

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0505.01 Jed Franklin x5484

SENATE BILL 24-126

SENATE SPONSORSHIP

Will and Winter F., Pelton R., Roberts

HOUSE SPONSORSHIP

Lukens and Lynch, Armagost, Hartsook, Martinez, Velasco

Senate Committees

Agriculture & Natural Resources
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONSERVATION EASEMENT INCOME TAX CREDIT,**
102 **AND, IN CONNECTION THEREWITH, EXTENDING THE**
103 **CONSERVATION EASEMENT OVERSIGHT COMMISSION AND THE**
104 **CERTIFIED HOLDER PROGRAM INDEFINITELY, INCREASING THE**
105 **LIMIT ON CONSERVATION EASEMENT INCOME TAX CREDITS**
106 **AVAILABLE TO DONORS IN ONE CALENDAR YEAR, AND ALLOWING**
107 **MULTIPLE TRANSFERS OF CONSERVATION EASEMENT INCOME**
108 **TAX CREDITS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

<http://leg.colorado.gov>.)

Under current law, the conservation easement oversight commission (commission) and the certified holder program (program) are repealed on July 1, 2026. The bill eliminates the repeal dates to extend the commission and program indefinitely.

There is currently a cap of \$45 million for the total value of conservation easement income tax credits (credits) that may be claimed by and credited to donors of a conservation easement in one calendar year. Credits filed after the cap is reached are placed on a wait list for the next calendar year. The bill increases the cap to \$75 million beginning in calendar year 2025.

Current law provides that partnerships, S corporations, or other similar entities (pass-through entities) may not be transferees of a credit. The bill allows pass-through entities to be transferees of a credit beginning on January 1, 2025. The bill also allows insurance companies to purchase credits to offset insurance premium taxes.

Currently, a credit may be transferred once, in whole or in part, from a donor to a transferee. The bill allows a transferee to transfer a credit to a subsequent transferee beginning with the income tax year starting on January 1, 2025.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration. (1) The general assembly**
3 **hereby finds and declares that:**

4 **(a) Over the last sixty years, Colorado families have conserved**
5 **over three million three hundred thousand acres of working farms,**
6 **ranches, and private lands across the state;**

7 **(b) Since 2000, Colorado has proactively invested in conservation**
8 **through the conservation easement tax credit program;**

9 **(c) The conservation easement tax credit program incentivizes**
10 **private landowners to voluntarily protect their properties, which creates**
11 **public benefits to Colorado's lands, waters, wildlife, and people.**

12 **(d) The benefits of conservation are unique and wide-ranging.**
13 **Conservation has contributed significantly to the protection of wildlife**

1 habitat, critical wetlands, urban open space, and working farms and
2 ranches.

3 (e) The conservation easement tax credit program has aided
4 Colorado in reducing its carbon emissions and accomplishing its
5 biodiversity goals, while supporting rural economic resiliency, benefiting
6 all Coloradans;

7 (f) In pursuit of greater equity in conservation, it is crucial to
8 enhance programs that promote public benefits for all Coloradans; and

9 (g) Equity in conservation requires ongoing collaboration with
10 private landowners, state and federal public land managers, and counties
11 and municipalities. Underscoring and investing in the inclusion of
12 underserved communities, tribes, and historically marginalized land
13 interests will further amplify these efforts.

14 (2) Therefore, it is in the best interests of Coloradans to enhance
15 the conservation easement tax credit program.

16 **SECTION 2.** In Colorado Revised Statutes, 12-15-103, **amend**
17 (1) introductory portion, (1)(a), (1)(d) introductory portion, and (1)(d)(I);
18 **repeal** (8); and add (1)(d)(III) as follows:

19 **12-15-103. Conservation easement oversight commission -**
20 **created.** (1) There is created in the division a conservation easement
21 oversight commission, referred to in this article 15 as the "commission".
22 The commission is a **type 2** entity, as defined in section 24-1-105, and
23 exercises its powers and performs its duties and functions under the
24 division. The commission consists of ~~eight~~ NINE members as follows:

25 (a) ~~One member representing the great outdoors Colorado~~
26 ~~program, appointed by and serving as an advisory, nonvoting member at~~
27 ~~the pleasure of the state board of the great outdoors Colorado trust fund~~

1 established in article XXVII of the state constitution; ONE VOTING
2 MEMBER REPRESENTING THE GREAT OUTDOORS COLORADO TRUST FUND,
3 APPOINTED BY AND SERVING AT THE PLEASURE OF THE EXECUTIVE
4 DIRECTOR OF THE STATE BOARD OF THE GREAT OUTDOORS COLORADO
5 TRUST FUND;

6 (d) Three FOUR voting members appointed by the governor as
7 follows:

8 (I) Two voting representatives of certified conservation easement
9 holders; and

10 (II) A voting individual who is competent and qualified to analyze
11 the conservation purpose of conservation easements; and

12 (III) A VOTING INDIVIDUAL WHO MEETS THE DEFINITION OF
13 "SOCIALLY DISADVANTAGED FARMER OR RANCHER" IN 7 U.S.C. SEC. 2279.

14 (8) This section is repealed, effective July 1, 2026 JULY 1, 2033.

15 **SECTION 3.** In Colorado Revised Statutes, 12-15-104, **repeal**
16 (13) as follows:

17 **12-15-104. Certification of conservation easement holders -**
18 **rules - definition.** (13) ~~This section is repealed, effective July 1, 2026.~~

19 **SECTION 4.** In Colorado Revised Statutes, 38-30.5-103, **add** (7)
20 as follows:

21 **38-30.5-103. Nature of conservation easements in gross.** (7) A
22 CONSERVATION EASEMENT IN GROSS IS A REAL PROPERTY INTEREST AS
23 DEFINED IN SECTION 38-30.5-102 THAT IS TO BE CREATED, ADMINISTERED,
24 STEWARDED, ENFORCED, MODIFIED, AND TERMINATED PURSUANT TO THIS
25 ARTICLE 30.5 AND, AS APPLICABLE, SECTION 39-22-522.

26 **SECTION 5.** In Colorado Revised Statutes, 39-22-522, **amend**
27 (2)(a), (2)(b), (2.5), (4)(a)(II.7), and (7.5)(a); and add ___ (12) as follows:

1 **39-22-522. Credit against tax - conservation easements -**
2 **definitions.**

3
4 (2) (a) For income tax years commencing on or after January 1,
5 2000, but prior to January 1, 2014, and, with regard to any credit over the
6 amount of one hundred thousand dollars, for income tax years
7 commencing on or after January 1, 2003, BUT BEFORE JANUARY 1, 2033,
8 subject to the provisions of subsections (4) and (6) of this section, there
9 shall be allowed a credit with respect to the income taxes imposed by this
10 article to each taxpayer who donates during the taxable year all or part of
11 the value of a perpetual conservation easement in gross created pursuant
12 to article 30.5 of title 38, C.R.S. upon real property the taxpayer owns to
13 a governmental entity or a charitable organization described in section
14 38-30.5-104 (2), C.R.S. The credit shall only be allowed for a donation
15 that is eligible to qualify as a qualified conservation contribution pursuant
16 to section 170 (h) of the internal revenue code, as amended, and any
17 federal regulations promulgated in connection with such section. The
18 amount of the credit shall not include the value of any portion of an
19 easement on real property located in another state.

20 (b) For income tax years commencing on or after January 1, 2014,
21 BUT BEFORE JANUARY 1, 2033, and, with regard to any credit over the
22 amount of one hundred thousand dollars, for income tax years
23 commencing on or after January 1, 2003, BUT BEFORE JANUARY 1, 2033,
24 subject to the provisions of subsections (4) and (6) of this section, there
25 shall be allowed a credit with respect to the income taxes imposed by this
26 article to each taxpayer who donates during the taxable year all or part of
27 the value of a perpetual conservation easement in gross created pursuant

1 to article 30.5 of title 38. C.R.S. upon real property the taxpayer owns to
2 a governmental entity or a charitable organization described in section
3 38-30.5-104 (2). C.R.S. The credit shall only be allowed for a donation
4 that meets the requirements of section 170 of the federal "Internal
5 Revenue Code of 1986", as amended, and any federal regulations
6 promulgated in accordance with such section. The amount of the credit
7 shall not include the value of any portion of an easement on real property
8 located in another state.

9 (2.5) Notwithstanding any other provision of this section and the
10 requirements of section 12-15-106, for income tax years commencing on
11 or after January 1, 2011, BUT BEFORE JANUARY 1, 2033, a taxpayer
12 conveying a conservation easement and claiming a credit pursuant to this
13 section shall, in addition to any other requirements of this section and the
14 requirements of section 12-15-106, submit a claim for the credit to the
15 division of conservation in the department of regulatory agencies. The
16 division shall issue a certificate for the claims received in the order
17 submitted. THE DIVISION OF CONSERVATION IN THE DEPARTMENT OF
18 REGULATORY AGENCIES MUST PRIORITIZE AND ISSUE TAX CREDIT
19 CERTIFICATES IN THE ORDER IN WHICH IT RECEIVES CLAIMS. THE DIVISION
20 OF CONSERVATION MUST STAMP EACH CLAIM WITH THE DATE AND TIME IT
21 RECEIVES THE CLAIM AND SHALL REVIEW A CLAIM ON THE BASIS OF THE
22 ORDER IN WHICH THE CLAIM WAS SUBMITTED BY DATE AND TIME.
23 DISAPPROVED CLAIMS LOSE THEIR PRIORITY IN THE REVIEW PROCESS. After
24 certificates have been issued for credits that exceed an aggregate of
25 twenty-two million dollars for all taxpayers for the 2011 and 2012
26 calendar years, thirty-four million dollars for the 2013 calendar year, and
27 forty-five million dollars for each OF THE 2014 TO 2024 calendar year

1 ~~thereafter~~ YEARS, AND SEVENTY-FIVE MILLION DOLLARS FOR EACH OF THE
2 2025 TO 2032 CALENDAR YEARS, any claims that exceed the amount
3 allowed for a specified calendar year shall be placed on a wait list in the
4 order submitted and a certificate shall be issued for use of the credit in the
5 next year for which the division has not issued credit ___ ___ certificates.
6 in excess of the amounts specified in this subsection (2.5); except that no
7 more than fifteen million dollars in claims shall be placed on the wait list
8 in any given calendar year The division shall not issue credit certificates
9 that exceed twenty-two million dollars in each of the 2011 and 2012
10 calendar years, thirty-four million dollars for the 2013 calendar year, and
11 forty-five million dollars for each OF THE 2014 TO 2024 calendar year
12 ~~thereafter~~ YEARS, AND SEVENTY-FIVE MILLION DOLLARS FOR EACH
13 CALENDAR YEAR THEREAFTER. No claim for a credit is allowed for any
14 income tax year commencing on or after January 1, 2011, unless a
15 certificate has been issued by the division. If all other requirements under
16 section 12-15-106 and this section are met, the right to claim the credit is
17 vested in the taxpayer at the time a credit certificate is issued.

18 (4) (a) (II.7) For a conservation easement in gross created in
19 accordance with article 30.5 of title 38 that is donated on or after January
20 1, 2021, to a governmental entity or a charitable organization described
21 in section 38-30.5-104 (2), the credit provided for in subsection (2) of this
22 section is an amount equal to ninety percent of the fair market value of
23 the donated portion of such conservation easement in gross when created;
24 except that in no case shall the credit exceed five million dollars per
25 donation. Credits shall be issued in increments of no more than one
26 million five hundred thousand dollars per year. Credits for easements
27 donated in a prior year are eligible for tax credit certificates in subsequent

1 years in order of application and before new applications. and those credit
2 applications, if any, on the wait list

3
4 (7.5) (a) For income tax years commencing on or after January 1,
5 2021, BUT BEFORE JANUARY 1, 2033, in lieu of a credit with respect to the
6 income taxes imposed by this article 22, there is allowed a transferable
7 expense amount to each qualified entity that donates during the taxable
8 year all or part of the value of a perpetual conservation easement in gross
9 created pursuant to article 30.5 of title 38 upon real property the qualified
10 entity owns to a governmental entity or a charitable organization
11 described in section 38-30.5-104 (2). A transferable expense amount shall
12 be treated in all manners as a tax credit for purposes of this section,
13 including provisions governing the amount, valuation, and transfer of a
14 tax credit; except that the transferable expense amount may only be
15 transferred to a transferee to be claimed by the transferee as a credit
16 pursuant to this section. A qualified entity may transfer a transferable
17 expense amount to be claimed as a credit by a transferee pursuant to this
18 section regardless of whether the qualified entity receives value in
19 exchange for the transfer.

20 (12) ANY TRANSFEREE WHO IS SUBJECT TO THE TAX ON INSURANCE
21 PREMIUMS ESTABLISHED BY SECTIONS 10-3-209, 10-5-111, AND 10-6-128,
22 AND WHO IS THEREFORE EXEMPT FROM THE PAYMENT OF INCOME TAX AND
23 WHO IS OTHERWISE ELIGIBLE TO CLAIM A TAX CREDIT PURSUANT TO THIS
24 SECTION MAY CLAIM THE TAX CREDIT AND CARRY THE TAX CREDIT
25 FORWARD AGAINST THE INSURANCE PREMIUM TAX ON ITS CALENDAR
26 QUARTER ESTIMATED TAX PAYMENTS MADE IN ACCORDANCE WITH
27 SECTION 10-3-209 TO THE SAME EXTENT AS THE TRANSFEREE WOULD

1 HAVE BEEN ABLE TO CLAIM OR CARRY FORWARD THE TAX CREDIT AGAINST
2 INCOME TAX. ALL OTHER PROVISIONS OF THIS SECTION WITH RESPECT TO
3 THE TAX CREDIT, INCLUDING THE AMOUNT AND ALLOCATION OF THE TAX
4 CREDIT AND THE YEARS FOR WHICH THE TAX CREDIT MAY BE CLAIMED
5 SHALL APPLY TO A TAX CREDIT CLAIMED PURSUANT TO THIS SECTION.

6 (13) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2053.

7 **SECTION 6. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly; except
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V
11 of the state constitution against this act or an item, section, or part of this
12 act within such period, then the act, item, section, or part will not take
13 effect unless approved by the people at the general election to be held in
14 November 2024 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.