



**Hundredth Legislature - First Session - 2007  
Committee Statement  
LB 488**

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**Hearing Date:** February 8, 2007  
**Committee On:** Revenue

**Introducer(s):** (Wallman)

**Title:** Authorize an income tax credit for perpetual conservation easement donations

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - X Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

|   |                     |   |
|---|---------------------|---|
| 5 | Yes                 | Senators Cornett, Dierks, Janssen, Preister and White |
| 0 | No                  |   |
| 2 | Present, not voting | Senators Burling and Raikes                           |
| 1 | Absent              | Senator Langemeier                                    |

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**Proponents:**

Senator Norm Wallman  
Dave Sands  
Glenn D. Johnson  
  
Marlin J. Petermann  
Daniel L. Smith  
Mace A. Hack  
Kim Robak  
Kenneth Winston  
Steve Donovan  
  
Timothy R. Knott  
Tom Schwarz  
Jarel Vinduska  
Joe Herrod  
Virginia Miller  
John K. Hansen

**Representing:**

Introducer  
The Nebraska Land Trust  
Nebraska Association of Resources Districts,  
Lower Platte South Natural Resources District  
Papio-Missouri River NRD  
Middle Republican NRD  
The Nature Conservancy, NE Chapter  
Lower-Republican NRD  
Sierra Club, NE Chapter  
Ducks Unlimited Inc, Wes Sheets, NE Division  
of Izaak Walton League of America  
Wachiska Audubon Society  
Himself  
Himself  
Nebraska Council of Sportsmen’s Clubs  
Herself  
Nebraska Farmers Union

**Opponents:**

None

**Representing:**

**Neutral:**  
Pete McClymont

**Representing:**  
Nebraska Cattlemen

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**Summary of purpose and/or changes:**

LB 488 would allow an income tax credit to a taxpayer that donates a perpetual conservation easement to the state or a charitable organization accredited to hold conservation easements by the Land Trust Alliance. In the absence of accreditation, the charitable organization must name a government agency that will accept the easement should the charitable organization cease to exist. The credit is to apply only for a donation that qualifies for a federal tax deduction pursuant to section 170 (h) of the Internal Revenue Code. The amount of the credit is not to include any portion located in another state.

The taxpayer is to apply to the Department of Natural Resources, which is to approve applications, if the land is in: (a) areas designated as quick response water shortage areas in over-appropriated basins, (b) areas in basins subject to interstate compacts or, (c) areas designated by the Game and Parks Commission as biologically unique. The easements under (a) or (b) are to preclude pumping of water except for domestic purposes, stock well purposes, or the restoration of wetlands unless the Department of Natural Resources determines that there is no shortage. For the biologically unique areas, the easement must prohibit development. The taxpayer is to file a summary of an appraisal of the easement with the Department of Revenue at the same time as the tax return or a full appraisal, if requested.

The easements are to be perpetual and have a monitoring program to assure the easement is enforced. The credit is to be 50 percent of the value of the easement, not to exceed \$250,000. The credit is to be distributed to the owners of pass-through entities in the same way income is distributed. The credit cannot be taken for a donation that results in a deduction for federal purposes.

The credit is nonrefundable, but may be carried forward no more than fifteen years. It may be transferred to another person 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 only claim 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, 2008, detailing use of the income tax credit without revealing confidential information. Sections 1 and 2 would amend sections 77-2701 & 77-2715.07 to incorporate the tax credit into the individual income tax sections.

**Explanation of amendments, if any:**

The amendment would replace all of section 3 and make a number of changes to the bill to clarify and ease the administration of the bill. The amendment would also cap the amount of tax credits granted in any one year to \$5 million and provide procedures for approval to stay under this limit.

1. The amendment changes the application process to provide that the Department of Natural Resources may only grant easements allowing \$5 million in tax credits in any one year. Applications would be submitted no later than August 1 of the year the easement is to be granted. Applications would be approved by the Department by November 1. If the value of the easements would otherwise exceed \$33.3 million (this amount times fifteen percent would be \$5 million) the Department is to prioritize the applications so as not to approve more than \$33.3 million. Criteria for prioritization would be set by the Department, but the criteria are to assure the greatest amount of groundwater or unique landscapes are preserved.
2. The amendment provides that the Department of Natural Resources is to approve applications for the easements and issue the taxpayer a certified copy of the approval, including the value of the approved easement. The taxpayer would then attach this certified copy to the tax return for that year.
3. The amendment clarifies that “stock well purposes” and restoring wetlands are allowable purposes.
4. The credit would be reduced from 50 percent of the value of the easement to 15 percent, but the taxpayer would be allowed to take the federal deduction.
5. The credit would be made refundable, but could not be carried over and could not be transferred. In this way, the person donating the easement would receive the full 15 percent credit in the first year. There would be no need to carry the credit forward or use a third party to buy credits at less than full value.
6. The annual reporting requirement would commence January 1, 2009, instead of 2008, since the first income tax returns using the credit would be filed in 2008.
7. The organization which approves a charitable organization which, in turn, would receive the easement and monitor compliance, would be changed from the Land Trust Alliance to the appropriate Natural Resources District. Also, NRDs would be given the authority to accept easements in addition to Game and Parks and charitable entities.

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**Senator Ray Janssen, Chairperson**