

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 16, 2024
Date

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

SB24-126 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the consent calendar:

1 Amend printed bill, page 2, line 2, strike "**repeal** (8)" and substitute
2 "**amend** (1) introductory portion, (1)(a), (1)(d) introductory portion, and
3 (1)(d)(I); **repeal** (8); and **add** (1)(d)(III)".

4 Page 2 of the bill, after line 9 insert:
5 "**SECTION 3.** In Colorado Revised Statutes, 12-15-105, **amend**
6 (1)(c) and (3) as follows:

7 **12-15-105. Conservation easement tax credit certificates -**
8 **rules.** (1) The division shall receive tax credit certificate applications
9 from and issue certificates to landowners for income tax credits for
10 conservation easements donated on or after January 1, 2011, in
11 accordance with section 39-22-522 (2.5) and this article 15. Nothing in
12 this section restricts or limits the authority of the division to enforce this
13 article 15. The division may promulgate rules in accordance with article
14 4 of title 24 for the issuance of the certificates. In promulgating rules, the
15 division may include provisions governing:

16 (c) The notification to the public regarding the aggregate amount
17 of tax credit certificates that have been issued ~~and that are on the wait list~~
18 pursuant to section 39-25-522 (2.5);

19 (3) The division shall not issue tax credit certificates that in
20 aggregate exceed the limit set forth in section 39-22-522 (2.5) during a
21 particular calendar year. THE DIVISION MAY ISSUE MULTIPLE TAX CREDIT
22 CERTIFICATES FOR A SINGLE CONSERVATION EASEMENT AS REQUIRED BY
23 SECTION 39-22-522.

24 **SECTION 4.** In Colorado Revised Statutes, 12-15-106, **amend**
25 (10) as follows:

26 **12-15-106. Conservation easement tax credit certificate**

1 **application process - definitions - rules.** (10) If the director and the
2 commission do not identify any potential deficiencies with an application,
3 the director and the commission shall approve the application, and the
4 division shall issue a tax credit certificate to the landowner pursuant to
5 section 12-15-105 in a timely manner so that the number of days between
6 the date a completed application is received by the division and the date
7 the tax credit certificate is issued does not exceed one hundred twenty
8 days. Once a tax credit certificate is issued, the landowner may claim and
9 use the tax credit subject to any other applicable procedures and
10 requirements under title 39. THE DEADLINE PRESCRIBED BY THIS
11 SUBSECTION (10) MAY BE EXTENDED UPON MUTUAL AGREEMENT OF THE
12 DIRECTOR, THE COMMISSION, AND THE LANDOWNER."

13 Renumber succeeding sections accordingly.

14 Page 3 of the bill, strike line 5 and substitute "(2)(a), (2)(b), (2.5),
15 (4)(a)(II.7), (4)(b)(II)(D), (5)(b)(III), and (7.5)(a); **repeal** (5)(b)(II); and
16 **add** (1)(c), (4)(a)(II.8), (4)(b)(II)(E), and (12) as follows:".

17 Page 4 of the bill, line 3, after "YEARS," insert "SIXTY MILLION DOLLARS
18 FOR THE 2025 CALENDAR YEAR, SEVENTY MILLION DOLLARS FOR THE 2026
19 CALENDAR YEAR,".

20 Page 4 of the bill, strike lines 5 through 9.

21 Page 4 of the bill, line 10, strike "year." and substitute "calendar year
22 ~~shall be placed on a wait list in the order submitted and a certificate shall~~
23 ~~be issued for use of the credit in the next year for which the division has~~
24 ~~not issued credit certificates in excess of the amounts specified in this~~
25 ~~subsection (2.5). except that no more than fifteen million dollars in claims~~
26 ~~shall be placed on the wait list in any given calendar year:".~~

27 Page 4 of the bill, line 14, after "YEARS," insert "SIXTY MILLION DOLLARS
28 FOR THE 2025 CALENDAR YEAR, SEVENTY MILLION DOLLARS FOR THE 2026
29 CALENDAR YEAR,".

30 Amend the Agriculture and Natural Resources Committee Report, dated
31 February 22, 2024, page 2, strike lines 3 through 5.

32 Page 2 of the Agriculture and Natural Resources report, strike lines 20
33 and 21.

34 Page 2 of the Agriculture and Natural Resources report, strike lines 28

1 and 29.

2 Page 2 of the Agriculture and Natural Resources report, line 34, strike
3 "OF".

4 Page 3 of the Agriculture and Natural Resources report, strike lines 1
5 through 7 and substitute "MUST PRIORITIZE TAX CREDIT APPLICATIONS IN
6 THE ORDER RECEIVED. THE DIVISION MUST ASSIGN EACH APPLICATION
7 WITH THE DATE AND TIME RECEIVED BASED ON THE ORDER IN WHICH A
8 COMPLETED APPLICATION WAS SUBMITTED PURSUANT TO SECTION
9 12-15-106 (5). INCOMPLETE APPLICATIONS DO NOT GET PRIORITY IN THE
10 REVIEW PROCESS. DISAPPROVED APPLICATIONS LOSE THEIR PRIORITY IN
11 THE REVIEW PROCESS. After certificates".

12 Page 3 of the Agriculture and Natural Resources report, strike lines 8
13 through 13.

14 Page 3 of the Agriculture and Natural Resources report, strike lines 15
15 through 26 and insert:

16 ""(4) (a) (II.7) For a conservation easement in gross created in
17 accordance with article 30.5 of title 38 that is donated ~~on or after January~~
18 ~~1, 2021~~, to a governmental entity or a charitable organization described
19 in section 38-30.5-104 (2), the credit provided for in subsection (2) of this
20 section is an amount equal to:

21 (A) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER
22 JANUARY 1, 2021, BUT BEFORE JANUARY 1, 2027, ninety percent of the fair
23 market value of the donated portion of such conservation easement in
24 gross when created; except that in no case shall the credit exceed five
25 million dollars per donation; ~~Credits shall be issued in increments of no~~
26 ~~more than one million five hundred thousand dollars per year. Credits for~~
27 ~~easements donated in a prior year are eligible for tax credit certificates in~~
28 ~~subsequent years in order of application and before new applications and~~
29 ~~those credit applications, if any, on the wait list AND~~

30 (B) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER
31 JANUARY 1, 2027, BUT BEFORE JANUARY 1, 2032, EIGHTY PERCENT OF THE
32 FAIR MARKET VALUE OF THE DONATED PORTION OF SUCH CONSERVATION
33 EASEMENT IN GROSS WHEN CREATED; EXCEPT THAT IN NO CASE SHALL THE
34 CREDIT EXCEED FIVE MILLION DOLLARS PER DONATION.

35 (II.8) CREDITS SHALL BE ISSUED IN INCREMENTS OF NO MORE THAN
36 ONE MILLION FIVE HUNDRED THOUSAND DOLLARS PER YEAR. CREDITS FOR
37 EASEMENTS DONATED IN A PRIOR YEAR ARE ELIGIBLE FOR TAX CREDIT
38 CERTIFICATES IN SUBSEQUENT YEARS IN ORDER OF APPLICATION.

39 (b) (II) (D) For income tax years commencing on or after January

1 1, 2015, BUT BEFORE JANUARY 1, 2027, the total aggregate amount of the
2 credit allocated to such owners, partners, members, and shareholders shall
3 not exceed five million dollars, and, if any refund is claimed pursuant to
4 subsection (5)(b)(I) of this section, the aggregate amount of the refund
5 and the credit claimed by such owners, partners, members, and
6 shareholders shall not exceed fifty thousand dollars for that income tax
7 year.

8 (E) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
9 1, 2027, BUT BEFORE JANUARY 1, 2032, THE TOTAL AGGREGATE AMOUNT
10 OF THE CREDIT ALLOCATED TO SUCH OWNERS, PARTNERS, MEMBERS, AND
11 SHAREHOLDERS SHALL NOT EXCEED FIVE MILLION DOLLARS, AND, IF ANY
12 REFUND IS CLAIMED PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION,
13 THE AGGREGATE AMOUNT OF THE REFUND AND THE CREDIT CLAIMED BY
14 SUCH OWNERS, PARTNERS, MEMBERS, AND SHAREHOLDERS SHALL NOT
15 EXCEED TWO HUNDRED THOUSAND DOLLARS FOR THAT INCOME TAX YEAR.

16 (5) (b) (II) ~~A taxpayer may elect to claim a refund pursuant to~~
17 ~~subparagraph (I) of this paragraph (b) only if, based on the financial~~
18 ~~report prepared by the controller in accordance with section 24-77-106.5,~~
19 ~~C.R.S., the controller certifies that the amount of state revenues for the~~
20 ~~state fiscal year ending in the income tax year for which the refund is~~
21 ~~claimed exceeds the limitation on state fiscal year spending imposed by~~
22 ~~section 20 (7)(a) of article X of the state constitution and the voters~~
23 ~~statewide either have not authorized the state to retain and spend all of the~~
24 ~~excess state revenues or have authorized the state to retain and spend only~~
25 ~~a portion of the excess state revenues for that fiscal year.~~

26 (III) If any refund is claimed pursuant to subsection (5)(b)(I) of
27 this section, then the aggregate amount of the refund and amount of the
28 credit used as an offset against income taxes, excluding amounts
29 transferred to or used by a transferee, for that income tax year shall not
30 exceed fifty thousand dollars for that income tax year FOR INCOME TAX
31 YEARS COMMENCING BEFORE JANUARY 1, 2027, AND SHALL NOT EXCEED
32 TWO HUNDRED THOUSAND DOLLARS FOR THAT INCOME TAX YEAR FOR
33 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2027, BUT
34 BEFORE JANUARY 1, 2032. In the case of a partnership, S corporation, or
35 other similar pass-through entity that donates a conservation easement as
36 an entity, if any refund is claimed pursuant to subsection (5)(b)(I) of this
37 section, the aggregate amount of the refund and the credit claimed by the
38 partners, members, or shareholders of the entity shall not exceed the
39 dollar limitation set forth in this subsection (5)(b)(III) for that income tax
40 year. Nothing in this subsection (5)(b)(III) shall limit a taxpayer's ability
41 to claim a credit against taxes due in excess of fifty thousand dollars FOR
42 TAX YEARS COMMENCING BEFORE JANUARY 1, 2027, AND TWO HUNDRED
43 THOUSAND DOLLARS FOR TAX YEARS COMMENCING ON OR AFTER JANUARY

1 1, 2027, BUT BEFORE JANUARY 1, 2032, in accordance with subsection (4)
2 of this section."."

3 Amend the Finance Committee Report, dated March 5, 2024, page 1,
4 strike line 13.

5 Page 1 of the Finance report, strike line 16 and substitute:
6 ""(8) ~~This section is repealed, effective July 1, 2026.~~"".

7 Page 1 of the Finance report, strike lines 17 and 18 and substitute:

8 "Page 2 of the report, strike lines 28 and 29 and substitute:

9 "Page 3 of the bill, strike line 5 and substitute "(2)(a), (2)(b), (2.5),
10 (4)(a)(II.7), and (7.5)(a); and **add** (12), (13), and (14) as follows:"."

11 Page 2 of the Finance report, line 37, strike "2032" and substitute "2031".

12 Page 3 of the Finance report, after line 17 insert:

13 "Page 6 of the bill, after line 23 insert:

14 "(13) TO BE ELIGIBLE FOR THE TAX CREDIT, FOR ANY
15 CONSERVATION EASEMENT GRANTED ON OR AFTER JANUARY 1, 2025, THE
16 CONSERVATION EASEMENT SHALL INCLUDE A PROVISION PROVIDING THAT
17 IF TECHNOLOGICAL OR LEGAL CHANGES ALLOW AN EXPANDED USE OF
18 WIND, SOLAR POWER GENERATION, TRANSMISSION, AND STORAGE TO BE
19 COMPATIBLE WITH THE PROTECTION OF CONSERVATION VALUES
20 CONSIDERED AS A WHOLE AND PURSUANT TO SECTION 170(h) OF THE
21 INTERNAL REVENUE CODE AND ANY FEDERAL REGULATIONS
22 PROMULGATED IN CONNECTION WITH SUCH SECTION, THEN THE HOLDER OF
23 THE CONSERVATION EASEMENT MAY APPROVE EXPANDED WIND OR SOLAR
24 ENERGY FACILITIES THAT ARE COMPATIBLE WITH AND DO NOT DIMINISH OR
25 IMPAIR CONSERVATION VALUES."."

26 Page 3 of the Finance report, line 18, strike "(13)" and substitute "(14)".

27 Page 3 of the Finance report, line 19, strike "2053."." and substitute
28 "2052."."

29 Strike "2033," and substitute "2032," on: **Page 2**, lines 5, 19, 21, and 35;
30 and **Page 3**, line 3 of the Finance report.

1 Page 6 of the bill, before line 24 insert:

2 **"SECTION 5. Appropriation.** For the 2024-25 state fiscal year,
3 \$12,925 is appropriated to the department of regulatory agencies for use
4 by the division of conservation. This appropriation is from the
5 conservation cash fund created in section 12-15-107, C.R.S., and is based
6 on an assumption that the division will require an additional 0.2 FTE. To
7 implement this act, the division may use this appropriation for
8 conservation easement program costs."

9 Renumber succeeding section accordingly.

10 Page 1 of the bill, page 1, line 106, strike "AND".

11 Page 1 of the bill, line 108, strike "CREDITS." and substitute "CREDITS,
12 AND MAKING AN APPROPRIATION."

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