Ninety-Ninth Legislature - Second Session - 2006
Committee Statement
LB 997

Hearing Date: January 25, 2006
Committee On: Revenue

Introducer(s): (Beutler)
Title: Authorize income tax credits for donations of perpetual conservation easements

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

7	Yes	Senators Baker, Connealy, Cornett, Janssen, Landis, Raikes and Redfield
0	No	
0	Present, not voting	
1	Absent	Senator Preister

Proponents:	**Representing:**
Senator Chris Beutler	Introducer
Dave Sands	The Nebraska Land Trust
Glenn D. Johnson	Nebraska Association of Resources Districts
Kenneth C. Winston	Nebraska Chapter Sierra Club
Jarel Vinduska	Himself
Kent Holm	Douglas County
Tom Schwarz	Himself
Jack Cheloha	City of Omaha
Tim Knott	Wachiska Audubon Society and Friends of the Niobrara

Opponents:	**Representing:**
None	

Neutral:	**Representing:**
Marvin Havlat	Himself

Summary of purpose and/or changes:

LB 997 would allow an income tax credit of 50 percent of the value of a conservation easement upon real property that is granted to a charitable or governmental entity which has the resources to enforce the terms of the easement. The taxpayer is to apply to the Department of Natural Resources which is to approve applications if the land meets one of the following characteristics: a) areas designated as water quality shortage areas, b) areas near scenic rivers if recommended by the Niobrara Council, c) wildlife habitat areas recommended by the Game and Parks Commission, and d) areas identified by Game and Parks as native prairie or with other ecological significance. There are to be no new applications after December 31, 2012. The taxpayer is to file an appraisal of the easement with the Department of Revenue at the same time as the tax return.

The easements are to be perpetual and are to preclude pumping water for non-domestic purposes unless the Department of Natural Resources determines there is no shortage. With regard to areas other than water shortage areas, the easements are to prohibit development. The credit is to be distributed to the owners of pass-through entities in the same way income is distributed.

The credit is nonrefundable, but may be carried forward no more than fifteen years. It may be transferred to another taxpayer or portions may be transferred to more than one person. The transferee is to submit a form to the Department of Revenue and the governmental entity or charitable organization when a credit is transferred. Both the transferor and the transferee are to submit forms to the Department of Revenue whenever a transferred credit is used.

A taxpayer may claim only one credit per tax year, including years that are carried forward. Transferees, on the other hand, may claim many credits from different transferors. The Department of Revenue is to issue an annual report, beginning January 1, 2007 detailing use of the income tax credit without revealing confidential information. Sections 2 and 3 would amend sections 77-2701 and 77-2715.07 to incorporate the tax credit into the individual income tax sections.

Explanation of amendments, if any:

The Committee amendments simplify the bill and narrow it to apply to only over-appropriated or fully-appropriated basins. The credit would be reduced from 50 percent to 15 percent, but it could be used even if there were a charitable deduction taken. The credit would not be transferable, but would be refundable.

As amended, the bill would create an income tax credit to a taxpayer that donates a perpetual conservation easement to the state or a charitable organization approved by the Department of Natural Resources which is capable of monitoring compliance with the easement. The credit would only be allowed for a donation that qualifies for a federal tax deduction.

To receive the credit, the taxpayer would file an application with the Department of Natural Resources. The Department shall approve the application if the easement is located in an over-appropriated or fully-appropriated area, is perpetual, and precludes pumping of water except for domestic purposes, stock well purposes, or the restoration of wetlands. Other pumping may occur if there is no water shortage. The Department would have 60 days to approve or reject the application.

If the application is approved, the taxpayer would file the application with the tax return for that year. The credit would be 15 percent of the charitable deduction taken for land in Nebraska. If the easement covers land in more than one state, the charitable deduction would first be apportioned to Nebraska based on acres. If a pass-through entity owns the land and receives the easement, the value of the credit would be divided among the owners like the income is divided.

If the credit exceeds tax liability, the credit would be refundable. There would be no new applications for credits after December 31, 2012. On or before January 1, 2008 and each January 1 through 2015, the Department of Revenue shall issue a report to the Legislature and Governor detailing the use of the income tax credit.

Sections 2 through 5 would amend sections 77-2701 (citation of the Revenue Act), 77-2715.07 (individual income tax credits), 77-2717 (estates and trusts income tax), and 77-2734.03 (corporate income tax credits), to incorporate this tax credit into the income tax statutes. The act would be operative for tax years beginning on or after January 1, 2006.

Senator David Landis, Chairperson