INCOME, CORPORATE FRANCHISE, AND PROPERTY TAX
Donation of Interest in Real Property for Conservation Purposes

March 27, 2001

	Yes	No
Separate Official Fiscal Note Requested	X	
Fiscal Impact		
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of S.F. 1281 (Oliver) / H.F. 1624 (Pawlenty) **Delete Everything Amendment (SCS1281A-1)**

	Revenue Gain or (Loss)			
	F.Y. 2002	**F.Y. 2003**	**F.Y. 2004**	**FY2005**
	(000's)			
Income Tax Credit	($150)	($190)	($190)	($190)
Homeowner Property Tax Refunds			(Negligible)	(Negligible)
General Fund Total	($150)	($190)	($190)	($190)

Effective for income tax purposes for tax years beginning after December 31, 2000.

EXPLANATION OF THE BILL

Current Law: No state income tax credit is available for land donated for conservation purposes. However, donation of real property or of a qualified conservation easement may be treated as a charitable contribution for federal income tax purposes, and thus reduce federal taxable income used for state income tax purposes.

Proposed Law: As proposed to be amended, a taxpayer who donates an interest in real property for conservation purposes including a "conservation easement," may take a credit against state individual income tax or corporate franchise tax equal to 50 percent of the "fair market value" of the interest in the real property. The "fair market value" of the donated interest may be determined by a qualified appraiser following federal rules, or by the assessed value of the property for property tax purposes.

In the case of the sale of the property donated, the credit is based on 50 percent of the "discount of the sale price," i.e., the difference between the "fair market value" and the sale price, if the sale price is lower.

Conservation purposes are limited to preservation for outdoor recreation or the education of the general public, protection of relatively natural ecosystems, or the preservation of open space for the scenic enjoyment of the general public or a governmental conservation policy. A "conservation easement" is defined as a nonpossessory interest of a "holder" in real property that imposes limitations or obligations on the owner to retain or protect natural, scenic, or open-space values of real property. The "holder" of the easement may be a governmental body or a charitable corporation.

REVENUE ANALYSIS DETAIL

- According to the Minnesota Board of Water and Soil Resources, the state RIM program has a total of 3,100 conservation easements, including the property of about 3,000 owners. The average easement is 35 acres. About 85% or 2,600 are permanent easements. These easements include those under the federal Conservation Reserve Enhancement Program (CREP), which require a permanent easement.
- The federal Conservation Reserve Program (CRP) does not currently use easements.
- The Minnesota Land Trust, the Trust for Public Land, and other nonprofit organizations also use conservation easements. The Minnesota Land Trust will only accept perpetual easements. Their web site reports a total of 175 easements in 44 counties. The average acreage is about 95 acres per easement. A total of 20 new easements were added in the year 2000. The Trust for Public Land added $450,000 of land donations in the last five years. The Nature Conservancy accepts some lands or conservation easements as donations, but the total number is not available. According to a spokesperson, the Nature Conservancy has added $43,000 of donated land in the last five years.
- The terms of a perpetual conservation easement are taken into consideration by assessors in determining the market value of property. In the case of wetlands preserved under a temporary or perpetual easement by federal or state government, the property must be assessed as wetlands. In other cases the amount of reduction in value, if any, varies with circumstances.
- Although this proposal may increase the number of such easements and somewhat reduce the local property tax base, the proposal would have only a small effect on the state general fund for increased property tax refunds.
- Assuming that about 50 outright sales or permanent conservation easements occur annually, that the average acreage is 50 acres, and that the average "fair market value" (or discount of the sale price) is about $150 per acre, the total discount value would be about $375,000 statewide. The proposed credit thus would average $187,500 annually, although it could vary greatly from year to year.
- It was assumed that 80% of the credit would be used to offset tax in the current year and 20% would be carried over to the next year.

Number of Taxpayers Affected: About 50 owners per year.

ADMINISTRATIVE/OPERATIONAL IMPACT

See fiscal note.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/polic.html#analyses

sf1281(hf1624)-1 / JB