

Senate Plan Again Breaks Trust with Iowans on Water, Recreation

Plan Changes Voter-Approved Trust Fund, Puts Taxpayers on Hook for Pollution Cleanup

By David Osterberg, Peter Fisher and Sean Finn

It has been 12 years since Iowa voters approved a constitutional amendment to create a trust fund to guarantee more funding for outdoor recreation and water quality. A new attempt to create that fund — SSB 3157, under consideration in the Senate — fails to live up to the promise of that 2010 referendum.

Voters knew what they were approving with the Natural Resources and Outdoor Recreation Trust Fund because they had a law to consult. That law — section [461.31.2\(c\)](#) of Iowa Code — specified key points about how the funding would be apportioned among various purposes. The Iowa constitutional amendment prescribed directing the first three-eighths cent of the next sales-tax increase to the fund. The law specified that this would be “new” money. As Code Section 461.31.2(c) states:

“Trust fund moneys shall supplement and not replace moneys appropriated by the general assembly to support the constitutional purposes provided in section 461.3.”

Breaking Trust: Shifting funds from programs Iowa voters demanded

This attempt to fill the trust fund is based on one by the Governor in 2020. Over half of Trust Fund dollars would merely replace existing sources of program funding instead of increasing funding as voters expected — and the law required. For example, some of the funds would support existing administration for the Iowa Department of Natural Resources and Agriculture and Land Stewardship. Since the Legislature can change Chapter 461 at will, this is legal, but it betrays clear voter intent. Furthermore, there is no guarantee for even the new funding in the bill. The Legislature could divert that Trust Fund money to any program they designate as a natural resource program.

The latest Revenue Estimating Conference in March 2022 already estimated the latest largest tax cut in state history will cause lower funding in FY 2024 than the previous year. The problem grows each year after — a \$1.9 billion reduction by FY 2028. This will put pressure on the state budget, so changes in the law governing the Trust Fund could burden it not just with DNR administration, but with anything already used for the environment or things remotely related. Because legislators can change the formula, there are no guarantees. And there is no check, other than court challenges.

Breaking Trust: Revisions of the formula

Lawmakers violate voters’ trust when they propose after-the-fact revisions to the Trust Fund formula. Voters had every reason to expect this formula would be followed when the Legislature ultimately approved funding.

Funding for trails stands out as an example of the betrayal of voters' intent for the constitutional amendment and the legislation passed to inform voters of the Trust Fund purposes. The originally agreed-to three-eighths-cent of sales tax and formula would have put about \$20 million into trails during the full years of funding. With the changes, there is only \$8 million in that category. Moreover, the trails funding now also includes water trails, not just bicycle and walking trails as intended in the original law, and on which advocates campaigned in 2010.

As shown by the third table above, Iowa Resource Enhancement and Protection, REAP, will receive about \$20 million from the Trust Fund, which is an increase from current funding of about \$12 million. But that is about \$6 million less than the original Trust Fund law envisioned (top table).

Breaking Trust: Administration of the Trust Fund

Text from the explanation section of the bill shows the Legislature is uninterested in expanding opportunities for outdoor recreation beyond what is good for economic development. In addition, the bill discourages finding new land for recreation.

The bill requires the economic development authority to be involved in decisions that use trust fund moneys to support initiatives with a recreational purpose. In making decisions to expend trust fund moneys, a higher priority is given to supporting an initiative that furthers a goal of the Iowa nutrient reduction strategy. **A higher priority is provided to maintaining or preserving existing public use lands rather than acquiring new land.** [emphasis added]¹

Breaking Trust: Assertively limiting outdoor recreational opportunities

The bias against new land for recreation extends to a provision eliminating a tax credit for charitable contributions of land. Currently, landowners can protect the natural attributes of their land in perpetuity by agreeing to restrictions on how the land can be used. Often, landowners can earn a tax credit for giving up some uses for the land under such an agreement. A popular tax credit in Iowa is the Charitable Conservation Contribution Tax Credit or the CCC. As explained in an Iowa Department of Revenue report from 2020, the tax credit has contributed to the protection of thousands of acres:²

The Iowa Charitable Conservation Contribution (CCC) Tax Credit, introduced in 2008, is equal to 50 percent of the fair market value of qualifying contributed property. Charitable conservation contributions are voluntary restrictions on the use of land negotiated by a landowner and a private charitable conservation organization or government agency chosen by the landowner to hold the contribution. The voluntary restrictions on the use of land applies to all forms of charitable contributions, whether they are bargain sales, donations, or easements.

The Department of Revenue study found the program contributed to protection of 15,000 acres.³ For comparison, the total area of all Iowa state forests is less than 45,000 acres. The CCC is associated with significant land preservation in Iowa, which has one of the smallest percentages of public areas in the nation. So, while reducing environmental protection and outdoor recreation enhancement from the intended purpose of the trust fund in the larger scope of the bill, this provision also eliminates an income tax credit that could enhance outdoor recreation and contribute to cleaner water.

Making lower-income Iowans pay a greater share to fight pollution and promote recreation

As noted above, the Legislature passed and the Governor signed income-tax cuts that by FY 2028 will cost nearly \$2 billion, a large slice of a budget that is now just over \$8 billion. The cuts will put new pressure on all General Fund services, from education to human services to environmental protection. A sales tax increase means a disproportionate reliance on low-income families, because they pay a greater share of their income in sales tax than higher income families. Voters did approve the sales-tax idea, but lawmakers could have made income-tax changes to offset harm by using a portion of the full increase to boost the Earned Income Tax Credit and the low-income renters' and homeowners' property tax credit.⁴ Nothing of the sort was included; in fact, the income-tax bill directs 76% of the breaks to the top 20% of households by income. SSB 3157 would compound this severe inequity by passing a sales-tax increase with no offsetting provision. Not only is outdoor recreation funded inadequately, but those responsible for Iowa's poor water quality will not pay for pollution control and cleanup.

Summary: Citizens are not getting the Trust Fund they approved in the 2010 referendum

In a cruel irony, voters who supported the trust fund and agreed to a sales tax to fund it will find that farm operations that drive Iowa's water pollution problems will be the big winners. Those operations will not pay the increased sales tax. From fertilizer and soil amendments to combines and tractors and fence posts, farm operations are exempt from the sales taxes. Forces that blocked implementing the original trust fund plan are now supporting it, since it relieves polluters of any responsibility to clean up their own mess. Some environmental advocates for the trust fund, having waited for over a decade for action on an issue they successfully moved with Iowa voters, are accepting the weaker — and arguably damaging — version over further inaction.

Further, while some may have assumed the three-eighths-cent increase would apply to the full sales and use tax increase ultimately approved, this bill includes the use-tax increase but does not direct that share to the Trust Fund. The constitutional amendment only referred to the sales tax, and legislators proposing SSB 3157 have chosen to raise the use tax as well, but not for the voter-approved purposes.⁵

The word "trust" is at the core of what voters demanded in 2010: a Trust Fund to meet identified needs. The concept of "trust," however, is nowhere to be found in what legislators are offering in 2022.

¹ Senate Study Bill 3157. Page 51. <https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=SSB+3157>

² Iowa Department of Revenue. Iowa's Charitable Conservation Contribution Tax Credit: Tax Credit Program Evaluation Study. December 2020. Executive summary, p. 5. <https://tax.iowa.gov/sites/default/files/2021-01/CCC%20Tax%20Credit%20Evaluation%20Study%202020.pdf>

³ Op.cit. Page 26.

⁴ David Osterberg, Peter Fisher and Natalie Veldhouse, "Choosing the Right Stream: How Iowa Can Keep Clean Water Priorities and Funding Equity Together," Iowa Policy Project, July 2019. <http://www.iowapolicyproject.org/2019Research/190702-WQfunding-Equity.html>

⁵ It is worth noting that most references to the sales tax in political discussion in Iowa mean the sales and use tax — the use tax mainly being revenue from automobile sales. The bill, in fact, would raise both the sales tax and use tax — as has been the case with previous sales-tax increases — but it only directs sales-tax revenue to the trust fund. The constitutional amendment, however, only referred to the sales tax, so the Legislative Services Agency estimates of revenue for the Trust Fund leaves out use tax revenue.

David Osterberg is chief environmental researcher, Peter Fisher is research director, and Sean Finn is a policy analyst for Common Good Iowa, the nonpartisan, nonprofit policy research and advocacy organization formed by the 2020 merger of the Child and Family Policy Center and the Iowa Policy Project. Learn more at www.commongoodiowa.org.