices for sustainable corn production
- Development of dedicated biomass energy crops
- N efficiency and manure management practices enabling reduction of methane and nitrous oxide emissions
- Integrating conservation buffers into farm and land use plans
- Sustainable grass based livestock production
- Innovative technologies in support of energy efficiency or reduction of greenhouse gases



**IOWA
NATURAL HERITAGE
FOUNDATION**

FOR THOSE WHO FOLLOW

www.inhf.org

House File 902 - Introduced

HOUSE FILE
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO HF 832)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

1 An Act providing for individual and corporate income tax credits
2 for the charitable conveyance of real property for
3 conservation purposes and including a retroactive
4 applicability date provision.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 2290HV 82
7 mg/je/5

PAG LIN

1 1 Section 1. NEW SECTION. 422.11T CHARITABLE CONSERVATION
1 2 CONTRIBUTION TAX CREDIT.
1 3 1. The taxes imposed under this division, less the credits
1 4 allowed under sections 422.12 and 422.12B, shall be reduced by
1 5 a charitable conservation contribution tax credit equal to
1 6 fifty percent of the fair market value of a qualified real
1 7 property interest located in the state that is conveyed as an
1 8 unconditional charitable donation in perpetuity by the
1 9 taxpayer to a qualified organization exclusively for
1 10 conservation purposes. The maximum amount of tax credit is
1 11 one hundred thousand dollars. The amount of the contribution
1 12 for which the tax credit is claimed shall not be deductible in
1 13 determining taxable income for state tax purposes.
1 14 2. For purposes of this section, "conservation purpose",
1 15 "qualified organization", and "qualified real property
1 16 interest" mean the same as defined for the qualified
1 17 conservation contribution under section 170(h) of the Internal
1 18 Revenue Code, except that a conveyance of land for open space
1 19 for the purpose of fulfilling density requirements to obtain
1 20 subdivision or building permits shall not be considered a
1 21 conveyance for a conservation purpose.
1 22 3. Any credit in excess of the tax liability is not
1 23 refundable but the excess for the tax year may be credited to
1 24 the tax liability for the following twenty tax years or until
1 25 depleted, whichever is the earlier.
1 26 4. An individual may claim the tax credit allowed a
1 27 partnership, limited liability company, S corporation, estate,
1 28 or trust electing to have the income taxed directly to the
1 29 individual. The amount claimed by the individual shall be
1 30 based upon the pro rata share of the individual's earnings of
1 31 the partnership, limited liability company, S corporation,

1 32 estate, or trust.

1 33 Sec. 2. Section 422.33, Code 2007, is amended by adding
1 34 the following new subsection:

1 35 NEW SUBSECTION. 24. a. The taxes imposed under this
2 1 division, less the credits allowed under sections 422.12 and
2 2 422.12B, shall be reduced by a charitable conservation
2 3 contribution tax credit equal to fifty percent of the fair
2 4 market value of a qualified real property interest located in
2 5 the state that is conveyed as an unconditional charitable
2 6 donation in perpetuity by the taxpayer to a qualified
2 7 organization exclusively for conservation purposes. The
2 8 maximum amount of tax credit is one hundred thousand dollars.
2 9 The amount of the contribution for which the tax credit is
2 10 claimed shall not be deductible in determining taxable income
2 11 for state tax purposes.

2 12 b. For purposes of this section, "conservation purpose",
2 13 "qualified organization", and "qualified real property
2 14 interest" mean the same as defined for the qualified
2 15 conservation contribution under section 170(h) of the Internal
2 16 Revenue Code, except that a conveyance of land for open space
2 17 for the purpose of fulfilling density requirements to obtain
2 18 subdivision or building permits shall not be considered a
2 19 conveyance for a conservation purpose.

2 20 c. Any credit in excess of the tax liability is not
2 21 refundable but the excess for the tax year may be credited to
2 22 the tax liability for the following twenty tax years or until
2 23 depleted, whichever is the earlier.

2 24 Sec. 3. RETROACTIVE APPLICABILITY DATE. This Act applies
2 25 retroactively to January 1, 2007, for tax years beginning on
2 26 or after that date.

2 27 EXPLANATION

2 28 This bill allows for a tax credit under the individual or
2 29 corporate income tax for the charitable contribution of real
2 30 estate to qualified organizations exclusively for qualified
2 31 conservation purposes. A qualified organization includes
2 32 certain governmental units, public charities that meet certain
2 33 public support tests, and certain supporting organizations. A
2 34 qualified conservation purpose includes: preserving land for
2 35 outdoor recreation by or for the education of the general
3 1 public; protecting a relatively natural habitat of fish,
3 2 wildlife, or plants; preserving open space for the public's
3 3 scenic enjoyment or under a governmental conservation policy
3 4 that will yield a significant public benefit; and preserving
3 5 an historically important land area or a certified historic
3 6 structure.

3 7 The amount of the credit is 50 percent of the fair market
3 8 value of the charitable contribution not to exceed \$100,000.
3 9 The credit is nonrefundable but any excess may be carried
3 10 forward to the following 20 tax years, or until depleted.

3 11 The bill applies retroactively to January 1, 2007, for tax
3 12 years beginning on or after that date.

3 13 LSB 2290HV 82

3 14 mg:sc/je/5

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 832 - Conservation Tax Credits (LSB 2290 HH)
Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)
Fiscal Note Version - New
Requested by Representative Paul Shomshor

Description

House File 832 creates an income tax credit for the charitable contribution of real estate to qualified organizations exclusively for conservation purposes. The tax credit is equal to 50.0% of the fair market value of the contribution or \$100,000, whichever is lower. The credit is not refundable, but may be carried forward by the taxpayer for up to twenty years. The Bill is retroactive to January 1, 2007.

Background

Under current law, the contribution of real estate to a qualified conservation organization would be eligible for federal and state income tax deductions for the full market value of the contribution. This Bill would make a portion of the value eligible for a State tax credit instead of the State tax deduction. Any remaining value above the credit limit would still be eligible for the state deduction.

Under current law, a donation of a \$50,000 property by a person in the highest State and federal individual income tax brackets to a qualified conservation organization will reduce combined State and federal income taxes by approximately \$19,500 (39.0% of the property value). Under the proposed law, the State/federal income tax reduction would be approximately \$35,000 (70.0% of the property value).

Assumptions

- Over the past six years, an average of 24 properties with a total average annual value of \$4.7 million has been donated to the Iowa Natural Heritage Foundation. Of that amount, \$2.2 million would be eligible for the proposed tax credit.
- Property donations to the Iowa Heritage Foundation equal one-half of total donations to all organizations qualified under the Bill.
- The State tax value of the current law tax exemption to all Iowa taxpayers averages \$132,000 per year.
- The proposed tax incentive will increase real estate contributions to qualified conservation organizations by 40.0%.
- The annual number of properties donated to all qualified organizations will be 34, and the net income tax reduction will be \$1.35 million. This dollar amount is after subtraction of the impact of the current State tax deduction available for donated property.
- For most tax situations, Iowa's top effective income tax rate is 6.03% (8.98% adjusted for the impact of federal deductibility). At that effective rate, each year's assumed 34 donating taxpayers would need \$620,000 each in Iowa taxable income to utilize the entire credit earned.
- On average, the donating taxpayers will need five tax years to fully utilize the tax credits.
- The statewide average rate for the local option income surtax for schools is 3.0% of State income tax liability.

Fiscal Impact

The tax credit created in HF 832 is projected to reduce net General Fund revenue by the following amounts:

FY 2008 - \$0.3 million

FY 2009 - \$0.5 million

FY 2010 - \$0.8 million

FY 2011 - \$1.1 million

FY 2012 and beyond - \$1.4 million

The local option income surtax for schools is based on a percentage of the taxpayer's State tax liability, prior to refundable credits but after adjustment for non-refundable credits. Since this credit is non-refundable, the credit will also reduce the statewide yield of the local option income surtax for schools by an amount equal to 3.0% of the State impact listed above (\$40,000 by FY 2012).

Sources

Iowa Natural Heritage Foundation
Department of Revenue
Legislative Services Agency Analysis

March 28, 2007

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Conservation Tax Credit State by State Comparison

KEY	MISSISSIPPI	NEW MEXICO	NORTH CAROLINA	SOUTH CAROLINA	VIRGINIA
State Law & Effective Date	Income Tax Credit for Donations of Land that are Priority Conservation Sites (2003)	Land Conservation Incentives (2004)	Conservation Tax Credit (1983)	Conservation Tax Credit (2001)	Land Conservation Incentives (2000)
Available Credit	Individual Income Tax	Corporate Income and Franchise Tax	Corporate and Individual Income Tax	Any Tax Payer who has qualified for and claimed Federal Charitable Contribution Per IRS Code Section 170(h).	Individual and Corporate Income Tax
Conservation Benefits	Natural Heritage sites and stream bank habitat along Scenic Stewardship Program streams	Open space, natural resource or biodiversity conservation, agricultural preservation, or watershed or historical preservation.	Public beach access or use, public access to public water or trails, fish and wildlife conservation or other similar land conservation purposes.		Agricultural and forest use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed, and/or historic preservation
Limit on Tools/Benefits	Fee interests and Conservation Easements	Fee Interest and Conservation Easement / no credit on donations required for subdivisions or building permits	Fee Interest and Conservation Easement/ no credit on donations required by local ordinance or to increase building density	Fee Interest and Conservation Easement	Fee Interest and Conservation Easement / no credit for donations required to obtain subdivision or building permits, or to fill, develop, rehabilitate, or to 50% of Fair Market Value / may claim both Land Conservation Credit and Historic Rehabilitation Credit
Size of Credit	50% of allowable transaction costs	50% of Fair Market Value	25% of Fair Market Value	25% of federal Charitable Deduction Value.	
Caps on Credits	\$10,000	\$100,000 per year / only one credit per year.	\$500,000 Corporate, and \$250,000 Individual plus charitable contribution	\$250/acre, not to exceed \$52,500.	\$100,000 per year
Carry Forward Periods	Ten succeeding years	Twenty successive years	Five successive years	Unlimited, until all credit is claimed	Five successive years
Transferability	No	No	No	Yes	
Refundability	No	No	No	No	
Certification	No	Yes, certified by Secretary of Energy, Minerals, and Natural Resources	Yes, Certified by Department of Environment and Natural Resources	No	No
Recipient	N/A	State, Political Subdivision, or Charitable Organization eligible to hold land for conservation or preservation purposes.	State, Local Government, or Qualified Nonprofit organized to receive and administer land for conservation purposes.	Qualified Recipient per IRS Code Section 170(h).	Commonwealth, an instrumentality thereof, or a Charitable Organization eligible to hold land for conservation or preservation purposes.

Note: The information reported above reflects the language of each State's conservation tax credit statutes and agency descriptions thereof. Information institutionalized in broader tax codes was beyond the scope of this review and may not be reported.

For More Information on the NC Conservation Tax Credit Program, Log onto: <http://incctc.enr.state.nc.us>

Conservation Tax Credit State by State Comparison

KEY	CALIFORNIA	CONNECTICUT	COLORADO	DELAWARE	MARYLAND
State Law & Effective Date	Natural Heritage (2002) Preservation Credit	Land Conservation/ Preservation Credits	Gross Conservation Easement Credit (2000)	Land & Historic Resource Conservation Credit (2000)	Conservation Property Tax Credit (1986)
Available Credit	Corporate Franchise (Income) Tax & Personal Income Tax	Corporate Income Tax	Colorado Residents, Estates Tax	Personal and Corporate Income Taxes	Income Tax
Conservation Benefits	Preserve wildlife & wildlife habitat, open space, agricultural land, fish, plants, water, or endangered species. Conditions, must meet one or more: (a) meet goals of Conservation Plan, (b) protect species or habitat, (c) conserve threatened farmland in unincorporated areas, zoned for agricultural use, etc., (d) includes water rights, etc., (e) used for or access to parks or open space, etc.	Open Space Land: (a) conservation of natural or scenic resources, (b) protect natural streams or water supply, (c) conservation of soils, wetlands, beaches, or tidal marshes, (d) enhance neighborhood parks, forests, wildlife preserves, nature reservations, or other open space, (e) enhance public recreation opportunities	Preserve recreation, education, habitat, open space, or historical property	Open Space: natural habitat, rare biological and natural resources, historic resources	Conservation Property: unimproved, not used for commercial purpose, and subject to conservation easement.
Limit on Tools/Benefits	Fee interests, Conservation Easements, and Water Rights / No credits on any required donation	Fee interests, easements, or Conservation Easement	Conservation Easement only	Fee Interest and Conservation Easement	Conservation Easement only
Size of Credit	55% of Fair Market Value	50% of Fair Market Value	100% of first \$100,000 and 40% of additional Fair Market Value	40% of Fair Market Value	100% of property tax owned
Caps on Credits	\$100 million / year statewide for FY 01-02 through 04-05		Only one credit per year not to exceed \$250,000.	\$1 million / year statewide for 1999 and ten years thereafter.	No
Carry Forward Periods	Eight succeeding years		Twenty succeeding years	Five succeeding years	Fifteen consecutive years following donation
Transferability	N/A		Yes, but only once	No	No
Refundability	N/A		Yes, only a partial refund up to \$50,000 if state revenues are above specified thresholds.	No	No
Certification	Yes, Wildlife Conservation Board must approve (WCB). Donor applies to Donee. Donee must hold public hearing before acceptance. Donee must submit Plan of Acceptance to WCB. WCB must provide Franchise Tax Board with list of all approved donors and credits.		No	Yes, Department of Natural Resources & Environmental Control, in conjunction with Department of State and Division of Historical & Cultural Resources will certify.	Yes, donation must be approved by Board of Public Works
Recipient	State Resource Agency (SRA), Local Government (LG), Nonprofit 501(c)(3) Land & Water Conservation Organization designated by SRA or LG.	State, Political Subdivision, Nonprofit, Land Conservation Organization	Government, Entity or Charitable Organization (501(c)(3) pre-existing donation by two years.	Public Agencies and Qualified Private Nonprofit Charitable Organizations.	Maryland Environmental Trust

Note: The information reported above reflects the language of each State's conservation tax credit statutes and agency descriptions thereof. Information institutionalized in broader tax codes was beyond the scope of this review and may not be reported.

For More Information on the NC Conservation Tax Credit Program, Log onto: <http://ncctc.enr.state.nc.us>