

HOUSE FLOOR AMENDMENT

Second Reading

BY REPRESENTATIVE Winter T.

1 Amend reengrossed bill, page 13, after line 4 add:

2 "SECTION 8. In Colorado Revised Statutes, **add** 39-22-522.7 as
3 follows:

4 **39-22-522.7. Conservation easement tax credits - credit for**
5 **previously denied claims - rules - legislative declaration - intent -**
6 **definition.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
7 THAT:

8 (a) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE
9 RELIEF THAT WILL REPAIR THE HARM CAUSED BY THE DEPARTMENT OF
10 REVENUE'S DISALLOWANCE OF COLORADO CONSERVATION EASEMENT TAX
11 CREDITS TO LANDOWNERS WHO IN GOOD FAITH, SUBJECT TO SUBSECTION
12 (6) OF THIS SECTION, CONVEYED CONSERVATION EASEMENTS TO
13 QUALIFIED CONSERVATION EASEMENT HOLDERS BETWEEN JANUARY 1,
14 2000, AND DECEMBER 31, 2013;

15 (b) STATE REPRESENTATIVE KIMMI LEWIS FROM HOUSE DISTRICT
16 64, WHO PASSED AWAY IN DECEMBER 2019, WORKED TIRELESSLY DURING
17 HER CAREER AS A LEGISLATOR TO PROVIDE HELP TO LANDOWNERS WHO
18 HAD CONSERVATION EASEMENT CREDITS ARBITRARILY DISALLOWED.
19 LEWIS'S WORK WAS PRECEDED BY STATE REPRESENTATIVE WES
20 MCKINLEY'S EFFORTS AND WAS SINCE RESUMED BY NUMEROUS
21 LEGISLATORS, INCLUDING FAITH WINTER, DYLAN ROBERTS, JERRY
22 SONNENBERG, CLEAVE SIMPSON, KERRY DONOVAN, AND PERRY WILL IN
23 THE BIPARTISAN PURSUIT OF RELIEF FOR LAW-ABIDING TAXPAYERS ACROSS
24 THE STATE OF COLORADO, WHO WERE HARMED AND HAVE BEEN DENIED
25 TAX CREDITS FOR NEARLY TWENTY YEARS AFTER THEIR DONATIONS. IN
26 RECENT YEARS, THE ABOVE-NOTED LEGISLATORS LED EFFORTS AND
27 SPONSORED BILLS TO INCORPORATE THE RECOMMENDATIONS OF THE
28 LEGISLATIVELY APPOINTED MEMBERS OF THE HOUSE BILL 19-1264
29 WORKING GROUP; AND

30 (c) RESOLUTION OF THIS HARM BY ALLOWING A LANDOWNER TO
31 CLAIM A TAX CREDIT, OR PURSUE EXTINGUISHMENT, FOR A CONSERVATION
32 EASEMENT DONATION THAT WAS ACCEPTED BY THE FEDERAL INTERNAL
33 REVENUE SERVICE AND CONVEYED IN GOOD FAITH SUBJECT TO
34 SUBSECTION (5) OF THIS SECTION, BUT ULTIMATELY DENIED BY THE STATE,
35 WILL END THE NEARLY TWO-DECADES-LONG CONFLICT OVER COLORADO'S
36 CONSERVATION EASEMENT TAX CREDIT PROGRAM, RESTORE THE
37 INTEGRITY OF THE PROGRAM, AND ALLOW THE PROGRAM TO MOVE
38 FORWARD TO CONTINUE THE GOOD WORK OF CONSERVING COLORADO'S
39 INCREASINGLY LIMITED OPEN SPACE AND NATURAL RESOURCES.

40 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND

1 SUBJECT TO THE REQUIREMENTS AND LIMITATIONS SET FORTH IN
2 SUBSECTION (3) OF THIS SECTION, A LANDOWNER SHALL BE ALLOWED TO
3 CLAIM A TAX CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY
4 THIS ARTICLE 22 FOR EACH PERPETUAL CONSERVATION EASEMENT IN
5 GROSS DONATED IN GOOD FAITH BETWEEN JANUARY 1, 2000, AND
6 DECEMBER 31, 2013, FOR WHICH A TAX CREDIT WAS CLAIMED PURSUANT
7 TO SECTION 39-22-522 AND WAS DENIED IN WHOLE OR IN PART IF A
8 FEDERAL CONSERVATION EASEMENT TAX DEDUCTION WAS ACCEPTED BY
9 THE FEDERAL INTERNAL REVENUE SERVICE FOR THE SAME DONATION.

10 (3) (a) A DONATION OF A PERPETUAL CONSERVATION EASEMENT
11 IN GROSS IS ELIGIBLE FOR THE CREDIT ALLOWED BY SUBSECTION (2) OF
12 THIS SECTION ONLY IF:

13 (I) THE LAND SUBJECT TO THE PERPETUAL CONSERVATION
14 EASEMENT IN GROSS FOR WHICH THE INITIAL CREDITS WERE DISALLOWED
15 WAS OWNED BY THE LANDOWNER, A FAMILY MEMBER OF THE LANDOWNER,
16 OR A TRUST OR OTHER LEGAL ENTITY CONTROLLED BY THE LANDOWNER
17 OR ONE OR MORE MEMBERS OF THE FAMILY OF THE LANDOWNER FOR NOT
18 LESS THAN THREE CONSECUTIVE YEARS PRIOR TO THE DATE OF THE
19 DONATION OF THE PERPETUAL CONSERVATION EASEMENT IN GROSS; OR

20 (II) THE DONOR WAS INVOLVED IN AGRICULTURE AS EVIDENCED BY
21 THE FILING OF INTERNAL REVENUE SERVICE FORM SCHEDULE F DURING
22 THE SAME YEAR OF THE DONATION.

23 (b) THE AMOUNT OF THE CREDIT ALLOWED FOR EACH DONATION
24 SHALL BE EQUAL TO THE FULL AMOUNT OF THE CREDIT THAT COULD HAVE
25 BEEN CLAIMED FOR THE DONATION, BASED ON THE FAIR MARKET VALUE
26 DETERMINED PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION,
27 PURSUANT TO THE APPLICABLE LAW IN EFFECT AT THE TIME OF THE
28 DONATION.

29 (c) THE FAIR MARKET VALUE OF THE DONATION SHALL BE THE FAIR
30 MARKET VALUE OF THE CONSERVATION EASEMENT CONTRIBUTION
31 ACCEPTED BY THE INTERNAL REVENUE SERVICE AS REFLECTED ON THE
32 FEDERAL INCOME TAX FORM 8283 OR AMENDED BY A SUBSEQUENT
33 FEDERAL APPEAL PROCESS, FEDERAL COURT, OR UNITED STATES TAX
34 COURT RULING.

35 (d) THE AMOUNT OF ANY CREDIT ALLOWED PURSUANT TO THIS
36 SECTION SHALL BE DECREASED BY ANY AMOUNT OF CREDIT THAT WAS
37 OTHERWISE ALLOWED TO BE CLAIMED AGAINST THE TAXES IMPOSED BY
38 THIS ARTICLE 22 OR OTHERWISE REINSTATED, AND BY ANY AMOUNT THAT
39 WAS REIMBURSED OR OTHERWISE ALLOWED TO THE TRANSFEREE AS A
40 RESULT OF A SETTLEMENT, LITIGATION, OR OTHER MEANS THAT PROVIDED
41 COMPENSATION TO THE TRANSFEREE.

42 (4) BY AUGUST 1, 2024, THE DEPARTMENT OF REVENUE SHALL
43 MAKE READILY AVAILABLE ONLINE FOR ANY TAXPAYER WHO HAD A TAX
44 CREDIT DENIED IN WHOLE OR IN PART FOR A CONSERVATION EASEMENT
45 DONATED BETWEEN JANUARY 1, 2000, AND DECEMBER 31, 2013,

1 INFORMATION THAT THE TAXPAYER MAY BE ELIGIBLE TO APPLY FOR A
2 CREDIT PURSUANT TO THIS SECTION. THE INFORMATION MUST INCLUDE
3 THE APPLICATION FORM AND PROCESS CREATED BY THE DIVISION
4 PURSUANT TO SUBSECTION (5) OF THIS SECTION. THE ONLINE
5 INFORMATION MUST OUTLINE THE PROCESS FOR APPLYING FOR A CREDIT
6 AND THE CRITERIA USED TO DETERMINE THE AMOUNT OF THE CREDIT.

7 (5) A TAXPAYER MUST SUBMIT A CLAIM FOR A CREDIT TO THE
8 DIVISION OF CONSERVATION IN THE DEPARTMENT OF REGULATORY
9 AGENCIES NO LATER THAN AUGUST 1, 2025. THE CLAIM MUST BE
10 SUBMITTED USING A FORM AND PROCESS CREATED BY THE DIVISION AND
11 IN COORDINATION WITH THE WORKING GROUP CONVENED IN ACCORDANCE
12 WITH SECTION 12-15-106 (14.5). THE CLAIM MUST BE ACCOMPANIED BY
13 THE FOLLOWING:

14 (a) A COPY OF THE FEDERAL INCOME TAX FORM 8283 USED TO
15 SUBSTANTIATE A FEDERAL DEDUCTION FOR THE DONATED CONSERVATION
16 EASEMENT;

17 (b) IF THE ORIGINAL AMOUNT OF DEDUCTION CLAIMED ON THE
18 FEDERAL INCOME TAX FORM 8283 WAS ADJUSTED, DOCUMENTATION
19 CONFIRMING THE AMOUNT ULTIMATELY ALLOWED BY THE INTERNAL
20 REVENUE SERVICE, A FEDERAL COURT, OR THE UNITED STATES TAX COURT
21 AND CLAIMED BY MEANS OF AN ADJUSTED FEDERAL TAX RETURN
22 ACCEPTED BY THE INTERNAL REVENUE SERVICE; AND

23 (c) DOCUMENTATION CONFIRMING SETTLEMENT OF THE CREDIT
24 AMOUNT ALLOWED BY THE DEPARTMENT OF REVENUE.

25 (6) AS USED IN THIS SECTION, "GOOD FAITH" MEANS THAT A
26 PERSON OR ENTITY HONESTLY RELIED UPON A LICENSED PROFESSIONAL TO
27 ESTABLISH THE VALUE OF A CONSERVATION EASEMENT, DID NOT
28 KNOWINGLY MISREPRESENT THE VALUE OF THE CONSERVATION
29 EASEMENT, AND FOLLOWED THE APPLICABLE LAWS AND REGULATIONS SET
30 FORTH IN STATUTE, DEPARTMENT OF REVENUE RULES, AND THE FEDERAL
31 INTERNAL REVENUE CODE AND FEDERAL DEPARTMENT OF TREASURY
32 REGULATIONS IN EFFECT AT THE TIME OF THE CONVEYANCE OF THE
33 CONSERVATION EASEMENT.

34 (7) IF A PERSON ELIGIBLE TO RECEIVE A CREDIT PURSUANT TO THIS
35 SECTION IS NO LONGER LIVING, THE CREDIT MAY BE CLAIMED BY THE
36 APPROPRIATE ESTATE, HEIR, SUCCESSOR, OR ASSIGNEE.

37 (8) IF MORE THAN ONE PERSON OR ENTITY HAS A CLAIM TO A
38 CREDIT RELATED TO A PARTICULAR DONATION OF A CONSERVATION
39 EASEMENT, CLAIMANTS MAY WORK TOGETHER TO COORDINATE THE
40 APPROPRIATE DISTRIBUTION OF CREDITS.

41 (9) IF A TAXPAYER TRANSFERRED ALL OR A PORTION OF A TAX
42 CREDIT FOR A CONSERVATION EASEMENT DONATION THAT QUALIFIES FOR
43 A CREDIT PURSUANT TO THIS SECTION TO ANOTHER TAXPAYER AS
44 TRANSFEREE PURSUANT TO SECTION 39-22-522 (7), THEN THE TRANSFEREE
45 MAY CLAIM A CREDIT PURSUANT TO THIS SECTION. THE TRANSFEROR AND

1 ANY TRANSFEREES MAY SUBMIT CLAIMS FOR CREDITS PURSUANT TO THIS
2 SECTION INDIVIDUALLY OR MUTUALLY AS A GROUP IF THEY AGREE UPON
3 THE TERMS FOR DIVIDING THE CREDIT. APPLICANTS MUST ATTEMPT TO
4 NOTIFY ANY OTHER TAXPAYER OR TRANSFEREE THAT WAS A PARTY TO THE
5 TRANSFER THAT AN APPLICATION IS BEING MADE TO CLAIM A CREDIT
6 PURSUANT TO THIS SECTION. ANY PARTY WHO RECEIVES SUCH NOTICE HAS
7 SIXTY DAYS FROM RECEIPT OF THE NOTICE TO FILE AN ACCEPTANCE OR
8 OBJECTION TO THE CLAIM FOR THE CREDIT. AN OBJECTION SHALL BE
9 SUBMITTED IN THE FORM OF AN APPLICATION FOR A CREDIT AND SHALL SET
10 FORTH THE PROPOSED ALTERNATIVE AMOUNT OR DISTRIBUTION OF THE
11 CREDIT. THE AMOUNT OF COMPENSATION PROVIDED TO A TRANSFEREE
12 SHALL NOT EXCEED THE AMOUNT PAID BY THE TRANSFEREE FOR THE
13 CREDIT, LESS ANY AMOUNT THAT WAS REINSTATED, REIMBURSED, OR
14 OTHERWISE ALLOWED TO THE TRANSFEREE AS A RESULT OF A
15 SETTLEMENT, LITIGATION, OR OTHER MEANS THAT PROVIDED
16 COMPENSATION TO THE TRANSFEREE UNLESS OTHERWISE MUTUALLY
17 AGREED UPON BY THE PARTIES. IF THE TRANSFEREE DOES NOT TIMELY
18 PARTICIPATE VIA ACCEPTANCE OR OBJECTION IN THE APPLICATION
19 PROCESS OR THE TRANSFEREE NO LONGER EXISTS, THE UNCLAIMED
20 CREDITS MAY BE CLAIMED BY THE OWNER.

21 (10) IF AN OBJECTION TO A CLAIM FOR A CREDIT IS FILED
22 PURSUANT TO SUBSECTION (9) OF THIS SECTION, THE DIVISION OF
23 CONSERVATION SHALL REFER THE MATTER TO THE OMBUDSMAN
24 DESIGNATED PURSUANT TO SECTION 12-15-108 FOR FINAL RESOLUTION OF
25 ANY DISPUTES RELATED TO AMOUNTS TO BE ALLOWED PURSUANT TO THIS
26 SECTION.

27 (11) CREDITS ALLOWED PURSUANT TO THIS SECTION ARE NOT
28 REFUNDABLE, BUT MAY BE TRANSFERRED OR CARRIED FORWARD IN THE
29 SAME MANNER AS CREDITS ALLOWED PURSUANT TO SECTION 39-22-522
30 (4)(a) FOR A PERIOD BEGINNING AT THE TIME OF THE ISSUANCE OF THE
31 CREDIT.

32 (12) THE DIVISION OF CONSERVATION MUST ISSUE TAX CREDITS
33 WITHIN TEN DAYS OF A DONOR AND TRANSFEREE AGREEING ON TAX
34 CREDIT VALUES IDENTIFIED ON THE APPLICATION, AND WITHIN TEN DAYS
35 OF OBJECTIONS BEING RESOLVED.

36 (13) OBJECTIONS BY ANY ONE INDIVIDUAL PER APPLICATION,
37 SHALL NOT HINDER OR DELAY THE PROCESSING OF THE RESPECTIVE
38 APPLICATION AND ISSUING TAX CREDITS FOR THOSE WHO ARE IN
39 AGREEMENT. THE DIVISION OF CONSERVATION SHALL REFER OBJECTIONS
40 TO THE OMBUDSMAN AS DESIGNATED PURSUANT TO SECTION 12-15-108
41 FOR RESOLUTION.

42 (14) ALL SUPPORTING DOCUMENTATION RELEVANT TO THE
43 DISPUTED MATTER REQUESTED OF THE DEPARTMENT OF REVENUE BY THE
44 DISPUTING PARTIES, OMBUDSMAN, OR ARBITRATOR MUST BE PRODUCED TO
45 THE PARTIES, OMBUDSMAN, OR ARBITRATOR WITHIN FIFTEEN DAYS OF THE

1 REQUEST.

2 (15) BEGINNING JANUARY 1, 2025, AND FOR EACH TAX YEAR
3 THEREAFTER, THIRTY MILLION DOLLARS OF THE ANNUAL CAP SHALL BE
4 FIRST APPLIED TO THE PREVIOUSLY HARMED TAXPAYERS PURSUANT TO
5 THIS SECTION UNTIL ALL APPLICATIONS OF HARMED TAXPAYERS' CREDITS
6 HAVE BEEN RESTORED AND RESOLVED.

7 **SECTION 9.** In Colorado Revised Statutes, **add** 12-15-108 as
8 follows:

9 **12-15-108. Disputed credit claims - ombudsman.** THE DIRECTOR
10 OF THE DIVISION SHALL DESIGNATE A PERSON TO SERVE AS AN
11 OMBUDSMAN TO MEDIATE OR OTHERWISE ASSIST CLAIMANTS OF TAX
12 CREDITS IF AN OBJECTION TO A CLAIM FOR A TAX CREDIT HAS BEEN
13 REFERRED TO THE OMBUDSMAN PURSUANT TO SECTION 39-22-522.7 (10).
14 THE OMBUDSMAN MAY BE AN EMPLOYEE OF THE DIVISION OR ANOTHER
15 PROFESSIONAL WITH KNOWLEDGE OF CONSERVATION EASEMENT
16 TRANSACTIONS. IF THE PARTIES ARE UNABLE TO RESOLVE THEIR
17 OBJECTIONS TO A CLAIM FOR A TAX CREDIT WITH THE ASSISTANCE OF THE
18 OMBUDSMAN, WITHIN SIXTY DAYS THE OMBUDSMAN MAY REFER THE
19 MATTER TO A MUTUALLY AGREED UPON ARBITRATOR, AT THE EXPENSE OF
20 THE DEPARTMENT OF REVENUE, TO COME TO A FINAL RESOLUTION OF THE
21 DISPUTE. THE ARBITRATOR SHALL RENDER THE RESOLUTION WITHIN
22 THIRTY DAYS WITH THE GOAL THAT ALL APPLICATIONS ARE PROCESSED
23 AND RESOLVED BEFORE JANUARY 1, 2026. UPON FINAL RESOLUTION OF
24 THE DISPUTE, THE OMBUDSMAN SHALL NOTIFY THE DEPARTMENT OF
25 REVENUE OF THE TERMS OF THE RESOLUTION AND THE DEPARTMENT OF
26 REVENUE SHALL ALLOW THE TAX CREDIT TO BE CLAIMED IN ACCORDANCE
27 WITH SUCH TERMS AND SECTION 39-22-522.7."

28 Renumber succeeding sections accordingly.

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