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A Preliminary Assessment of the Annual Conservation and Land Preservation Tax Concept *

Economics Staff Paper 341

by
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* This staff paper provides (1) a summary of the proposed bill regarding the annual conservation and land preservation tax concept, (2) observations and a preliminary assessment of the impacts, and (3) an outline of potential issues, considerations, and related alternative concepts that policymakers, interest groups and citizens may wish to consider during the course of debate on the proposal. Ideas and concepts discussed in this staff paper should not be considered recommendations, but rather fodder consisting of alternative ideas to fully inform and assist policymakers in making informed choices and reducing unintended consequences.

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A Preliminary Assessment of the Annual Conservation and Land Preservation Tax Concept

I. Summary of Proposed Bill (1/25/01)

Stated Concept Purpose:

"Imposition of an Annual Conservation and Land Preservation (ACLP) tax for agricultural property converted to residential or commercial use and providing penalties."

Section 1. Definitions

1. Agricultural use includes farmland used for crops and livestock, aquaculture, hydroponics, forest products and structures used in such activities

2. "Date of Conversion" is date when ag land is platted or subdivided, residential or commercial construction begins or building permit is issued, whichever is earliest.

Section 2. Conservation and Land Preservation Tax -- Penalty and Lien.

1a. Tax imposed per acre if converted when Corn Suitability Rating (CSR) is 50 or higher. Tax equals $50 plus one dollar for each whole rating unit in excess of a CSR of 50. The tax is proportional to area for parcel that is less than an acre in size.

1b. First payment of the ACLP Tax is collected by County Treasurer and goes to county general fund to defray costs of this chapter. First payment due two months after conversion.

2a. Subsequent payments of ACLP Tax is due on anniversary due date until the land is reconverted to agricultural use.

2b. Subsequent payments are collected by County Treasurer and sent to State Treasurer.

3. Interest is assessed (1 ½ percent per month) if payment not made by anniversary due dates.

4. County Treasurer keeps records prescribed by Director of Revenue and Finance.

5. The ACLP Tax payable is a lien on the acre or portion against all persons.

Section 3. Tax Revenues -- Use

State ACLP Tax revenues are deposited into a "land preservation (LP) fund." Interest is credited to the LP fund. The General Assembly is restricted to appropriating LP funds for purposes of

preserving or conserving farmland in the state, including funding of conservation programs administered by the soil conservation division of the Dept. of Agriculture and Land Stewardship.

Section 4. Liability for Tax

Any person who owns or has an ownership interest in land, tenement, or realty by a deed, writing, or instrument subject to the tax shall be liable for the tax, including state and local governments.

Section 5. Forms provided by Director of Revenue and Finance

Director of Revenue and Finance provides an adequate number of "declaration of conversion" forms to each county.

Section 6. Penalty for Failure to Pay

For those who knowingly fail to comply with paying the tax, the penalty is a misdemeanor and the amount assessed is equal to 50% of the ACLP Tax due.

Section 7. Penalty for False Information

Providing false information regarding Corn Suitability Rating is also a misdemeanor.

Section 8. Enforcement

Director of Revenue and Finance is responsible for enforcement and may adopt rules for administration.

Section 9. Nonapplicability

The ACLP Tax does not apply to land exempt from taxes under Iowa Constitution or Federal law and Constitution.

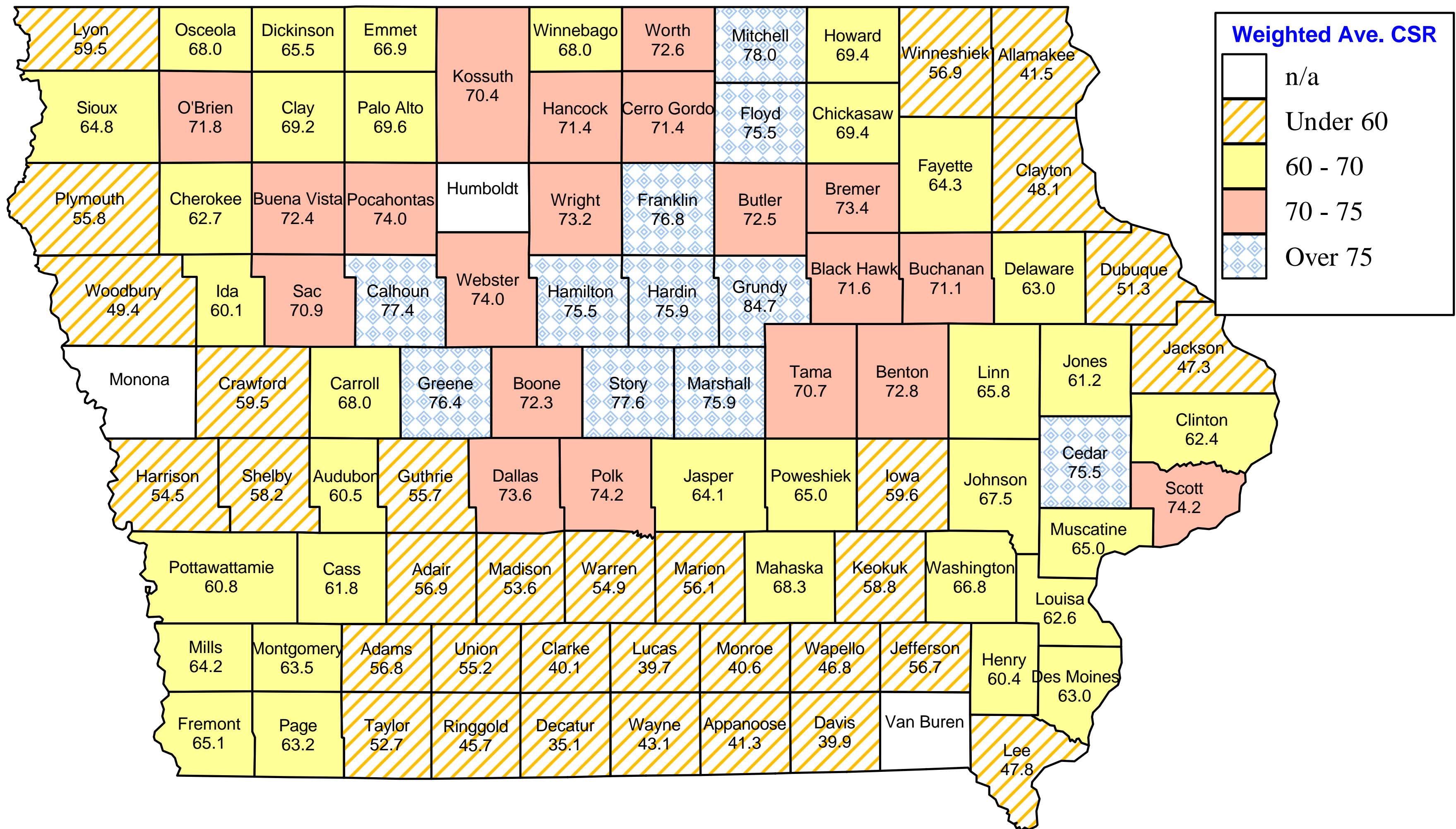
II. Preliminary Observations and Impacts

1. The ACLP tax would not be uniformly distributed across Iowa. The proposed bill does not prevent development but would impose an additional cost on all property owners of converted farmland with a CSR rating of 50 or more after implementation date.

31 counties have average CSR over 70 (Central and North Central Iowa plus Cedar and Scott)
51 counties have average CSR between 50 and 70
14 counties have average CSR below 50 (South Central 2 tiers, Woodbury and Northeast River)
3 counties not reporting

See attached map: http://extension.agron.iastate.edu/soils/PDFs/wavcsr.pdf
Source: ISU Department of Agronomy, June 1, 1998.

County Weighted Average Corn Suitability Rating



Calculated from acreages and CSR's contained in ISPAID (Iowa Soil Properties and Interpretations Database)
As of June 1, 1998

Prepared by Gerald A. Miller and Thomas E. Fenton, Professors of Agronomy, and Brian Tiffany, Project Computer Assistant
Department of Agronomy, Iowa State University, Ames, Iowa 50011

2. The proposed concept is similar but significantly different from traditional "rollback taxes" used to reduce conversion of farmland and open space to urban uses in other states. Rollback taxes as employed by other states calculate the difference between use value property taxes previously paid by the owner of farmland and open space for a specified number of years and property taxes that would have been paid if property tax assessments were based on full market value. The imposition of the rollback tax rests on the presumption that property taxes based on market value would have been collected had it not been for the preferential assessments based on use value. The difference between property taxes based on market value and use value assessments for a specified number of years are assessed one time at the time when the property is converted from agricultural and open space use.

In contrast, the proposed ACLP Tax concept calculates a "penalty tax" on ag land with a CSR above 50 and annually imposes an annual penalty on all future owners of converted land until the land reverts to agricultural use. Under the Iowa Code, the method of assessment changes from use value to market value after the land changes from agricultural use. So currently the property taxes on the converted land increase based on the change from use value to market value assessments. Thus, the ACLP Tax is not a "rollback" of taxes, but is an additional tax on all future owners of converted ag land until it is "reconverted."

3. The proposed bill provides a conversion disincentive for productive ag land, but unique environmental assets are not necessarily protected. The ACLP Tax increases as CSR increases above 50, but no penalty for conversion is imposed on land with CSR below 50. This implies conservation and land preservation for productive ag land may be a higher priority than other societal goals such as protection of unique environmental assets, wetlands, Loess Hills, and other forested areas that may not have a CSR of 50 or more.

4. Conversion of productive farmland to farm residence and intensive agricultural uses is protected under the proposed bill even though such use changes may not accurately represent "conservation and land preservation" uses of farmland. Current property tax law assesses farm residences and other urban and rural residences in a similar fashion. Such incentives may encourage additional residences that "qualify as farm residences" to avoid the penalty tax. Farmstead developments, and Confined Animal Feeding Operations (CAFOs) are defined as agricultural use under "facilities." Some public interest groups argue that industrial agriculture should be treated as other industrial property uses and may question whether rural residences, farmsteads, and CAFOs actually represent conservation and land preservation uses. New CAFOs currently do not increase total property tax valuation of a county but act to lower all other ag valuation due to administrative rules that base county equalization caps on farmland productivity alone.

5. All ag land inside and outside city limits is subject to the tax if CSR is 50. Developers are given an incentive to "leap frog" outside the city limits to reach land with CSR ratings of less than 50, even though land that has a higher CSR may be less expensive for a city to develop adjacent to existing infrastructure inside the city limits.

The ACLP Tax would likely represent a significant disincentive for population and economic growth that would likely impact the metro areas and rural communities located in regions with a high proportion of ag land greater than CSR 50. Developers currently holding ag land for development pay $25 per acre in property taxes. The ACLP Tax on ag land with a CSR of 75 would add $75 per acre per year. The total "landownership" tax bill of the developer would be $10,000 for 100 acres versus $2,500 under use value alone. To the degree possible, the added costs would be passed on to commercial property or homebuyers. The higher prices would reduce real estate market sales volume accordingly in regions where productive farmland is pervasive. While developers surrounded by prime ag land in metro areas would certainly be impacted, smaller developers in rural communities with low market liquidity would be impacted the most at the margin. The penalty tax per CSR acre is the same in metro and rural counties, but market values for development land are lower in rural communities compared to metro areas.

6. Use of the term "penalty" in the stated bill purpose implies that conversion to non-agricultural use is an illegal activity.

7. Grandfathering and use of the CSR 50 for determining tax exemption may create new "property rights" and/or "economic windfalls" for some, but not others. Imposing a tax into perpetuity (unless the land is reconverted) may or may not imply a "taking" of a property right and/or economic loss for the current and future owners of land that is converted to the "highest and best legal use" under the law. Similarly, imposing a tax exemption for land with CSR below 50 into perpetuity possibly represents a differential property right and/or "economic windfall" to current and future owners of this land. In addition, all land that has previously been converted is "grandfathered" in, so that converted properties with identical CSRs in the same taxing unit may pay different penalties. This also means old development areas gain some advantage over new.

8. Urban land uses whether converted by private or public entity are implied to be of lower priority than maintaining the use of ag land with CSR of 50 or more in the state. While market forces do not account for societal costs and loss of unique environmental assets, the market for development land on the rural-urban fringe is often 10 times more valuable than its agricultural value. While conservation and preservation are important ethics in Iowa's culture, agricultural productivity is growing 18 times faster than the net effect of farmland converted from agriculture in Iowa. In areas of productive farmland, the ACLP Tax would conflict with community goals if the community provided tax abatements and tax increment financing to encourage population and economic growth.

9. Local governments may have ongoing expenses related to collecting the penalty tax but receive a lump sum amount of revenue during the first year only. This revenue may or may not correspond to the actual costs of implementing the tax over time.

III. Potential Issues, Alternatives, and Considerations

From previous discussions and meetings on land use policy across the state, a framework of six policy objectives are presumed to be operative in discussions regarding Iowa's land use policy.

- **A higher rate of population growth is desirable.**
- **A higher rate of economic growth is desirable.**
- **Prudent use of Iowa agricultural resources is desirable.**
- **Protection of Iowa's environmental resources is desirable.**
- **Private property rights are to be respected.**
- **Community and public interests are to be respected in both urban and rural areas.**

The ACLP Tax proposal may or may not require a broader consensus of political support to garner passage or final disposition. The current status of the proposal is such that it is likely to be in conflict with many of the above priority goals. Each of the items in this section provides an opportunity to broaden the potential appeal of the proposal to additional public interest groups and to make changes that may or may not be among the objectives and priority goals envisioned by the policymakers. Therefore this list is not provided as a set of recommendations but as a set of possible ideas that policymakers may wish to consider during the process of making a more informed policy decision.

1. Consideration of changing the tax concept from a penalty tax to a "rollback tax" or "impact fee" to avoid imposing a differential tax into perpetuity.

The concept of a "rollback tax" is to require back tax preferences from a land owner who benefits from the market "windfall" of selling a parcel of property for a use that is higher valued than agricultural use. Thus the legal justification is that the landowner benefited from preferential taxes for retaining the land in agricultural use and since the use is being changed, a roll back of the preferential taxes is in order.

The concept of collecting an "impact fee" is that the full societal costs of rural subdivisions and homesites are not accounted for in existing tax and fee structures. The aesthetics that served as the initial attraction can be reduced as more residents move into the area. Residents who move from the city to rural subdivisions often expect more services in a few years. Thus, an impact fee is justified on the basis of financing the likely added costs of providing services in the future and to encourage citizens to live in cities where services and infrastructure are already available.

Using the rollback tax or impact fee rationale may be useful in overcoming the potential concerns regarding the gain or loss of property rights. Legal scholars may debate whether imposing a "penalty" tax into perpetuity on some property but not others is tantamount to a "taking"—an issue raised during discussions of land use policy with the Senate Committee.

2. Consideration of broadening the uses of the revenue.

Possibilities for broadening the use of the revenues depend in part on the concept used to justify the tax or fee imposed. Possibilities include (1) fully covering the cost of providing local services to rural subdivisions and homesites that do develop, (2) financing LMI housing incentives to encourage more smart growth within city limits, and (3) purchase and perpetual care of priority

environmental/recreational areas, in addition to the conservation and preservation of farmland programs.

3. Consideration of exempting all ag land within the corporate limits of any city.

This would encourage all developers to target development to land available within city limits first. Rural industrial sites, commercial sites, rural subdivisions and rural homesites would be discouraged. It would also bring more public attention to annexation processes and make city limits mean more for planning and development purposes. Without this exemption, it its likely that the proposal would significantly stifle economic growth and population growth potential.

4. Consideration of exempting ag land in designated districts of counties that meet state smart growth criteria and/or local priorities established by comprehensive planning.

This would allow some flexibility for conversion outside of city limits for state purposes such as highway development, recreation areas, tourism, and environmental areas. In addition, local flexibility could be used by local officials to designate certain areas of the county as being off limits to development while other areas which meet appropriate criteria could designated for commercial development, intensive agricultural development, industrial development, rural subdivisions, and/or rural home sites.

5. Consideration of eliminating the exemption for ag land with CSR below 50.

The current proposal has the tendency to turn the state into areas of have and have-not communities. This adjustment would eliminate this possibility. In addition, development of wetlands, Loess Hill, forest areas and other unique environmental assets would be discouraged even though they may possess a CSR of less than 50.

6. Consideration of eliminating the exemption for farm residences, farmsteads, CAFO facilities and other non "conservation and preservation" agricultural uses.

Preservation of prime farmland may be seen as something different than encouraging large animal confinements or farmstead facilities. If so, developing more refined definitions to protect "conservation and preservation uses" rather than protecting all agriculture use (industrial and otherwise) may achieve a more refined public purpose.

7. Consideration of a higher conversion tax for unique environmental assets that may have a higher state and local priority for preservation and conservation.

Loess Hills, unique rock formations, wetlands, natural prairies may be more highly valued by the public at large than agricultural land. Perhaps flexibility for processes to impose a higher conversion tax for certain assets that meet state and local priorities could be added.

8. Consideration of more targeted use of property Tax Abatements and Tax Increment Financing (TIF) to restrict use of these development tools to areas and projects that meet state defined "smart growth" criteria and local comprehensive planning priorities.

Perhaps use of tax abatements and tax increment financing could be confined to specified (1) downtown, blighted, infill, rehabilitation, and redevelopment areas, (2) housing projects that are adjacent to existing infrastructure, meet middle-income criteria, meet density requirements, and that are located inside city limits, and (3) industrial and business parks that meet state and local smart growth criteria. This approach would simultaneously impose disincentives (or reduce the relative incentive) for unplanned urban sprawl development into agricultural and open space areas.

9. Consideration of eliminating Low and Moderate Income Requirements (LMI) for residential TIF projects that meet middle-income and "smart growth" criteria.

Current LMI requirements in the Iowa Code reduce the potential cash flow of TIF residential developments by 30 to 40 % depending on the county LMI percentage. Granting waivers for 15 to 20 % of the TIF required for LMI adds bureaucracy and still reduces the potential cash flows for what could otherwise be financially feasible housing projects meeting smart growth criteria. Since more than 50 % of the housing stock in many rural communities is more than 60 years old, LMI requirements may represent a "taking" in cases where LMI housing is in surplus. Because of successful economic development efforts in creating middle-income jobs, some communities develop a gap in the $120,000 to $160,000 market segment. Adding to this residential market segment may more efficiently achieve local economic development goals and open up LMI housing simultaneously. By exempting LMI requirements for housing projects that meet state and local income and smart growth criteria, greater incentives could be provided to (1) redevelop residential neighborhoods in designated blighted areas of central cities and rural downtown areas and (2) reduce the middle-income housing gap experienced by several Iowa communities. At the same time, this approach would impose disincentives (or reduce the relative incentive) for unplanned sprawl development into agricultural and open space areas.

Selected References

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