

**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**

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**SENATE SPONSORSHIP**

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**HOUSE SPONSORSHIP**

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**Senate Committees**

Agriculture & Natural Resources  
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Appropriations

**House Committees**

Agriculture, Water & Natural Resources  
Finance

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**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,    ALLOWING**  
107             **MULTIPLE TRANSFERS OF CONSERVATION EASEMENT INCOME**  
108             **TAX CREDITS, AND MAKING AN APPROPRIATION.**

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**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.*

SENATE  
3rd Reading Unamended  
April 17, 2024

SENATE  
Amended 2nd Reading  
April 16, 2024

<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current law, the conservation easement oversight commission (commission) and the certified holder program (program) are repealed on July 1, 2026.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.

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

12 (8) This section is repealed, effective July 1, 2026.

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

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16 **rules - definition.** (13) This section is repealed, effective July 1, 2026.

17 **SECTION 4.** In Colorado Revised Statutes, 12-15-105, **amend**  
18 (1)(c) and (3) as follows:

19 **12-15-105. Conservation easement tax credit certificates -**  
20 **rules.** (1) The division shall receive tax credit certificate applications  
21 from and issue certificates to landowners for income tax credits for  
22 conservation easements donated on or after January 1, 2011, in  
23 accordance with section 39-22-522 (2.5) and this article 15. Nothing in  
24 this section restricts or limits the authority of the division to enforce this  
25 article 15. The division may promulgate rules in accordance with article  
26 4 of title 24 for the issuance of the certificates. In promulgating rules, the  
27 division may include provisions governing:

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

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

9           **SECTION 5.** In Colorado Revised Statutes, 12-15-106, **amend**  
10 (10) as follows:

11           **12-15-106. Conservation easement tax credit certificate**  
12 **application process - definitions - rules.** (10) If the director and the  
13 commission do not identify any potential deficiencies with an application,  
14 the director and the commission shall approve the application, and the  
15 division shall issue a tax credit certificate to the landowner pursuant to  
16 section 12-15-105 in a timely manner so that the number of days between  
17 the date a completed application is received by the division and the date  
18 the tax credit certificate is issued does not exceed one hundred twenty  
19 days. Once a tax credit certificate is issued, the landowner may claim and  
20 use the tax credit subject to any other applicable procedures and  
21 requirements under title 39. THE DEADLINE PRESCRIBED BY THIS  
22 SUBSECTION (10) MAY BE EXTENDED UPON MUTUAL AGREEMENT OF THE  
23 DIRECTOR, THE COMMISSION, AND THE LANDOWNER.

24           **SECTION 6.** In Colorado Revised Statutes, 38-30.5-103, **add** (7)  
25 as follows:

26           **38-30.5-103. Nature of conservation easements in gross.** (7) A  
27 CONSERVATION EASEMENT IN GROSS IS A REAL PROPERTY INTEREST AS

1 DEFINED IN SECTION 38-30.5-102 THAT IS TO BE CREATED, ADMINISTERED,  
2 STEWARDED, ENFORCED, MODIFIED, AND TERMINATED PURSUANT TO THIS  
3 ARTICLE 30.5 AND, AS APPLICABLE, SECTION 39-22-522.

4 **SECTION 7.** In Colorado Revised Statutes, 39-22-522, **amend**  
5 (2)(a), (2)(b), (2.5), (4)(a)(II.7), (4)(b)(II)(D), (5)(b)(II), (5)(b)(III), and  
6 (7.5)(a); and **add** (4)(a)(II.8), (4)(b)(II)(E), (12), (13), and (14) as  
7 follows:

8 **39-22-522. Credit against tax - conservation easements -**  
9 **definitions.**

10 ==

11 (2) (a) For income tax years commencing on or after January 1,  
12 2000, but prior to January 1, 2014, and, with regard to any credit over the  
13 amount of one hundred thousand dollars, for income tax years  
14 commencing on or after January 1, 2003, BUT BEFORE JANUARY 1, 2032,  
15 subject to the provisions of subsections (4) and (6) of this section, there  
16 shall be allowed a credit with respect to the income taxes imposed by this  
17 article to each taxpayer who donates during the taxable year all or part of  
18 the value of a perpetual conservation easement in gross created pursuant  
19 to article 30.5 of title 38. C.R.S. upon real property the taxpayer owns to  
20 a governmental entity or a charitable organization described in section  
21 38-30.5-104 (2). C.R.S. The credit shall only be allowed for a donation  
22 that is eligible to qualify as a qualified conservation contribution pursuant  
23 to section 170 (h) of the internal revenue code, as amended, and any  
24 federal regulations promulgated in connection with such section. The  
25 amount of the credit shall not include the value of any portion of an  
26 easement on real property located in another state.

27 (b) For income tax years commencing on or after January 1, 2014,

1 BUT BEFORE JANUARY 1, 2032, and, with regard to any credit over the  
2 amount of one hundred thousand dollars, for income tax years  
3 commencing on or after January 1, 2003, BUT BEFORE JANUARY 1, 2032,  
4 subject to the provisions of subsections (4) and (6) of this section, there  
5 shall be allowed a credit with respect to the income taxes imposed by this  
6 article to each taxpayer who donates during the taxable year all or part of  
7 the value of a perpetual conservation easement in gross created pursuant  
8 to article 30.5 of title 38, C.R.S. upon real property the taxpayer owns to  
9 a governmental entity or a charitable organization described in section  
10 38-30.5-104 (2), C.R.S. The credit shall only be allowed for a donation  
11 that meets the requirements of section 170 of the federal "Internal  
12 Revenue Code of 1986", as amended, and any federal regulations  
13 promulgated in accordance with such section. The amount of the credit  
14 shall not include the value of any portion of an easement on real property  
15 located in another state.

16 (2.5) Notwithstanding any other provision of this section and the  
17 requirements of section 12-15-106, for income tax years commencing on  
18 or after January 1, 2011, [REDACTED] a taxpayer conveying a conservation  
19 easement and claiming a credit pursuant to this section shall, in addition  
20 to any other requirements of this section and the requirements of section  
21 12-15-106, submit a claim for the credit to the division of conservation  
22 in the department of regulatory agencies. The division shall issue a  
23 certificate for the claims received in the order submitted. THE DIVISION  
24 MUST PRIORITIZE TAX CREDIT APPLICATIONS IN THE ORDER RECEIVED. THE  
25 DIVISION MUST ASSIGN EACH APPLICATION WITH THE DATE AND TIME  
26 RECEIVED BASED ON THE ORDER IN WHICH A COMPLETED APPLICATION  
27 WAS SUBMITTED PURSUANT TO SECTION 12-15-106 (5). INCOMPLETE

1 APPLICATIONS DO NOT GET PRIORITY IN THE REVIEW PROCESS.  
2 DISAPPROVED APPLICATIONS LOSE THEIR PRIORITY IN THE REVIEW  
3 PROCESS. After certificates have been issued for credits that exceed an  
4 aggregate of twenty-two million dollars for all taxpayers for the 2011 and  
5 2012 calendar years, thirty-four million dollars for the 2013 calendar year,  
6 ~~and~~ forty-five million dollars for each OF THE 2014 TO 2024 calendar year  
7 ~~thereafter~~ YEARS, SIXTY MILLION DOLLARS FOR THE 2025 CALENDAR YEAR,  
8 SEVENTY MILLION DOLLARS FOR THE 2026 CALENDAR YEAR, AND  
9 SEVENTY-FIVE MILLION DOLLARS FOR EACH OF THE 2027 TO 2031  
10 CALENDAR YEARS, any claims that exceed the amount allowed for a  
11 specified calendar year shall be placed on a wait list in the order  
12 submitted and a certificate shall be issued for use of the credit in the next  
13 year for which the division has not issued credit certificates in excess of  
14 the amounts specified in this subsection (2.5). except that no more than  
15 fifteen million dollars in claims shall be placed on the wait list in any  
16 given calendar year. The division shall not issue credit certificates that  
17 exceed twenty-two million dollars in each of the 2011 and 2012 calendar  
18 years, thirty-four million dollars for the 2013 calendar year, ~~and~~ forty-five  
19 million dollars for each OF THE 2014 TO 2024 calendar year ~~thereafter~~  
20 YEARS, SIXTY MILLION DOLLARS FOR THE 2025 CALENDAR YEAR, SEVENTY  
21 MILLION DOLLARS FOR THE 2026 CALENDAR YEAR, AND SEVENTY-FIVE  
22 MILLION DOLLARS FOR EACH CALENDAR YEAR THEREAFTER. No claim for  
23 a credit is allowed for any income tax year commencing on or after  
24 January 1, 2011, unless a certificate has been issued by the division. If all  
25 other requirements under section 12-15-106 and this section are met, the  
26 right to claim the credit is vested in the taxpayer at the time ~~a~~ THE credit  
27 certificate is issued. IN THE CASE OF A TAX CREDIT CERTIFICATE ISSUED TO



1 A TAXPAYER WHO FILES AN INCOME TAX RETURN FOR A TAX YEAR OTHER  
2 THAN A CALENDAR YEAR, THE CREDIT MUST BE USED IN THE INCOME TAX  
3 YEAR THAT BEGINS DURING THE CALENDAR YEAR FOR WHICH THE TAX  
4 CREDIT CERTIFICATE IS ISSUED.

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

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

19 (B) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER  
20 JANUARY 1, 2027, EIGHTY PERCENT OF THE FAIR MARKET VALUE OF  
21 THE DONATED PORTION OF SUCH CONSERVATION EASEMENT IN GROSS  
22 WHEN CREATED; EXCEPT THAT IN NO CASE SHALL THE CREDIT EXCEED FIVE  
23 MILLION DOLLARS PER DONATION.

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

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

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

17           (5) (b) (II) (A) BEFORE JANUARY 1, 2027, a taxpayer may elect to  
18           claim a refund pursuant to ~~subparagraph (I) of this paragraph (b)~~  
19           SUBSECTION (5)(b)(I) OF THIS SECTION only if, based on the financial  
20           report prepared by the controller in accordance with section 24-77-106.5,  
21           C.R.S., the controller certifies that the amount of state revenues for the  
22           state fiscal year ending in the income tax year for which the refund is  
23           claimed exceeds the limitation on state fiscal year spending imposed by  
24           section 20 (7)(a) of article X of the state constitution and the voters  
25           statewide either have not authorized the state to retain and spend all of the  
26           excess state revenues or have authorized the state to retain and spend only  
27           a portion of the excess state revenues for that fiscal year.

1 (B) THIS SUBSECTION (5)(b)(II) IS REPEALED, EFFECTIVE  
2 DECEMBER 31, 2031.

3 (III) If any refund is claimed pursuant to subsection (5)(b)(I) of  
4 this section, then the aggregate amount of the refund and amount of the  
5 credit used as an offset against income taxes, excluding amounts  
6 transferred to or used by a transferee, for that income tax year shall not  
7 exceed fifty thousand dollars for that income tax year FOR INCOME TAX  
8 YEARS COMMENCING BEFORE JANUARY 1, 2027, AND SHALL NOT EXCEED  
9 TWO HUNDRED THOUSAND DOLLARS FOR THAT INCOME TAX YEAR FOR  
10 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2027. In  
11 the case of a partnership, S corporation, or other similar pass-through  
12 entity that donates a conservation easement as an entity, if any refund is  
13 claimed pursuant to subsection (5)(b)(I) of this section, the aggregate  
14 amount of the refund and the credit claimed by the partners, members, or  
15 shareholders of the entity shall not exceed the dollar limitation set forth  
16 in this subsection (5)(b)(III) for that income tax year. Nothing in this  
17 subsection (5)(b)(III) shall limit a taxpayer's ability to claim a credit  
18 against taxes due in excess of fifty thousand dollars FOR TAX YEARS  
19 COMMENCING BEFORE JANUARY 1, 2027, AND TWO HUNDRED THOUSAND  
20 DOLLARS FOR TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2027,  
21 in accordance with subsection (4) of this section.

22 == ===== ==  
23 (7.5) (a) For income tax years commencing on or after January 1,  
24 2021, in lieu of a credit with respect to the income taxes imposed by  
25 this article 22, there is allowed a transferable expense amount to each  
26 qualified entity that donates during the taxable year all or part of the value  
27 of a perpetual conservation easement in gross created pursuant to article

1 30.5 of title 38 upon real property the qualified entity owns to a  
2 governmental entity or a charitable organization described in section  
3 38-30.5-104 (2). A transferable expense amount shall be treated in all  
4 manners as a tax credit for purposes of this section, including provisions  
5 governing the amount, valuation, and transfer of a tax credit; except that  
6 the transferable expense amount may only be transferred to a transferee  
7 to be claimed by the transferee as a credit pursuant to this section. A  
8 qualified entity may transfer a transferable expense amount to be claimed  
9 as a credit by a transferee pursuant to this section regardless of whether  
10 the qualified entity receives value in exchange for the transfer.

11 (12) ANY TRANSFEREE WHO IS SUBJECT TO THE TAX ON INSURANCE  
12 PREMIUMS ESTABLISHED BY SECTIONS 10-3-209, 10-5-111, AND 10-6-128,  
13 AND WHO IS THEREFORE EXEMPT FROM THE PAYMENT OF INCOME TAX AND  
14 WHO IS OTHERWISE ELIGIBLE TO CLAIM A TAX CREDIT PURSUANT TO THIS  
15 SECTION MAY CLAIM THE TAX CREDIT AND CARRY THE TAX CREDIT  
16 FORWARD AGAINST THE INSURANCE PREMIUM TAX ■ ■ ■ TO THE SAME  
17 EXTENT AS THE TRANSFEREE WOULD HAVE BEEN ABLE TO CLAIM OR CARRY  
18 FORWARD THE TAX CREDIT AGAINST INCOME TAX. ALL OTHER PROVISIONS  
19 OF THIS SECTION WITH RESPECT TO THE TAX CREDIT, INCLUDING THE  
20 AMOUNT AND ALLOCATION OF THE TAX CREDIT AND THE YEARS FOR WHICH  
21 THE TAX CREDIT MAY BE CLAIMED SHALL APPLY TO A TAX CREDIT  
22 CLAIMED PURSUANT TO THIS SECTION.

23 (13) To be eligible for the tax credit, for any  
24 conservation easement granted on or after January 1, 2025, the  
25 conservation easement shall include a provision providing that  
26 if technological or legal changes allow an expanded use of  
27 wind, solar power generation, transmission, and storage to be

1 COMPATIBLE WITH THE PROTECTION OF CONSERVATION VALUES  
2 CONSIDERED AS A WHOLE AND PURSUANT TO SECTION 170(h) OF THE  
3 INTERNAL REVENUE CODE AND ANY FEDERAL REGULATIONS  
4 PROMULGATED IN CONNECTION WITH SUCH SECTION, THEN THE HOLDER OF  
5 THE CONSERVATION EASEMENT MAY APPROVE EXPANDED WIND OR SOLAR  
6 ENERGY FACILITIES THAT ARE COMPATIBLE WITH AND DO NOT DIMINISH OR  
7 IMPAIR CONSERVATION VALUES.

8 (14) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2052.

9 **SECTION 8. Appropriation.** For the 2024-25 state fiscal year,  
10 \$12,925 is appropriated to the department of regulatory agencies for use  
11 by the division of conservation. This appropriation is from the  
12 conservation cash fund created in section 12-15-107, C.R.S., and is based  
13 on an assumption that the division will require an additional 0.2 FTE. To  
14 implement this act, the division may use this appropriation for  
15 conservation easement program costs.

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