

**State Income Tax Credits for Conservation Easements:
Do Additional Credits Create Additional Value?**

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Abstract

Conservation easements have become an extremely popular way to protect the conservation values of undeveloped land. Fifteen states have created income tax credits to encourage the creation and donation of conservation easements. This paper studies these credit programs to determine the extent to which states that are willing to subsidize easements more heavily might also be willing to take steps to reduce at least some of the frequently-discussed concerns about conservation easement policy. The paper finds that programs that offer the highest value of tax credits have all put one or more requirements into place that are likely to increase the conservation value of donated easements, including a more precise definition of the qualifying conservation values, the certification of the presence of such values on a parcel, and publicly-available data about the amount, type, and location of land under easement.

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State Income Tax Credits for Conservation Easements: Do Additional Credits Create Additional Value?

Introduction

Conservation easements have been an extremely popular way to protect conservation values on private land. Along with their benefits, easements have created a number of controversies. Several of the frequently-mentioned areas of concern are the requirement that easements be created “in perpetuity” in order to receive the federal tax deduction; what some have argued are relatively low standards for the conservation values that qualify a property for an easement, and the absence of any certification that those values actually exist and are significant; and the lack of careful recording of easements by the holder.

While these statements are sometimes generally applied to easement policy at the state and federal level, states have the opportunity to define their own standards and policies with respect to easements. This paper examines the practices of the states that offer income tax credits for easement donations to see if they have standards that vary from the federal standard; in particular, it examines the tests for conservation value to see if they vary significantly from the IRS 170(h) standard that is used by the federal government and mimicked by the enabling legislation in most states. In addition, the paper examines the extent to which states that offer tax credits actually track the number and value of credits awarded. It also presents the available data on the results of credit programs in all fifteen states that currently offer them.

Land Conservation Policy and the Role of Conservation Easements

Numerous studies in recent years have pointed out the public benefits of conserving open space and wildlife habitat. These studies have made an argument for providing more government funding for conservation projects, particularly land protection, and have also suggested that current programs do not necessarily support the projects that provide the greatest conservation benefits.¹ Biologists frequently point to private lands as an important and neglected opportunity to protect biodiversity, and argue that government policy should create incentives to conserve habitats on land that is privately owned and used.² States often purchase such parcels as a land protection strategy; 84% of state expenditures for land conservation during the period from 1992 to 2001 went toward fee simple acquisitions.³ However, such purchases are expensive, create a need for future expenditures on maintenance and improvements, and reduce the amount of property in private use.⁴

¹ See Langpap, Hascic and Wu (2008), Newburn, Berck, and Merenlender (2006), and Margules and Pressey (2000) for examples.

² See Rissman, et. al. (2007), Merenlender, et. al. (2004), and Shaffer, Scott, and Casey (2002).

³ Lerner, Mackey and Casey (2007), p. 420.

⁴ Fairfax, et. al. (2005).

Leases are also used in ways that protect habitat, but in many cases they are primarily used for other purposes and may not protect significant habitat. For example, approximately seventy percent of the federal funding for land conservation (broadly defined) between 1992 and 2001 was spent on short-term leases through the Conservation Reserve Program, which does not target parcels based on their conservation value.⁵ In addition, a different study found that CRP funding resulted in the temporary retirement of farmland that was partly offset by conversion of non-cropland; the estimated conversion was as high as thirty percent of the enrolled acreage in the Corn Belt.⁶ Programs such as these may provide significant public benefit, but are not intended to achieve long-term goals such as the permanent protection of wildlife habitat.

Conservation easements offer an opportunity to protect the existing conservation and open space values of a parcel, while also allowing property owners to continue using the land in ways consistent with the terms of the easement. If planned, implemented, and enforced properly, easements allow land use practices that benefit the property owner while protecting public benefits generated by the parcel.⁷ A conservation easement typically allows the current and future owners of the property to continue using the land in ways that are consistent with the conservation purposes of the easement. Land trusts and other conservation organizations are increasingly turning to easements as the tool of choice for preserving conservation values. The Land Trust Alliance reported that U.S. land trusts acquired just over 480,000 acres in fee simple ownership between 2000 and 2005; during the same period the acreage they protected via conservation easement increased by over 3.7 million acres.⁸

The creation of the easement limits rights to future uses of the property, resulting in a reduction in the parcel's market value. Government agencies, including the U.S. Department of Agriculture and the U.S. Fish and Wildlife Service, are sometimes willing to purchase the easement from the property owner, compensating him/her for that loss in market value. Various state programs for easement purchases also exist, especially for easements on working agricultural land. Both federal and state programs are relatively small compared to leases and fee acquisition; easement purchases amounted to approximately 15.8% of state and 5.3% of federal spending on land conservation between 1992 and 2001.⁹

Incentives for Easement Donation

While land trusts, often working with federal and state agencies, do frequently purchase easements, they primarily protect land by accepting donated easements. The arguments for private land conservation have led to the development of significant federal and state tax incentives to stimulate the creation and donation of conservation easements. The 2005

⁵ Lerner, Mackey and Casey (2007), p. 420.

⁶ Wu (2000), p. 986.

⁷ See The Nature Conservancy (2011) and Pidot (2005), among many others, for discussions of the potential advantages of conservation easements versus fee acquisitions.

⁸ Land Trust Alliance, *2005 National Land Trust Census Report*, p. 15.

⁹ Lerner, Mackey and Casey (2007), p. 421.

Census of Land Trusts found that 86% of the easements acquired by land trusts had been donated.¹⁰ Some, though by no means all, analysts argue that the existence of these federal and state incentives has been a significant factor in the enormous growth in acreage under easement. The Land Trust Alliance has claimed that the existence of and growth in these incentives is a “major contributing factor to the surge in private land conservation.”¹¹

Conservation easements are subject to the enabling laws of the state in which the property is located.¹² While state laws vary, potential easement donors who want to qualify for federal tax incentives must also follow the requirements of the Internal Revenue Code, Section 170(h), “Qualified Conservation Contributions, As Amended”. The donation of an easement meeting those requirements, to a qualified donee such as particular government agencies or certain not-for-profit organizations such as land trusts, allows the value of the easement (as measured by the reduction in market value of the property due to the restrictions on future use that the easement imposes) to be treated as a charitable contribution. These donations became more valuable in 2006, when tax law changed so that donors may claim a deduction of up to 50% of their adjusted gross income (AGI), rather than the 30% allowed for other contributions of property with long-term capital gains. Taxpayers who meet an earnings test that qualifies them for classification as a farmer or rancher are allowed to deduct up to 100% of AGI per year. Donors are also currently allowed a fifteen-year carryforward period, rather than the original period of five years.¹³

Qualifying donations also frequently result in reductions in state income tax liabilities, either because the federal taxable income is the starting point for the state income tax calculation or because of specific state tax incentives for easement donations. There are thirty states that both have an income tax and allow donations of conservation easements as a charitable contribution for tax purposes.¹⁴ In these cases, the value of the state income tax deduction is the marginal tax rate (usually less than 9%) multiplied by the usable portion of the contribution and taking into account relevant present value calculations when the deduction is taken over multiple years.

Conservation Easement Controversies

Easements offer a number of advantages to acquisitions or leases as part of a portfolio of land protection tools; however, many concerns have been raised about both the actual policies and their implementation.¹⁵ While a few states allow easements of limited

¹⁰ Unpublished data, Land Trust Alliance.

¹¹ Land Trust Alliance, *2005 National Land Trust Census Report*, p. 8.

¹² Korngold (2007) and Morrisette (2001) provide discussions of the legal principles of conservation easements. Levin (2010) and Mayo (2000) provide a cross-state comparison of easement statutes.

¹³ The incentives were originally only to apply for donations made in 2006 and 2007, but have been extended several times and are currently available for donations made through 2011. Legislation to make these incentives permanent has been introduced.

¹⁴ Sundberg (2008).

¹⁵ Pidot (2005) and Eagle (2011) are among numerous articles offering criticisms of easements, both in principle and in practice.

duration, easements must be perpetual in order to qualify for the federal tax incentives.¹⁶ A state-wide system of recording easements is an important prerequisite to the continued enforcement of the conditions of those easements, both through the continuing awareness of the restrictions and knowledge of the organization responsible for monitoring the easement. An argument can also be made for public knowledge of the parcels that have been publicly subsidized, whether through a purchase by a government agency, a donation to a charitable organization, or a purchase by a charitable organization using funds that created tax deductions for the donors. Owners of neighboring parcels would also benefit from knowing the existence of easements in their area, since such easements frequently result in higher property values for nearby parcels.

Biologists have argued that a comprehensive database is critical to future conservation planning efforts, so that agencies responsible for creating habitat management plans know what land is preserved, the types of habitat present, and allowable future uses of the property.¹⁷ Habitat protection plans increasingly rely on creating connected preserves that allow easier genetic flow, so knowing the specific location and habitats that have been protected is crucial to the efficient creation of such plans. An additional complication is created by the rather fluid nature of easement specifications; the presence of an easement does not give a good indication of the reserved or foreclosed uses of the property that allow scientists to determine the potential habitat value of the property in the future.¹⁸

Despite the importance of recording easement data, it is troubling that most states do not seem to have comprehensive record-keeping with respect to existing easements. Many scholars have argued that every state should be expected to have an accessible record of all easements, but very few actually do.¹⁹ Morris indicates that:

...it is impossible to get comprehensive information on how and where conservation easements are being created, what they are supposed to accomplish, whether they are being monitored and enforced, and how much public money is being spent.²⁰

Easements are required to be recorded with deeds, but in that case only the property owner (as well as anyone searching the appropriate public deed registry) has access to the information. Any future efforts to track and enforce easements will require the cooperation and the continued existence of the easement holders or some form of conservation easement registry, at a minimum. Massachusetts has a public registry of easements and several other states have been or are beginning to collect data on

¹⁶ The requirement of perpetuity has generated controversy in and of itself (see Korngold (2007) and McLaughlin and Machlis (2008) for contrasting viewpoints). In particular, concerns are raised about the ability of a private organization such as a land trust to offer assurances that it will be able to monitor and enforce the restrictions created by the easements it holds. The arguments surrounding this requirement are not discussed in this paper, other than through its effect on state policy.

¹⁷ Merenlender, et. al. (2004).

¹⁸ Rissman, et. al. (2007).

¹⁹ Korngold (2007), p. 41 and Pidot (2005), p. 12.

²⁰ Morris (2009), pp. 132-3.

easements. Even when that data exists, it is often only available at a highly aggregated level, which is of limited or no use for enforcement or planning in the future.²¹ Another concern that is frequently raised about easement policy is that the 170(h) conditions for a qualified donation are very broad, to the point of being unclear. A donation must achieve at least one of the conservation purposes listed in 26 U.S. Code 170(h)(4):

“conservation purposes” means:

- i. the preservation of land areas for outdoor recreation by, or the education of, the general public;
- ii. the protection of a relatively natural habitat of fish, wildlife or plants, or similar ecosystem;
- iii. the preservation of open space (including farmland and forest land) where such preservation is
 - (I) for the scenic enjoyment of the general public, or
 - (II) pursuant to a clearly delineated federal, state or local government conservation policy and will yield a significant public benefit; or
- iv. the preservation of a historically important land area or a certified historic structure.

Though guidance on how to interpret these requirements is offered,²² there are still potential problems of application. The requirements and guidance have frequently been described as inadequate, ambiguous, and subjective.²³ This is almost certainly inevitable, given the wide range of values intended for protection and the difficulty of measuring the degree to which one or more of those values exist on a particular parcel. A subjective description of the necessary conservation values may encourage the donation of easements that don't protect significant natural features, or deter the donation of easements from property owners who are concerned that they may not protect enough values to satisfy the requirements. The IRS does not do any sort of pre-certification of conservation values, so potential donors may have concerns about the likelihood the easement will be upheld in the event of an audit. Donors may also be interested in creating easements with a high appraised value but relatively little conservation value, with the cooperation of a willing donee organization, and take their chances on an IRS audit as the primary enforcement method.

²¹ The National Conservation Easement Database project is a volunteer effort by several national organizations to collect information about known easements and map their locations. This will help with the concerns raised above, but is not a satisfactory replacement for state-level recording and mapping of every easement. Similarly, the Census of Land Trusts, administered by the Land Trust Alliance, is a survey of land trusts that collects data on easements; it does not collect location data, and is not complete.

²² Maybank (2005) discusses the guidance in detail.

²³ Korngold (2007), p. 1067, uses phrases like “elastic factors” and “not much guidance” and “ambiguity”. Lindstrom (2007), p. 10, refers to one section of guidance and says “(i)n other words, you will know a scenic view when you see it.” Coale (2005), p. 127: “While the preceding three requirements are relatively straightforward, the determination of whether a particular contribution satisfies the conservation purpose requirement can be difficult to ascertain.” Pidot (2005), p. 27: “While tax laws require that an easement have a publicly beneficial conservation purpose, the criteria for meeting this test are subjective.” McLaughlin (2004) provides a thoughtful discussion of how such subjectivity is unavoidable (p. 52).

Concerns have also been raised about the valuation of donated easements claimed as deductions. This is an area that has received considerable attention in recent years.²⁴ Most states leave the determination of the value of the donation up to the donor, and rely on IRS audits for enforcement. The IRS has made a significant effort to examine questions of valuation in recent years. McClure, et al provide a sample of 26 cases between the IRS and taxpayers with court judgments on the valuation.²⁵ In that sample, the court reduced the valuation from the original value claimed by the taxpayer in 23 of the 26 cases. The average reduction in those cases was just under 45%, which translates into an average dollar reduction of over \$770,000. The largest absolute reduction was just over \$7 million, from a taxpayer proposed value of \$12 million to a court judgment of \$4.97 million. The largest percentage reduction was 85%, from a proposed value of \$789,000 to a judgment of \$114,000. These cases represent a tiny fraction of all easements donated, but indicate a significant problem in instances where they do occur. A number of reforms have been made, most notably as part of the changes to federal policy in 2006, but concerns still exist.

Potential Benefits and Costs of State Tax Credits

States that offer income tax credits for donated easements have signaled that they place a high value on such easements. These credits allow for a dollar-for-dollar reduction in the donor's income tax liability, and in several states even allow for refunds of excess credits under certain conditions. These state incentives are in some cases quite significant, sometimes resulting in the taxpayer receiving 25% or more of the fair market value of the donation back.²⁶ These higher incentives are expected to bring about more donations, especially from so-called land rich, cash poor property owners who might not receive much value from federal or state deductions and who could not afford to make a donation without some form of compensation.²⁷ In addition to the presumed goal of encouraging more easement donations, the tax credit system can also be used to generate easements of higher quality. A new system can be designed to address the other controversies mentioned above.

The argument that tax credits create incentives for land rich, cash poor farmers and ranchers predicts that easement donations should increase as the result of a new program. There is very little empirical evidence on this topic, primarily because few states track easements carefully before creating such a credit.²⁸ Pentz (2007) provides figures from two states (North Carolina and Virginia) in support of an argument that credits can result

²⁴ Richardson (2006).

²⁵ McClure, et. al. (2009), p. 555. The authors do not describe how the sample was selected.

²⁶ Sundberg and Dye (2006) describe the federal tax incentives and provide sample calculations of the combined benefit of federal and various state programs. The calculations include estimates of potential savings in estate taxes from the creation and donation of an easement under various scenarios, and potential savings in property taxes from the creation of an easement in states where such savings may occur.

²⁷ Jay (2006), p. 456.

²⁸ While anecdotal evidence abounds, it is inconclusive. Land trusts frequently seem to be in the position of arguing that tax incentives do result in higher donations, while at the same time arguing that property owners primarily donate easements because they love their land and wish to protect it.

in higher donations; however, there is no statistical analysis other than a timeline, and Pentz points out that the Virginia program in particular is highly attractive compared to other credit programs. Sundberg (2008) found evidence suggesting that the larger state tax incentives had a positive impact on the creation and donation of conservation easements, using a statistical analysis of panel data for easement donations to land trusts between 2000 and 2005. However, state dummy variables indicated that only land trusts in Colorado and Virginia, the two states offering credits that were both of high value and transferable, had statistically significant increases compared to land trusts in other states. Land trusts in other states offering credits did not have increases that were significantly different from those in non-credit states.

Whether or not the credit results in more easement donations is only part of the important policy question. As mentioned earlier, a single set of conservation purposes intended to apply anywhere in the country is necessarily broad and subjective. Individual states are in a better position to tailor descriptions of appropriate conservation purposes more narrowly to meet their specific needs and circumstances. States that offer these significant subsidies may also require certification that those conservation values are indeed present on the parcel, and that the easement can be expected to protect them into the future. The state may also choose to be more restrictive as to the organizations that are qualified to hold the easements, with the hope of reducing future monitoring and enforcement problems. If so, the state may find that a rigorous system of certifying easements for state credits increases the quality of donated easements. Such a certification process could also be used to create an easement database, at least for those receiving credits, that could be publicly accessible.

The additional foregone revenue resulting from income tax credits may also have the effect of creating better and more accessible data. An income tax credit is a liability for the state and is more likely to be tracked than an unused deduction. This also gives states a larger incentive to certify or audit easement appraisals on their own rather than relying on the IRS for enforcement.²⁹

The development of a tax credit program, with substantially higher lost revenues than a traditional deduction, may also create several potential problems. A very successful program could have significant negative impacts on state revenues; this may be desirable as an indication of program success, but should be anticipated and, perhaps, controlled. Given that a large number of easements are donated in states without credits, creating a credit will inevitably result in some donors receiving additional compensation for something they would have done anyway, reducing the efficiency of the credit.³⁰ Finally, higher compensation increases the potential payoff to fraudulent activity such as submitting easements with inflated appraisals.

Overview of State Income Tax Credit Programs

²⁹ All these actions could be taken in the absence of a state income tax credit; however, the presence of a credit would make them somewhat easier to justify, and higher donations would increase the need for these safeguards.

³⁰ McLaughlin (2004).

As of 2011, fifteen states offer tax credits as an incentive for easement donations. The programs typically provide taxpayers with credits equivalent to a stated fraction of the fair market value of the easement. The number of credits is usually capped per parcel, or sometimes per donor, and there is a specified period during which credits may be carried forward to be used against future tax bills. Five states allow taxpayers to sell their credits, making them even more valuable to the cash-poor donors who might not be able to use the credits during that carryforward period. Unused credits are or have been refundable under certain circumstances in several states.

Table 1 presents the financial incentives of each program as of 2011. Thirteen of the fifteen states calculate credits as a percentage of the fair market value (FMV) of the easement. The calculation of FMV is usually specified to be done using the method the IRS requires be used to determine the value for federal purposes; several states provide their own very similar rules. The credits range from 25% to 100% of FMV, though in most states the number of credits is capped at a maximum per easement. That maximum varies widely, from as little as \$10,000 to as much as \$500,000, and two states do not cap the benefit available to a particular donor. Several states also cap the total value of credits awarded by the state in a particular year, with caps ranging from \$500,000 in Arkansas to over \$100,000,000 in Virginia.

Four states currently allow credits to be transferred to other taxpayers, allowing donors to sell the credits and receive cash immediately rather than settling for reduced state income tax liabilities over the next decade or more. Credits are typically sold at a discount through an intermediary who finds buyers; one such group advertises that credits are sold at a discount in the approximate range of 15% off their value in Colorado.³¹ Similar discounts have been advertised for credits transferred in New Mexico and Virginia.³² This discount from the seller, which does not include other transaction costs including fees paid to the intermediary, suggests that transferability may not be attractive for wealthier donors who can expect to use their credits to offset their own liabilities in the near future. Virginia caps the number of credits a taxpayer can use at \$50,000 per year, while the number that can be sold is not limited.³³ A taxpayer with credits worth several hundreds of thousands of dollars may prefer to sell them despite the discount under those circumstances.

As Table 1 indicates, the financial characteristics of the programs vary dramatically across states. The same is true of other aspects of the various programs. Table 2 presents information about the conservation values and certification necessary for an easement to qualify for credits. Seven of the fifteen states have conservation requirements that are more narrowly-defined than the IRS 170(h) standards, frequently by specifying that the easement must protect specific habitats or specific regions. Several states also have higher standards than the IRS in other ways. One example is requiring that easements receiving credits be held by particular organizations, or by trusts that have met tests that

³¹ Conservation Resource Center (2011).

³² Tax Credit Connection, Inc. (2009) and Virginia Conservation Credit Pool, LLC (2009).

³³ Virginia Department of Taxation (2010).

indicate some likelihood of long-term ability to monitor and enforce the terms of the easement.

Four states only require that the easement meet the conservation purposes test of 170(h), while three other states have their own language that appears to be reasonably similar to that of 170(h). In cases where the language differs from that of 170(h), it is reasonable to expect that the conservation purposes of donated easements will often be consistent with the IRS standard, since a donor would prefer to receive the federal tax deduction in addition to the state tax credits.

Eight of the states require that easements be reviewed or certified before credits can be awarded. This certification ranges from a simple check that the easement paperwork has been received to a careful examination of many aspects of the easement, and even of the organization that intends to hold the easement. Virginia only reviews easements on which at least a million dollars of tax credits are being claimed. The other six states do not require that the conservation values of the easement be certified.

State Program Details

One of the largest controversies regarding conservation easement policy is the lack of available information about easements at the state level. This section discusses each state's credit system in broad detail and offers all relevant information about the use of the program that could be found by looking for public reports and contacting representatives of relevant agencies, including both the certifying agency (if any) and the agency responsible for administering the credits. No summary table of state-level easement data is provided because of the wide variation in how states report data, which makes relevant comparisons across a sample of states problematic.

Arkansas

Arkansas created a credit for the donation of real property interests, including conservation easements, in early 2009 as an expansion of an existing program of tax credits for the creation and restoration of wetlands and riparian zones. It must also meet the requirements of 170(h). Donors receive a credit for 50% of the easement's appraised value, up to a maximum of \$50,000 (\$5,000 per year for the initial year and 9 carryforward years). The program limits annual credits awarded across the state to \$500,000.³⁴ The donated easement must be in a wetland or riparian zone, and approved by the Arkansas Natural Resources Commission. As of March 2011, no application had been received for the program since its onset.

California

California's Natural Heritage Preservation Tax Credit Act of 2000 created credits for donations of property or easements beginning in 2001. The program was suspended in 2002 and reinstated in 2005, effective through 2008, and reauthorized in 2010. The program offers credits in the amount of 55% of the FMV of the donation of a fee title or partial interest in real property. Unused credits may be carried forward for up to eight

³⁴ Arkansas Natural Resources Commission (2010).

years. The Wildlife Conservation Board must approve the conservation values of the property, and the appraised fair market value (FVM) must be approved by the Department of General Services. The easement must meet the requirements of 170(h), in addition to meeting a more stringent definition of conservation value than required by 170(h). A public hearing must be held before the donation is approved. The approval process is rather lengthy compared to that used by other states. In addition, potential donors are responsible for finding existing funds that can be used to offset the amount of credits awarded, though a variety of bond funds are available for this purpose.³⁵

The initial phase of the program awarded just over \$20 million in credits between 2001 and 2004, but the awards were made to just five easements, one of which accounted for 75% of the total. As shown in Table 3, no easements received credits after the program was reinstated; in fact, no donations were awarded credits in 2007 or 2008, and no applications were made in the first year of the program after reauthorization in 2010. The average value of credits awarded per easement is extremely high compared to that in other states for which comparable data exist; if the approval process is perceived as having high fixed costs, economies of scale would suggest that only large donations would be worth taking through the necessary process. California has relatively few donated easements,³⁶ which could be taken to mean that the program has little donor interest with which to work or to mean that the program has been unsuccessful in achieving a primary goal.

Colorado

Colorado's Credit Against Tax- Conservation Easements program has gone through many changes. It is generally considered to be one of the most successful programs, in terms of stimulating the creation of easements, due both to its generous financial terms and the ability to transfer credits. The program started in 2000, offering credits equal to 100% of FMV, capped at \$100,000. Credits were and remain transferable; credits that are not used or transferred have a twenty year carryforward period. The credit was expanded in 2003, so that in addition to 100% of the first \$100,000, donations received additional credits for 40% of the market value in excess of that earlier limit, up to a maximum of \$400,000, so the total value of tax credits could reach as much as \$260,000 for parcels valued at \$500,000 or more. The formula for calculating credits was altered again in 2007, with the rate reduced to 50% of FMV but the cap increased to \$375,000.³⁷

Easement donors seeking credits were required to register the easement with the Department of Revenue beginning in 2007, providing details about location, appraised value of the easement and credits claimed, the organization accepting the easement, and the conservation values protected. Efforts are currently underway to retroactively collect data about easements that were awarded credits prior to 2007, with the exception of the unavailable data on conservation values.³⁸ There is no state-level certification of

³⁵ State of California Wildlife Conservation Board (2010).

³⁶ Morris, 2009, p. 160.

³⁷ Colorado Department of Regulatory Affairs (2011-2)

³⁸ <http://www.colorado.gov/cs/Satellite/Revenue/REVX/1216289010223>

conservation values for an easement, and easements are only expected to meet the requirements of 170(h).

Table 4 provides data on the program annually for 2000-2010. The data from 2007 to 2010 are complete. However, since data are still being retroactively collected for 2000-2006, the data presented do not represent the final totals, nor do they provide the year in which the easements were donated. The program has awarded well over \$600 million of credits to easements covering over one million acres of property. In 2007 alone, over \$100 million of credits were approved.

In addition to the limit on the number of credits awarded on a given easement, there are also limits on the number of credits a taxpayer can use in a given year. As a result, many of the credits are carried forward, in addition to those that are sold to other taxpayers. Table 5 shows the number of credits used annually; during the early years of the program the number of credits approved far outweighed the number used, but in recent years more credits have been used than have been approved as credits from earlier transactions continue to be claimed.

The high number of credits approved and used annually has resulted in new legislation that caps the number of credits offered in a given year. A statewide cap of \$26 million per year was approved for 2011-13; this was subsequently changed to a cap of \$22 million in 2011 and 2012, and a cap of \$34 million in 2013. Easements donated during a year when the cap has been met will not be awarded credits until the next available year. This cap is below the total awarded during every year for which data are available, and far below the number of credits awarded prior to 2009.³⁹

The high value of the available credits has resulted in a significant amount of what many consider to be abuses, particularly regarding the determination of assessed value, by a small but active group of promoters. Reports of abuses resulted in IRS audits; the IRS findings resulted in subsequent audits by the state Department of Revenue:

Audits by the Internal Revenue Service and the Colorado Department of Revenue have resulted in the denial of nearly 340 of 2,500 donations (14 percent) used to garner a tax benefit in tax years 2003 thru 2007. Through tax year 2007, denials were valued at a total of \$87.1 million, 19 percent of all tax credits claimed. Currently, there are approximately 500 claims for conservation easements that the department either has disputed or is in the process of disputing.⁴⁰

In addition to denying these credits, the state has responded to the abuses by tightening standards for easement appraisals and restricting the type of organizations allowed to accept easements that are awarded credits.

Connecticut

³⁹ Colorado Department of Regulatory Affairs (2011-1). As of August 26, 2011 only \$13.2 million of credits had been issued against the \$22 million cap; however, this does not count any credits in the process of being approved.

⁴⁰ Kirk (2010), p. 2

Connecticut's Credit for the Donation of Land began in 2000, and is only available to corporations. Corporations can receive credits for the donation of land and conservation easements. The credit is based on 50% of FMV, with a carryforward of 25 years. There are no caps on the amount of credit that can be earned.⁴¹ There is no certification of conservation values required. The enabling statute for conservation easements is somewhat atypical compared to that of other states,⁴² and easements do not need to meet the standards of IRS 170(h) in order to qualify for receiving the credit. Table 6 presents the available data, which indicate a relatively small number of donations generating less than \$5 million in credits. The reports do not indicate the fraction of these donations represented by easements.

Delaware

Delaware's Land and Historic Resources Protection Incentives Act of 1999, reauthorized in 2009, offers credits of up to 40% of the FMV for donated land and easements; however, the amount of credit for a donation is capped at \$50,000 and the statewide credits awarded are capped at \$1 million per year. The requirements for qualification are determined by the Department of Natural Resources and Environmental Control, and they appear to be tailored to achieve state priorities. Easements must also satisfy the requirements of 170(h). The conservation values of the easement are not certified.⁴³

Several efforts to retrieve data from the appropriate contact at the Department were unsuccessful, and conversations with land trust employees in Delaware suggest that this very small program is rarely used to protect land with conservation values, though it does award credits for donations that result in historic and cultural preservation.

Georgia

Georgia's Conservation Tax Credit Program was put into effect in 2006. It offers credits equivalent to 25% of FMV with a maximum possible credit of \$250,000 for individuals and \$500,000 for corporations. Properties owned by partnerships may qualify for up to twice as many credits. There is a ten year carryforward period.⁴⁴ House Bill 346, enacted in May of 2011, allows unused credits to be transferred, effective for easements donated on or after January 1, 2012.⁴⁵ The standard for qualification is more stringent than 170(h), and the Department of Natural Resources must certify that the donation meet's the State's specified conservation purposes.⁴⁶ Each project awarded credit is listed on a public website.⁴⁷

Table 7 shows the number of endorsed projects and associated acreage by year. While figures represent all endorsed projects, including donations of façade easements and fee

⁴¹ State of Connecticut Department of Revenue Services (2010)

⁴² Levin (2010)

⁴³ Delaware Code (2011)

⁴⁴ Georgia Land Conservation Program (2011-2)

⁴⁵ Georgia General Assembly (2011)

⁴⁶ Georgia Department of Natural Resources (2009)

⁴⁷ Georgia Land Conservation Program (2011-1)

simple title, 214 of the 228 projects (94%) are donations of conservation easements.⁴⁸ No information on the value of credits awarded was found.

Iowa

The Charitable Conservation Contribution Tax Credit became effective in 2008. It awards tax credits equal to 50% of FMV for donations of a real property interest, up to a maximum value of \$100,000. Unused credits may be carried forward up to 20 years. Easements must meet the requirements of 170(h). There is no certification of conservation values or award of credits required; the credit is simply claimed as part of the state tax return. No information about specific easements is publicly available, though donors must file a copy of federal Form 8283 which provides some information about the easement.⁴⁹

In 2008, the first year of the program, 19 taxpayers claimed credits with a total value of \$743,264, an average claim of \$39,119. The total value of credits used in the first year was \$189,203, with \$554,661 carried forward. All credits were claimed on individual returns; corporations are eligible to receive credits, but did not make any claims in 2008.⁵⁰

Maryland

Maryland's Income Tax Credit for Preservation and Conservation Easements began in 2001. It offers credits up to 100% of FMV; however, the credit is capped at \$5,000 per year for a total of 16 years, for a maximum of \$80,000 in credits.⁵¹ The \$5,000 limit applies separately to individual owners of donated property, so property with multiple owners, including property owned by married couples, may qualify for higher deductions. The standard for easements is not tied to that of 170(h), but is more inclusive. Easements must be held by the Maryland Environmental Trust or the Maryland Agricultural Land Preservation Foundation, depending on the type of land being placed under easement.⁵² The easement must be approved by the Department of Public Works.⁵³ Information about easements receiving credits is included in a public record. However, the public record is co-mingled with easements and titles acquired via other methods as well, making evaluation of the tax credit itself impossible from the public data.

Table 8 provides data on credits claimed for 2008-2010. The average claim is over \$8,000, which is the result of a significant fraction of donations coming from married couples filing jointly, who are each able to claim up to \$5,000. No information is available for the amount of acreage associated with the easements receiving credits.

⁴⁸ There were discrepancies on both the number of conservation easements receiving credit and the number of acres protected by the program in different publications from the state, but the differences were minor.

⁴⁹ Iowa Department of Revenue (2011)

⁵⁰ Gullickson, 2011.

⁵¹ Comptroller of Maryland, 2011.

⁵² While this is presumably intended to provide some assurance that the easements will be monitored, questions exist about the organization's ability to perform the significant amount of stewardship required by a successful conservation easement program (Morris, 2009, pp. 95-96).

⁵³ Maryland Department of Natural Resources, 2011.

Massachusetts

Massachusetts Conservation Land Tax Credit Program was approved to begin in January 2011, but draft regulations were still being discussed as of June 2011 and the program will not begin until final guidelines have been published by the Massachusetts Executive Office of Energy and Environmental Affairs. The program will offer credits for the donation of land or other real interests in property, including easements. The rate is 50% of FMV, which is quite generous compared to other programs; however, the benefit is capped at \$50,000 per easement and total credits awarded by the state are capped at \$2 million per year. The entire credit is paid in the year in which it is claimed, regardless of the donor's tax liability.⁵⁴

Massachusetts has a very exhaustive list of requirements for certification, along with a careful process for recording easements. The state has a much more thorough process than any other state for approving and recording easements, which predates the creation of this credit. It includes a requirement that easements held by government agencies be approved at the state level and easements held by private organizations be approved by local government.⁵⁵

Mississippi

Mississippi's Tax Credit for Natural Heritage Priority Conservation of Scenic Streams Land Donations began in 2003, and is a very small program that only offers credits toward 50% of the transaction and related costs of the easement donation, capped at \$10,000 per transaction with ten carryforward years. Qualifying easements must protect one of a small number of carefully defined habitats, in addition to meeting the other requirements of 170(h). No certification appears to be required.⁵⁶ Efforts to acquire any sort of information about the number of easements or number of credits awarded were unsuccessful; personnel at the Department of Revenue attempted to be helpful but did not know whether any such data actually existed and were unable to get more information.⁵⁷

New Mexico

New Mexico's Land Conservation Tax Credit began in 2004 with a credit of 50% of FMV for donations of land and easements, capped at \$100,000 with a carryforward of twenty years. The cap applies for each owner, including spouses listed as owners, so that property with multiple donors may end up generating credits worth the full 50% of FMV. The benefit was expanded dramatically in 2008, keeping the credit ratio at 50% but raising the maximum to \$250,000. In addition, the credits were made transferable.⁵⁸

⁵⁴ Executive Office of Energy and Environmental Affairs, 2011.

⁵⁵ Morris, 2009, p. 90.

⁵⁶ Mississippi Code of 1972, As Amended, 2003.

⁵⁷ Several environmental organizations including the Land Trust Alliance have suggested that Mississippi has recently created a second tax credit for conservation easements, titled the Wildlife Land Use Credit. However, the program offers a per-acre lease payment for certain types of privately-owned land, and no easement need exist to qualify for the program. No inquiries about the program had been made in the sixteen months since it became law in April 2010.

⁵⁸ New Mexico Energy, Minerals, and Natural Resources Department, 2011-2.

Qualifying easements must meet the requirements of 170(h) and may also be required to meet additional conditions, as determined by the Energy, Minerals and Natural Resources Department. The EMNRD certifies potential donations. Once the certificate is acquired, the donor must apply for the credit through the Taxation and Revenue Department. A recent change now also requires that the appraisal be certified.⁵⁹

Table 9 presents data on tax credits awarded, both for the donation of property in fee and for the donation of easements. Over two-thirds of the donations have been in the form of easements, and has could be expected the total donations per year have risen substantially in both number and value since the credit cap was increased and transferability allowed. The average value of donations rose from just under \$450,000 prior to the 2008 change to nearly \$600,000 afterward. No public database of individual easements appears to exist.

New York

New York's Conservation Easement Tax Credit began in 2006, and compensates owners of parcels with donated easements for 25% of property tax paid on the parcel, up to \$5,000 per year. The credit applies to any parcel restricted by a conservation easement, regardless of when the easement was created. The credit continues to apply to successor owners as well as the original donor(s). There does not appear to be any standard of certification at the state level, other than ensuring that the easement is registered with the state.⁶⁰

There is no accessible data on the number or location of easements receiving this tax credit. Conservation Easement Credits are mentioned in the annual analysis of 2008 income tax returns, the most recent available. However, they are included in the category "All Other Credits", which sums to just under \$120 million. A representative from the office reported that the background tables indicate that the easement credits awarded to individuals in 2008 rounded to \$1,000,000.⁶¹ A similar analysis of corporate tax returns was more precise, reporting that 5 claims received a total of \$13,436 in 2006 and 5 claims received a total of \$18,049 in 2007.⁶²

North Carolina

North Carolina's Land Conservation Tax Credit began in 1983 and was slightly modified for 2007. The original program offered credit up to 25% of FMV for donations of real property and conservation easements, capped at \$250,000. Unused credits may be carried forward for up to 5 years. The benefit was changed slightly in 2007 to increase the maximum benefit to \$500,000 for property with multiple owners, including property owned by a married couple.

The easement must protect at least one of several priorities stated in the legislation, including public access to beaches, waters, or trails, fish and wildlife conservation, and other similar purposes. Conservation values must be certified as appropriate by the

⁵⁹ Ibid.

⁶⁰ New York State Department of Environmental Conservation, 2011.

⁶¹ New York Dept of Taxation & Finance, Office of Tax Policy Analysis, 2011-1.

⁶² New York Dept of Taxation & Finance, Office of Tax Policy Analysis, 2011-2.

Department of Environment and Natural Resources, and the Department will also evaluate whether the easement will protect the public benefits into the future. The Department specifically states that a conservation easement does not automatically qualify for a credit simply by meeting the requirements for 170(h). A change in 2007 required the donor to submit an appraisal report.⁶³

North Carolina publishes annual information about the number of donations, the type of public benefits protected, tax credits awarded, and tax credits used. All figures combine data from donations of fee title and conservation easements. The report indicates that credits used ranged from just over \$15 million in 2003 to a high of \$25 million in 2007, declining to approximately \$20 million in 2008. The report also shows that the unused tax credits appear to be accumulating at a rate that makes it appear likely that some credits will expire unused at the end of the relatively short carryforward period. A map of the state showing the approximate location of properties that received tax credits is also published.⁶⁴

The Department of Environment and Natural Resources provided specific unpublished data on each property receiving tax credits, reported in Table 10. Easement donations in both number and acreage peaked in 2007, the year the maximum credit was increased for property with multiple owners. That year saw 115 easement donations, 37 more than in any year before or since, covering a total of 16,978 acres, which is more than 5,500 acres larger than donations received in any other year. Data on the value of credits awarded to easement donors was not available.

South Carolina

South Carolina's Land Conservation Tax Credit began in 2001. A donation of qualified land or conservation easement generates credits worth up to 25% of FMV; however, the maximum credit is capped at \$250 per acre, so only donations valued at \$1,000 per acre or less would actually receive that 25%. A maximum of \$52,500 in credit may be used in any one year, with unused credits carried forward as long as necessary. Credits may also be transferred rather than deferred. Easements meeting the requirements of 170(h) will qualify for the credit. In addition, easements that protect commercial forests (and therefore do not qualify for 170(h)) may also qualify. The easements do not require certification of conservation value; however, the Department of Revenue must certify that the credits exist before they may be transferred.⁶⁵

The South Carolina Department of Revenue challenged a number of appraisals on donated easements, and found a small number of cases where the appraisal appeared to have been greatly overstated. Easements on golf courses were prominent among them, and the state no longer allows charitable deductions for the donation of conservation easements located on golf courses.⁶⁶

⁶³ North Carolina Department of Environmental and Natural Resources, 2011.

⁶⁴ North Carolina Department of Environmental and Natural Resources, 2010.

⁶⁵ South Carolina Department of Revenue, 2011.

⁶⁶ Maybank, 2005 (p. 12).

Tables 11 and 12 provide the most recent available data on the number of easements for which credits are claimed and the associated value of credits claimed. The data reported include credits claimed from donations of both fee title and conservation easements.

Virginia

Virginia's Land Conservation Tax Credit has been the largest program in terms of the dollar value of credits awarded for donations of land or conservation easements. It has also had some significant changes since it began in 2000, including at least five changes in the maximum number of credits possible per transaction and one change in the percentage of fair market value that qualifies for credits. The original calculation awarded credits for up to 50% of FMV, with a five year carryforward. Credits were not transferable. The program was changed in 2002 to allow credits to be transferred. In 2006 the award was reduced to 40% of FMV, and the carryforward was increased to ten years.⁶⁷

The program does not cap the maximum number of credits that can be issued for an easement. However, various other caps have existed, including a cap on the total number of credits that a donor may use in one tax year. That annual limit has varied from \$50,000 in 2000 to \$75,000 and then \$100,000 in 2002. It was decreased to \$50,000 for 2009 and 2010, and increased back to \$100,000 for 2011. The number of carryforward years has also fluctuated; it is currently 13 years. The program limited total credits issued to \$100 million (adjusted for inflation) annually, beginning in 2007. Any donations made after the cap has been reached in a given year will be issued credits during the following year.⁶⁸

Certification by the Department of Conservation and Recreation requires that easements meet the requirements of 170(h) and additional requirements, as determined by the Virginia Land Conservation Act; however, only easements applying for credits of at least \$1 million are subject to certification.⁶⁹ The annual report issued by the department lists the acreage and conservation purposes of easements receiving credits, by county.

Table 13 reports the number, size, and value of donations as well as the number of credits issued for donations of land and easements. This is by far the largest program in the country in terms of value of credits awarded; even with the recently imposed cap of \$100 million, the credits awarded in just 2010 exceed those awarded during the past decade by almost any other state for which comparable data are available. The only state even coming close to the scope of Virginia's program is Colorado, which responded by capping its annual credits at \$78 million over a three-year period. Credits used will lag credits issued because of the cap on the value of credits that can be used in any year by a given taxpayer and the discount involved in transferring them. The most recent data on credits used indicates that in 2010, credits worth \$131,455,141 were claimed on 6,797 returns.⁷⁰

⁶⁷ Hocker and Maroon, 2010.

⁶⁸ Tax Code of Virginia, 2011.

⁶⁹ Virginia Department of Conservation and Recreation, 2011.

⁷⁰ Virginia Department of Taxation, 2011.

Table 14 presents historic data on the creation of conservation easements held by the Virginia Outdoors Foundation, which is responsible for approximately 93% of the easements in the state.⁷¹ The number of easements and amount of acreage donated jumped in 2000, when the credit began, and in 2002, when credits became transferable.

Conclusion

The analysis presented here allows several conclusions to be drawn. First, the development of a state tax credit to encourage the creation and donation of conservation easements does not in any way assure a significant number of easements will be donated. Several of the programs studied in this paper are found to be quite small, or to have had no activity whatsoever.

Second, those programs that offer more credits, typically by having a formula of at least 25% of FMV and a high cap (or no cap at all), are more likely to see a large number of donated easements. There is no guarantee, however. Of the six states offering such credits, California has had no donated easements in recent years.⁷² New Mexico's easement donations accelerated after the credit cap was increased for 2008, but donations remain relatively low compared to other programs. North Carolina awards a high value of credits every year, but the amount of land protected by easement donation is typically under 10,000 acres per year, again low compared to other programs with high credit values. Colorado, Georgia, and Virginia all have programs that protect tens of thousands of acres per year.

Third, each of the so-called high-credit states controls some part of the process in a way that addresses at least one of the concerns commonly raised about conservation easements. All of these seven states except New Mexico offered public information about donated easements, typically identifying as easement location by county. Several of them list the specific conservation values being protected by each parcel. California, Georgia, and New Mexico have narrowed the scope of conservation values that qualify the easement for credits, making it more likely that the land being put under easement is of particular value based on the needs of that state. Four of the six states certify that the conservation values being protected actually exist and are significant; Virginia only certifies for donations worth over \$1 million. Colorado certifies the appraisal, as does New Mexico. States that offer higher tax credits for easement donations do take steps to improve the value of the easements for the public, at least in some of the possible ways.

⁷¹ Hocker and Maroon, 2010.

⁷² Connecticut also offers a potentially high credit value, but only to corporations, and is not considered in the discussion that follows.

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Table 1
Financial Incentives of State Tax Credit Programs, 2011

State	Credit	Maximum per taxpayer [2011 cap on total credits, if any]	Carryforward Period	Transferable?
Arkansas	50% of FMV	\$5,000 per year [\$500,000]	9 yrs	No
California	55% of FMV	None	8 yrs	No
Colorado	50% of FMV	\$375,000 [\$22,000,000]	20 yrs	Yes
Connecticut	50% of FMV	None	25 yrs	No
Delaware	40% of FMV	\$50,000 [\$1,000,000] ^a	5	No
Georgia	25% of FMV	\$250,000 for individuals, \$500,000 for corporations	10	No, but will be in 2012
Iowa	50% of FMV	\$100,000	20	No
Maryland	100% of FMV	\$80,000, capped at \$5,000 per year	15	No
Massachusetts	50% of FMV	\$50,000 [\$2,000,000]	Refundable	No
Mississippi	50% of transaction costs from creation of easement	\$10,000	10	No
New Mexico	50% of FMV	\$250,000	20 yrs	Yes
New York	25% of property tax paid on property under easement	\$5,000	Annual benefit	No
North Carolina	25% of FMV	\$250,000 for individuals; \$500,000 for corporations and couples filing jointly	5	No
South Carolina	Maximum of 25% of FMV or \$250/acre	\$52,500 in a given year	As necessary	Yes
Virginia	40% of FMV	\$50,000 per year, not including credits sold [\$108,424,000] ^b	13	Yes

^a Includes credits awarded for heritage preservation easements.

^b Based on a 2006 annual cap of \$100,000,000 with legislated adjustments for inflation.

Table 2
Administrative Requirements of State Tax Credit Programs, 2011

State	Qualifying benefits compared to IRS 170(h)	Certification of easement benefits by state agency
Arkansas	Limited to easements in wetland/riparian zones	Natural Resources Commission
California	More narrow set of allowable purposes than 170(h)	Wildlife Conservation Board
Colorado	170(h)	None
Connecticut	Not tied to 170(h)	None
Delaware	Potentially more narrow set of purposes if so defined by DNREC	Department of Natural Resources and Environmental Control
Georgia	More narrow set of allowable purposes than 170(h)	Department of Natural Resources
Iowa	170(h)	None
Maryland	Similar, but not identical, to 170(h)	Board of Public Works
Massachusetts	170(h); all easements also require approval by Division of Conservation Services	Executive Office of Energy and Environmental Affairs
Mississippi	170(h); qualifying easements must be located in state-designated areas	None
New Mexico	170(h); additional requirements also exist	Energy, Minerals and Natural Resources Department
New York	170(h)	None
North Carolina	Similar, but not identical, to 170(h)	Department of Environment and Natural Resources
South Carolina	170(h), plus an exception for forestry properties that might not qualify for 170(h)	None, though credits themselves must be certified before any transfer can occur
Virginia	170(h)	Dept of Conservation and Recreation must review easements for which a donor claims a tax credit of \$1 million or more

Table 3
California Natural Heritage Preservation Tax Credits Approved

Year of Approval	Number of Approved Easements	Acres Protected	Appraised Value of Donation (000s)	Value of Tax Credits Approved (000s)
2001	1	3,009	\$2,600	\$1,430
2002	3	1,849	\$6,796	\$3,737
2003	0	na	na	na
2004	1	906	\$27,500	\$15,000
2005	0	na	na	na
2006	0	na	na	na
2007	0	na	na	na
2008	0	na	na	na
2009	0	na	na	na
2010	0	na	na	na
Total for Easements	5	5,764	\$36,896	\$20,167
Total for Fee Donations	10	2,242	\$51,693	\$28,430
Total, All	15	8,006	\$88,589	\$48,597

Source: Wildlife Conservation Board (2011).

Table 4
Colorado Conservation Easement Credits Approved

Year of Approval	Number of Approved Easements	Acres Protected	Value of Tax Credits Approved	Average Value of Credits per Easement
2000-2006	2,277	632,008	\$386,663,353	\$169,813
2007	529	149,008	\$117,921,372	\$222,914
2008	320	197,453	\$62,549,448	\$195,467
2009	202	76,328	\$41,939,746	\$207,623
2010	97	42,500	\$25,407,478	\$261,933
Total	3,425	1,097,297	\$634,481,397	

Sources: 2000-2006 Gross Conservation Easement Credit Report (Preliminary Data, Revised 2/03/11) and Colorado Gross Conservation Easement Report (2007-Present).

Table 5
Colorado Gross Conservation Easement Credits Used, Fiscal Years

Year	Individual and Fiduciary Amount	Individual and Fiduciary Filings	Corporate Amount	Corporate Filings
2001	\$2,296,104	nr	\$29,090	nr
2002	\$7,818,994	583	\$756,691	37
2003	\$7,846,619	758	\$-341,834	69
2004	\$30,389,231	1,531	\$1,282,323	53
2005	\$51,558,100	2,064	\$5,783,246	62
2006	\$76,655,160	2,110	\$8,401,391	96
2007	\$71,557,167	2,452	\$10,134,712	134
2008	\$90,406,166	2,254	\$8,005,975	89
2009	\$53,124,970	2,569	\$2,053,398	126
2010	\$36,254,069	1,542	\$1,787,205	14

Source: Colorado Department of Revenue Annual Reports (various years).

Table 6
Connecticut Donation of Land Tax Credits Claimed

Year	Number of Properties	Credits Claimed
2000	9	\$665,663
2001	4	\$557,257
2002	5	\$334,414
2003	90	\$184,782
2004	4	\$1,234,270
2005	3	\$55,757
2006	2	\$6,778
2007	4	\$94,876
2008	3	\$1,344,066
Total	124	\$4,477,863

Source: State of Connecticut Department of Revenue Services annual reports. Data do not distinguish donations of easements separately from donations of land. Carryforward dollars are only reported for 2008 (\$2,944,314).

Table 7
Conservation Tax Credits, Georgia

	Certified Projects	Certified Acreage
2006	2	23
2007	27	10,369
2008	69	25,708
2009	60	20,295
2010	70	47,310
Total	228	103,705

Source: Sorenson, Georgia Conservation Tax Credit 2006-10 Summary Report, February 2011.
Data includes all projects that were endorsed, including donations of land and of historic facades.
Conservation easements represented 214 of the 228 projects (94%).

Table 8
State Income Tax Credit Awards, Maryland

	Number of Taxpayers Claiming Credits	Value of Credits Claimed
2008	122	\$777,536
2009	111	\$960,635
2010	94	\$993,632

Source: Bureau of Revenue Estimates, Comptroller of Maryland. Unpublished data.

Table 9
Land Conservation Incentives Credits, New Mexico

	Number	Total Acreage	Land Donations	Easement Donations	Appraised Value	Tax Credits Awarded
2004	6	5,801	2	4	\$4,083,100	\$501,050
2005	14	8,179	9	5	\$5,077,480	\$1,005,040
2006	11	1,312	4	7	\$3,337,600	\$798,424
2007	7	4,846	2	5	\$4,472,377	\$498,217
2008	13	12,397	1	12	\$6,870,761	\$2,176,052
2009	13	2,384	1	12	\$7,803,755	\$2,569,914
2010	17	9,952	6	11	\$10,975,500	\$4,171,100
Totals	81	44,871	25	56	\$42,620,573	\$11,719,797

Source: New Mexico Energy, Minerals and Natural Resources Department. Unpublished data.

Table 10
North Carolina Conservation Easements Receiving Tax Credits

Year	Conservation Tax Credit Projects (Easements Only)	Easement Acreage
1985	1	13
1988	2	57
1990	6	7,617
1991	1	146
1992	4	347
1993	5	644
1994	3	167
1995	6	1,268
1996	7	629
1997	14	1,098
1998	11	660
1999	32	5,235
2000	45	9,253
2001	57	10,462
2002	53	6,401
2003	50	8,558
2004	49	8,406
2005	65	8,856
2006	78	11,431
2007	115	16,978
2008	69	8,971
2009	68	8,467
Total, easements only	741	115,663
Total, all donations	1,288	213,024

Source: North Carolina Department of Environment and Natural Resources (2010). Unpublished data.

Table 11
South Carolina Qualified Conservation Credits Claimed, Personal Income Tax

Year	Number of Easements	Value of Credits Claimed	Average Credits per Easement
2002	81	\$1,384,241	\$17,089
2003	78	\$1,666,677	\$21,368
2004	73	\$3,089,890	\$42,327
2005	99	\$1,996,166	\$20,163
2006	120	\$3,111,071	\$25,926
2007	222	\$6,913,672	\$31,143

Source: South Carolina Department of Revenue Annual Reports (various years).

Table 12
South Carolina Qualified Conservation Credits Claimed, Corporate Income Tax

Fiscal Year	Number of Easements	Value of Credits Claimed
2004-05	1	\$41,338
2005-06	0	\$0
2006-07	1	\$2,557
2007-08	1	\$469

Source: South Carolina Department of Revenue Annual Reports (various years).

Table 13
Virginia Land Conservation Tax Credits Issued

Tax Year	Number of Donations	Number of Acres	Appraised Value	Tax Credit Issued
2000	126	17441	\$51,941,891	\$25,970,946
2001	94	13534	\$53,531,727	\$26,765,864
2002	214	34791	\$124,520,613	\$62,260,307
2003	139	28059	\$150,717,414	\$75,358,707
2004	237	49379	\$283,011,440	\$141,505,720
2005	277	55914	\$310,875,751	\$155,437,875
2006	455	93605	\$493,992,166	\$246,996,083
2007	254	59423	\$249,862,906	\$99,945,164
2008	224	60199	\$255,717,705	\$102,287,084

Source: Virginia Department of Taxation data, published in Hocker and Maroon, 2010, p. 140.

Table 14
Conservation Easements Recorded by Year in Virginia

Recorded Year	Easements	Acreage
1968-1969	8	444.35
1970-1974	14	2,287.73
1975-1979	112	17,860.98
1980-1984	38	9,567.71
1985-1989	137	27,505.96
1990	64	13,058.23
1991	53	8,187.85
1992	27	2,960.84
1993	33	4,888.74
1994	43	5,394.11
1995	43	5,824.94
1996	35	5,711.37
1997	46	7,675.97
1998	75	13,526.60
1999	60	11,387.47
2000 ^a	189	28,327.64
2001	164	23,098.60
2002 ^b	216	36,511.80
2003	136	23,029.00
2004	217	41,154.65
2005	256	40,734.47
2006	357	71,181.76
2007	263	60,694.64
2008	228	64,957.18
2009	196	55,275.42
2010	130	26,257.85

^a First year in which credits are awarded.

^b Credits become transferable.

Source: Virginia Outdoors Foundation