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HOUSE BILL 26-1230

BY REPRESENTATIVE(S) Martinez and Velasco, Bacon, Caldwell, Camacho, Duran, Garcia, Gonzalez R., Hartsook, Lukens, Mabrey, Mauro, McCormick, Nguyen, Richardson, Soper, Stewart K., Stewart R., Taggart, Titone, Woodrow, Zokaie, Barron, Boesenecker, Brown, Carter, Clifford, English, Flanell, Froelich, Hamrick, Johnson, Joseph, Lieder, Lindsay, Phillips, Ricks, Rydin, Sirota, Slaugh, Smith, Story, Weinberg, Woog, McCluskie;

also SENATOR(S) Roberts and Kirkmeyer, Amabile, Baisley, Bridges, Bright, Carson, Catlin, Frizell, Kolker, Lindstedt, Liston, Marchman, Mullica, Pelton R., Rich, Simpson, Snyder, Wallace, Zamora Wilson, Cutter, Daugherty, Exum, Jodeh, Kipp, Pelton B.

CONCERNING THE EXTENSION OF THE CONSERVATION EASEMENT TAX CREDIT THROUGH INCOME TAX YEAR 2036.

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

**SECTION 1.** In Colorado Revised Statutes, 39-22-522, **amend** (2), (2.5), and (15); and **add** (14.3) and (14.5) as follows:

**39-22-522. Credit against tax - conservation easements - definitions - tax preference performance statement - repeal.**

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(2) (a) For income tax years commencing on or after January 1, 2000, but prior to January 1, 2014, and, with regard to any credit over the amount of one hundred thousand dollars, for income tax years commencing on or after January 1, 2003, but before ~~January 1, 2032~~ JANUARY 1, 2037, subject to the provisions of subsections (4) and (6) of this section, there shall be allowed a credit with respect to the income taxes imposed by this article to each taxpayer who donates during the taxable year all or part of the value of a perpetual conservation easement in gross created pursuant to article 30.5 of title 38 upon real property the taxpayer owns to a governmental entity or a charitable organization described in section 38-30.5-104 (2). The credit shall only be allowed for a donation that is eligible to qualify as a qualified conservation contribution pursuant to section 170 (h) of the internal revenue code, as amended, and any federal regulations promulgated in connection with such section. The amount of the credit shall not include the value of any portion of an easement on real property located in another state.

(b) For income tax years commencing on or after January 1, 2014, but before ~~January 1, 2032~~ JANUARY 1, 2037, and, with regard to any credit over the amount of one hundred thousand dollars, for income tax years commencing on or after January 1, 2003, but before ~~January 1, 2032~~ JANUARY 1, 2037, subject to the provisions of subsections (4) and (6) of this section, there shall be allowed a credit with respect to the income taxes imposed by this article to each taxpayer who donates during the taxable year all or part of the value of a perpetual conservation easement in gross created pursuant to article 30.5 of title 38 upon real property the taxpayer owns to a governmental entity or a charitable organization described in section 38-30.5-104 (2). The credit shall only be allowed for a donation that meets the requirements of section 170 of the federal "Internal Revenue Code of 1986", as amended, and any federal regulations promulgated in accordance with such section. The amount of the credit shall not include the value of any portion of an easement on real property located in another state.

(2.5) Notwithstanding any other provision of this section and the requirements of section 12-15-106, for income tax years commencing on or after January 1, 2011, a taxpayer conveying a conservation easement and claiming a credit pursuant to this section shall, in addition to any other requirements of this section and the requirements of section 12-15-106, submit a claim for the credit to the division of conservation in the

department of regulatory agencies. The division must prioritize tax credit applications in the order received. The division must assign each application with the date and time received based on the order in which a completed application was submitted pursuant to section 12-15-106 (5). Incomplete applications do not get priority in the review process. Disapproved applications lose their priority in the review process. After certificates have been issued for credits that exceed an aggregate of twenty-two million dollars for all taxpayers for the 2011 and 2012 calendar years, thirty-four million dollars for the 2013 calendar year, forty-five million dollars for each of the 2014 to 2024 calendar years, and fifty million dollars for each of the 2025 to ~~2031~~ **2036** calendar years, any claims that exceed the amount allowed for a specified calendar year shall be issued for use in the next year for which the division has not issued credit certificates in excess of the amounts specified in this subsection (2.5). The division shall not issue credit certificates that exceed twenty-two million dollars in each of the 2011 and 2012 calendar years, thirty-four million dollars for the 2013 calendar year, forty-five million dollars for each of the 2014 to 2024 calendar years, and fifty million dollars for each of the 2025 through ~~2031~~ **2036** calendar years. No claim for a credit is allowed for any income tax year commencing on or after January 1, 2011, unless a certificate has been issued by the division. If all other requirements under section 12-15-106 and this section are met, the right to claim the credit is vested in the taxpayer at the time the credit certificate is issued. In the case of a tax credit certificate issued to a taxpayer who files an income tax return for a tax year other than a calendar year, the credit must be used in the income tax year that begins during the calendar year for which the tax credit certificate is issued.

(14.3) THE DIVISION OF CONSERVATION SHALL NOT ISSUE ANY ADDITIONAL CREDIT CERTIFICATES OR AMEND ANY PREVIOUSLY ISSUED CREDIT CERTIFICATES AS A RESULT OF THE ADDITIONAL AUTHORITY GRANTED BY HOUSE BILL 26-1230 FOR A DONATION MADE PRIOR TO THE EFFECTIVE DATE OF HOUSE BILL 26-1230. THIS SUBSECTION (14.3) DOES NOT LIMIT THE AUTHORITY OF THE DIVISION OF CONSERVATION TO ISSUE A TAX CREDIT CERTIFICATE AGAINST THE LIMITS SET FORTH IN SUBSECTION (2.5) OF THIS SECTION FOR A CALENDAR YEAR PRIOR TO 2032 WITH RESPECT TO A DONATION MADE PRIOR TO THE EFFECTIVE DATE OF HB26-1230.

(14.5) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) OVER THE LAST SIXTY YEARS, COLORADO FAMILIES HAVE CONSERVED OVER THREE MILLION FIVE HUNDRED THOUSAND ACRES OF WORKING FARMS, RANCHES, AND PRIVATE LANDS ACROSS THE STATE;

(II) SINCE 2000, COLORADO HAS PROACTIVELY INVESTED IN CONSERVATION THROUGH THE CONSERVATION EASEMENT TAX CREDIT PROGRAM;

(III) THE CONSERVATION EASEMENT TAX CREDIT PROGRAM INCENTIVIZES PRIVATE LANDOWNERS TO VOLUNTARILY PROTECT THEIR PROPERTIES, WHICH CREATES PUBLIC BENEFITS TO COLORADO'S LANDS, WATERS, WILDLIFE, AND PEOPLE;

(IV) THE BENEFITS OF CONSERVATION ARE UNIQUE AND WIDE-RANGING. CONSERVATION HAS CONTRIBUTED SIGNIFICANTLY TO THE PROTECTION OF WILDLIFE HABITAT, CRITICAL WETLANDS, URBAN OPEN SPACE, AND WORKING FARMS AND RANCHES;

(V) THE CONSERVATION EASEMENT TAX CREDIT PROGRAM HAS AIDED COLORADO IN REDUCING ITS CARBON EMISSIONS AND ACCOMPLISHING ITS BIODIVERSITY GOALS, WHILE SUPPORTING RURAL ECONOMIC RESILIENCY, BENEFITING ALL COLORADANS;

(VI) IN PURSUIT OF GREATER EQUITY IN CONSERVATION, IT IS CRUCIAL TO ENHANCE PROGRAMS THAT PROMOTE PUBLIC BENEFITS FOR ALL COLORADANS;

(VII) EQUITY IN CONSERVATION REQUIRES ONGOING COLLABORATION WITH PRIVATE LANDOWNERS, STATE AND FEDERAL PUBLIC LAND MANAGERS, AND COUNTIES AND MUNICIPALITIES. UNDERSCORING AND INVESTING IN THE INCLUSION OF UNDERSERVED COMMUNITIES, TRIBES, AND HISTORICALLY MARGINALIZED LAND INTERESTS WILL FURTHER AMPLIFY THESE EFFORTS; AND

(VIII) IT IS IN THE BEST INTERESTS OF COLORADANS TO ENHANCE THE CONSERVATION EASEMENT TAX CREDIT PROGRAM.

(b) (I) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT EXTENDS AN EXPIRING TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT, THE GENERAL

ASSEMBLY FURTHER FINDS AND DECLARES THAT THE GENERAL PURPOSE OF THE EXTENSION OF THE EXPIRING TAX CREDIT PROVIDED FOR IN SUBSECTIONS (2) AND (2.5) OF THIS SECTION IS TO INDUCE CERTAIN BEHAVIOR BY TAXPAYERS. SPECIFICALLY, THIS EXTENSION OF AN EXPIRING TAX EXPENDITURE IS INTENDED TO INDUCE PRIVATE LANDOWNERS TO VOLUNTARILY PROTECT THEIR PROPERTIES THROUGH CONSERVATION EASEMENTS.

(II) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE TAX CREDITS IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (14.5)(b)(I) OF THIS SECTION BASED ON THE NUMBER AND VALUE OF THE CREDITS CLAIMED AND THE TOTAL AMOUNT OF PROPERTY PROTECTED BY CONSERVATION EASEMENTS.

(15) This section is repealed, effective ~~January 1, 2052~~ JANUARY 1, 2057.

**SECTION 2. Safety clause.** The general assembly finds, determines, and declares that this act is necessary for the immediate

preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

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Julie McCluskie  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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James Rashad Coleman, Sr.  
PRESIDENT OF  
THE SENATE

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Vanessa Reilly  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Esther van Mourik  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_  
(Date and Time)

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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO