

FEDERAL FARM BILL RENEWS TAX INCENTIVE FOR DONATED CONSERVATION EASEMENTS

by Steven Whitley, Esq.

The recently enacted Farm Bill, known as the Food, Conservation, and Energy Act of 2008, includes a two (2) year extension of a provision that provides a significant tax incentive for qualified donations of conservation easements. The provision, first enacted in 2006 which then expired January 1, 2008, has been instrumental in increasing the pace of land conservation across the country and state. Numerous conservation groups across the country reported an annual doubling of land protection projects, demonstrating to Congress not only the power of such an incentive to spur meaningful land conservation, but also the importance of renewing the provision. Passage of the Farm Bill however, including the renewal of the incentive provision, proved to be a formidable task, as Congress debated the measure for months and had to override a Presidential veto to enact it into law. The renewed incentive provision is retroactive to include all qualified conservation easement donations since January 1, 2008 and will be in effect through December 31, 2009.

The incentive provision applies to an easement donor's *federal* income tax and raises the maximum annual deduction from 30 percent of his/her adjusted gross income (AGI) to 50 percent of AGI. In addition, the provision increased from 5 to 15 years after the year of the donation, the number of years over which a landowner can carryover deductions of unused donation value. Farmer and ranchers can especially benefit from this provision, as it allows them to deduct 100 percent of their AGI if the majority of their income comes from farming, ranching, or forestry.

The Farm Bill also included renewed and expanded funding for dozens of forest and farmland conservation programs, including the Farm and Ranchland Protection Program, which received a total of \$733 million over five years, the Wetlands Reserve Program, and the Grassland Reserve Program.

For more information, see United States Congress, House Bill 2419, 2008, as well as a report from the New Hampshire Farm Bureau on additional provisions in the bill which may impact local New Hampshire farms, available at:

www.nhfarmbureau.org/Communicator/July%20August/Congress%20Passes%20Farm%20Bill.pdf.