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H.241

Introduced by Representatives Smith of New Haven, Norris of Shoreham, and  
Strong of Albany

Referred to Committee on

Date:

Subject: Taxation; ecosystems services; tax credit

Statement of purpose of bill as introduced: This bill proposes to establish an  
ecosystems services tax credit for activities on working agricultural land and  
managed forestlands that sequester carbon or improve water quality.

An act relating to establishing an ecosystems services tax credit

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The General assembly finds that:

(1) Vermont farmers implement agronomic and conservation practices  
that result in ecosystem services, such as carbon sequestration and water  
quality improvement.

(2) The agronomic and conservation practices implemented by Vermont  
farmers improve soil health, strengthen and improve soil carbon cycling and  
storage, and reduce runoff of agricultural waste to surface waters.

1           (3) Nationally, agricultural cropland provides annual net carbon removal  
2           of 16.6 million metric tons of carbon dioxide equivalent.

3           (4) Vermont has not yet quantified the net carbon benefit of its  
4           agricultural cropland usage, but Vermont farmers can further influence soil  
5           carbon levels by implementing additional agronomic and conservation  
6           practices that result in net carbon removal of carbon dioxide equivalents.

7           (5) Agricultural cropland and agronomic and conservation practices,  
8           such as increased cover cropping, reduce agricultural runoff, increase water  
9           retained in soil by acre, and retain and conserve floodplains and wetlands and  
10          their vital functions.

11          (6) However, since 1987, Vermont has lost 32 percent or 228,290 acres  
12          of its agricultural cropland, with 3,600 acres of that cropland converted to  
13          developed use between 2001 and 2016 and an additional 17,800 acres  
14          threatened by further development.

15          (7) Vermont should provide financial incentives to farmers to initiate or  
16          continue to implement agronomic and conservation practices in order to help  
17          keep land in agricultural use and to promote enhanced environmental  
18          stewardship practices that can provide carbon sequestration, water quality  
19          benefits, flood resilience, and climate change mitigation and resilience.

20          Sec. 2. 32 V.S.A. § 5830f is added to read:

21          § 5830f. ECOSYSTEMS SERVICES TAX CREDIT

1           (a) Definitions. As used in this section:

2                   (1) “Acceptable management practices” means the water quality  
3           practices for logging jobs adopted by the Commissioner of Forests, Parks and  
4           Recreation under 10 V.S.A. § 2622.

5                   (2) “Best management practices” means site-specific on-farm  
6           conservation practices implemented under 6 V.S.A. chapter 215 in order to  
7           address the potential for agricultural pollutants to enter the waters of the State.

8                   (3) “Carbon” or “carbon stock” means the carbon equivalent of carbon  
9           oxide, nitrous oxide, or methane.

10                  (4) “Carbon equivalent” means, with respect to any gas described in  
11           subdivision (3) of this section, the quantity of the gas as determined pursuant  
12           to 40 C.F.R. Part 98, subpart A, table A–1 in effect on January 1, 2021.

13                  (5) “Commissioner” means the Commissioner of Taxes.

14                  (6) “Eligible costs” mean the costs of:

15                    (A) design, engineering, and associated planning;

16                    (B) contracting, document preparation, and preparation of  
17           applications;

18                    (C) construction, including equipment, materials, or other necessary  
19           components;

20                    (D) postconstruction maintenance and inspection; or

1           (E) labor allocable to any of the activities set forth in subdivisions  
2           (A)–(D) of this subdivision (6).

3           (7) “Farm” means a parcel or parcels of land that is owned, leased, or  
4           managed by a person and devoted primarily to farming and that is subject to  
5           regulation under the Required Agricultural Practices.

6           (8) “Farming” has the same meaning as in 10 V.S.A. § 6001(22).

7           (9) “Production area” means those areas of a farm where animals,  
8           agricultural inputs, or raw agricultural products are confined, housed, stored, or  
9           prepared whether within or without structures, including barnyards, raw  
10           materials storage areas, heavy use areas, fertilizer and pesticide storage areas,  
11           and waste storage and containment areas.

12           (10) “Qualified carbon sequestration” means the amount, not less than  
13           zero, equal to:

14           (A) the total quantity of carbon stock expressed in tons of carbon  
15           equivalent within working lands owned by a qualified entity during the  
16           previous three taxable years; minus

17           (B) the total amount of carbon stock expressed in tons of carbon  
18           equivalent within working lands owned by a qualified entity during the  
19           immediately preceding taxable year.

1           (11) “Qualified entity” means a person generating \$50,000.00 in annual  
2 gross income from working lands during one or more of the previous three  
3 taxable years.

4           (12) “Qualified expenditures” means eligible costs expended by a  
5 qualified entity to:

6           (A) assess baseline carbon levels, determine the opportunity for  
7 further sequestration of carbon, or quantify carbon sequestered;

8           (B) implement qualified carbon sequestration;

9           (C) implement a nutrient management plan required under 6 V.S.A.  
10 chapter 215;

11           (D) implement best management practices to prevent and abate  
12 discharges in a production area of a farm;

13           (E) implement best management practices to restrict livestock access  
14 to waters of the State;

15           (F) implement cover cropping;

16           (G) implement acceptable management practices on logging jobs; or

17           (H) establish a riparian forest buffer with a minimum width of  
18 50 feet.

19           (13) “Riparian forest buffer” means an area of trees, shrubs, or other  
20 vegetation that is adjacent to and upgrade from a water of the State and that  
21 meets standards established by the Agency of Agriculture, Food and Markets,

1 the Agency of Natural Resources, or the Natural Resources Conservation  
2 Service.

3 (14) “Working lands” means agricultural land or managed forestland as  
4 those terms are defined in section 3752 of this title.

5 (b) Tax credit.

6 (1) A taxpayer of this State shall be eligible for the ecosystems services  
7 credit against the tax imposed under section 5822 or 5832 of this title in an  
8 amount equal to:

9 (A) \$20.00 per metric ton of carbon or carbon equivalent captured by  
10 qualified carbon sequestration that was implemented on or after January 1,  
11 2021; and

12 (B) 30 percent of any qualified expenditures made by the taxpayer  
13 during the taxable year.

14 (2) Any unused ecosystems services tax credit claimed under this  
15 section may be carried forward for not more than five years following the first  
16 year in which the credit is claimed.

17 (c) Verification of sequestration and qualified expenditures.

18 (1) The Commissioner, in consultation with the Secretary of  
19 Agriculture, Food and Markets and the Commissioner of Forests, Parks, and  
20 Recreation, shall develop a process for verifying:

1           (A) tons of carbon or carbon equivalent claimed as sequestered under  
2           subsection (b) of this section; and

3           (B) qualified expenditures claimed under subsection (b) of this  
4           section.

5           (2) For purposes of ensuring proper sequestration of carbon, a qualified  
6           entity may employ any practice that has been determined to have a reasonable  
7           probability of success, including:

8           (A) a qualified conservation practice for soil carbon issued by the  
9           Natural Resources Conservation Service relating to the sequestration of  
10          carbon;

11          (B) a practice approved by the Secretary of Agriculture, Food and  
12          Markets or the University of Vermont Extension; or

13          (C) for purposes of any managed forestland, any method that is  
14          approved by the Commissioner of Forests, Parks and Recreation that provides  
15          measurable increases in carbon sequestration above business-as-usual  
16          practices while promoting forest health.

17          (d) Timing; location; exclusion.

18           (1) A qualified expenditure claimed under subdivision (b)(2) of this  
19           section shall be deemed to have been placed in service or implemented.

1           (2) The credit under this section shall apply only with respect to carbon  
2           sequestered within the State of Vermont or qualified expenditures within the  
3           State of Vermont.

4           (3) The credit under this section shall not be applied to those eligible  
5           costs of a qualified expenditure that were paid for with State, federal, or other  
6           public monies.

7           (e) Review. On or before January 15, 2026, the Commissioner, in  
8           consultation with the Secretary of Agriculture, Food and Markets and the  
9           Commissioner of Forests, Parks, and Recreation, shall review implementation  
10           of the ecosystems services tax credit under this section and shall recommend to  
11           the House Committee on Ways and Means and the Senate Committee on  
12           Finance any necessary changes to improve implementation of the tax credit.

13           (f) Guidance. On or before July 1, 2021, the Commissioner shall issue  
14           guidance as may be necessary or appropriate for qualified entities to claim the  
15           tax credit under this section.

16           Sec. 3. EFFECTIVE DATES

17           This act shall take effect on passage, except notwithstanding 1 V.S.A.  
18           § 214, Sec. 2 (ecosystems services tax credit) shall take effect retroactively on  
19           January 1, 2021 and apply to taxable years beginning on and after January 1,  
20           2021.