

**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

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current law, the conservation easement oversight commission (commission) and the certified holder program (program) are repealed on July 1, 2026.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)(d) introductory portion, (1)(d)(I), and**
18 **(I)(d)(II); repeal (1)(a) and (8); add (I)(d)(III) and (I)(d)(IV)** 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;
2 (d) Three FIVE voting members appointed by the governor as
3 follows:
4 (I) Two voting representatives of certified conservation easement
5 holders; and
6 (II) A voting individual who is competent and qualified to analyze
7 the conservation purpose of conservation easements; and
8 (III) A VOTING INDIVIDUAL WHO MEETS THE DEFINITION OF
9 "SOCIALLY DISADVANTAGED FARMER OR RANCHER" IN 7 U.S.C. SEC. 2279;
10 AND
11 (IV) A VOTING INDIVIDUAL WHO REPRESENTS GREAT OUTDOORS
12 COLORADO; AND
13 (8) This section is repealed, effective July 1, 2026.

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

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17 **rules - definition.** (13) ~~This section is repealed, effective July 1, 2026.~~

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

20 **38-30.5-103. Nature of conservation easements in gross.** (7) A
21 CONSERVATION EASEMENT IN GROSS IS A REAL PROPERTY INTEREST AS
22 DEFINED IN SECTION 38-30.5-102 THAT IS TO BE CREATED, ADMINISTERED,
23 STEWARDED, ENFORCED, MODIFIED, AND TERMINATED PURSUANT TO THIS
24 ARTICLE 30.5 AND, AS APPLICABLE, SECTION 39-22-522.

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

27 **39-22-522. Credit against tax - conservation easements -**

1 definitions.

2 ==

3 (2.5) Notwithstanding any other provision of this section and the
4 requirements of section 12-15-106, for income tax years commencing on
5 or after January 1, 2011, a taxpayer conveying a conservation easement
6 and claiming a credit pursuant to this section shall, in addition to any
7 other requirements of this section and the requirements of section
8 12-15-106, submit a claim for the credit to the division of conservation
9 in the department of regulatory agencies. ~~== The division shall issue a~~
10 ~~certificate for the claims received in the order submitted.~~ THE DIVISION OF
11 CONSERVATION IN THE DEPARTMENT OF REGULATORY AGENCIES MUST
12 PRIORITIZE AND ISSUE TAX CREDIT CERTIFICATES IN THE ORDER IN WHICH
13 IT RECEIVES CLAIMS. THE DIVISION OF CONSERVATION MUST STAMP EACH
14 CLAIM WITH THE DATE AND TIME IT RECEIVES THE CLAIM AND SHALL
15 REVIEW A CLAIM ON THE BASIS OF THE ORDER IN WHICH THE CLAIM WAS
16 SUBMITTED BY DATE AND TIME. DISAPPROVED CLAIMS LOSE THEIR
17 PRIORITY IN THE REVIEW PROCESS. After certificates have been issued for
18 credits that exceed an aggregate of twenty-two million dollars for all
19 taxpayers for the 2011 and 2012 calendar years, thirty-four million dollars
20 for the 2013 calendar year, and forty-five million dollars for each OF THE
21 2014 TO 2024 calendar year thereafter YEARS, AND SEVENTY-FIVE MILLION
22 DOLLARS FOR EACH CALENDAR YEAR THEREAFTER, any claims that exceed
23 the amount allowed for a specified calendar year shall be placed on a wait
24 list in the order submitted and a certificate shall be issued for use of the
25 credit in the next year for which the division has not issued credit == ==
26 ~~certificates. in excess of the amounts specified in this subsection (2.5);~~
27 ~~except that no more than fifteen million dollars in claims shall be placed~~

1 on the wait list in any given calendar year The division shall not issue
2 credit certificates that exceed twenty-two million dollars in each of the
3 2011 and 2012 calendar years, thirty-four million dollars for the 2013
4 calendar year, ~~and~~ forty-five million dollars for each OF THE 2014 TO 2024
5 calendar year ~~thereafter~~ YEARS, AND SEVENTY-FIVE MILLION DOLLARS FOR
6 EACH CALENDAR YEAR THEREAFTER. No claim for a credit is allowed for
7 any income tax year commencing on or after January 1, 2011, unless a
8 certificate has been issued by the division. If all other requirements under
9 section 12-15-106 and this section are met, the right to claim the credit is
10 vested in the taxpayer at the time a credit certificate is issued.

11 (4) (a) (II.7) For a conservation easement in gross created in
12 accordance with article 30.5 of title 38 that is donated on or after January
13 1, 2021, to a governmental entity or a charitable organization described
14 in section 38-30.5-104 (2), the credit provided for in subsection (2) of this
15 section is an amount equal to ninety percent of the fair market value of
16 the donated portion of such conservation easement in gross when created;
17 except that in no case shall the credit exceed five million dollars per
18 donation. Credits shall be issued in increments of no more than one
19 million five hundred thousand dollars per year. Credits for easements
20 donated in a prior year are eligible for tax credit certificates in subsequent
21 years in order of application PRIORITY and before new applications. and
22 those credit applications, if any, on the wait list

23

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24 (12) ANY TRANSFEREE WHO IS SUBJECT TO THE TAX ON INSURANCE
25 PREMIUMS ESTABLISHED BY SECTIONS 10-3-209, 10-5-111, AND 10-6-128,
26 AND WHO IS THEREFORE EXEMPT FROM THE PAYMENT OF INCOME TAX AND
27 WHO IS OTHERWISE ELIGIBLE TO CLAIM A TAX CREDIT PURSUANT TO THIS

1 SECTION MAY CLAIM THE TAX CREDIT AND CARRY THE TAX CREDIT
2 FORWARD AGAINST THE INSURANCE PREMIUM TAX ON ITS CALENDAR
3 QUARTER ESTIMATED TAX PAYMENTS MADE IN ACCORDANCE WITH
4 SECTION 10-3-209 TO THE SAME EXTENT AS THE TRANSFEREE WOULD
5 HAVE BEEN ABLE TO CLAIM OR CARRY FORWARD THE TAX CREDIT AGAINST
6 INCOME TAX. ALL OTHER PROVISIONS OF THIS SECTION WITH RESPECT TO
7 THE TAX CREDIT, INCLUDING THE AMOUNT AND ALLOCATION OF THE TAX
8 CREDIT AND THE YEARS FOR WHICH THE TAX CREDIT MAY BE CLAIMED
9 SHALL APPLY TO A TAX CREDIT CLAIMED PURSUANT TO THIS SECTION.

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