

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0569.01 Sam Anderson x4218

HOUSE BILL 26-1230

HOUSE SPONSORSHIP

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

SENATE SPONSORSHIP

Roberts and Kirkmeyer, Amabile, Baisley, Bridges, Bright, Carson, Catlin, Frizell, Kolker, Lindstedt, Liston, Marchman, Mullica, Pelton R., Rich, Simpson, Snyder, Wallace, Zamora Wilson

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

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

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 <http://leg.colorado.gov>.)

Under current law, the conservation easement tax credit (credit) may be claimed through state income tax year 2031. The bill amends the credit to allow taxpayers to claim the credit through state income tax year 2036.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-522, **amend**
3 (2), (2.5), and (15); and **add** (14.3) and (14.5) as follows:

4 **39-22-522. Credit against tax - conservation easements -**
5 **definitions - tax preference performance statement - repeal.**

6 (2) (a) For income tax years commencing on or after January 1,
7 2000, but prior to January 1, 2014, and, with regard to any credit over the
8 amount of one hundred thousand dollars, for income tax years
9 commencing on or after January 1, 2003, but before ~~January 1, 2032~~
10 JANUARY 1, 2037, subject to the provisions of subsections (4) and (6) of
11 this section, there shall be allowed a credit with respect to the income
12 taxes imposed by this article to each taxpayer who donates during the
13 taxable year all or part of the value of a perpetual conservation easement
14 in gross created pursuant to article 30.5 of title 38 upon real property the
15 taxpayer owns to a governmental entity or a charitable organization
16 described in section 38-30.5-104 (2). The credit shall only be allowed for
17 a donation that is eligible to qualify as a qualified conservation
18 contribution pursuant to section 170 (h) of the internal revenue code, as
19 amended, and any federal regulations promulgated in connection with
20 such section. The amount of the credit shall not include the value of any
21 portion of an easement on real property located in another state.

22 (b) For income tax years commencing on or after January 1, 2014,
23 but before ~~January 1, 2032~~ JANUARY 1, 2037, and, with regard to any
24 credit over the amount of one hundred thousand dollars, for income tax
25 years commencing on or after January 1, 2003, but before ~~January 1, 2032~~
26 JANUARY 1, 2037, subject to the provisions of subsections (4) and (6) of
27 this section, there shall be allowed a credit with respect to the income

1 taxes imposed by this article to each taxpayer who donates during the
2 taxable year all or part of the value of a perpetual conservation easement
3 in gross created pursuant to article 30.5 of title 38 upon real property the
4 taxpayer owns to a governmental entity or a charitable organization
5 described in section 38-30.5-104 (2). The credit shall only be allowed for
6 a donation that meets the requirements of section 170 of the federal
7 "Internal Revenue Code of 1986", as amended, and any federal
8 regulations promulgated in accordance with such section. The amount of
9 the credit shall not include the value of any portion of an easement on real
10 property located in another state.

11 (2.5) Notwithstanding any other provision of this section and the
12 requirements of section 12-15-106, for income tax years commencing on
13 or after January 1, 2011, a taxpayer conveying a conservation easement
14 and claiming a credit pursuant to this section shall, in addition to any
15 other requirements of this section and the requirements of section
16 12-15-106, submit a claim for the credit to the division of conservation
17 in the department of regulatory agencies. The division must prioritize tax
18 credit applications in the order received. The division must assign each
19 application with the date and time received based on the order in which
20 a completed application was submitted pursuant to section 12-15-106 (5).
21 Incomplete applications do not get priority in the review process.
22 Disapproved applications lose their priority in the review process. After
23 certificates have been issued for credits that exceed an aggregate of
24 twenty-two million dollars for all taxpayers for the 2011 and 2012
25 calendar years, thirty-four million dollars for the 2013 calendar year,
26 forty-five million dollars for each of the 2014 to 2024 calendar years, and
27 fifty million dollars for each of the 2025 to ~~2031~~ **2036** calendar years, any

1 claims that exceed the amount allowed for a specified calendar year shall
2 be issued for use in the next year for which the division has not issued
3 credit certificates in excess of the amounts specified in this subsection
4 (2.5). The division shall not issue credit certificates that exceed
5 twenty-two million dollars in each of the 2011 and 2012 calendar years,
6 thirty-four million dollars for the 2013 calendar year, forty-five million
7 dollars for each of the 2014 to 2024 calendar years, and fifty million
8 dollars for each of the 2025 through ~~2031~~ **2036** calendar years. No claim
9 for a credit is allowed for any income tax year commencing on or after
10 January 1, 2011, unless a certificate has been issued by the division. If all
11 other requirements under section 12-15-106 and this section are met, the
12 right to claim the credit is vested in the taxpayer at the time the credit
13 certificate is issued. In the case of a tax credit certificate issued to a
14 taxpayer who files an income tax return for a tax year other than a
15 calendar year, the credit must be used in the income tax year that begins
16 during the calendar year for which the tax credit certificate is issued.

17 (14.3) THE DIVISION OF CONSERVATION SHALL NOT ISSUE ANY
18 ADDITIONAL CREDIT CERTIFICATES OR AMEND ANY PREVIOUSLY ISSUED
19 CREDIT CERTIFICATES AS A RESULT OF THE ADDITIONAL AUTHORITY
20 GRANTED BY HOUSE BILL 26-1230 FOR A DONATION MADE PRIOR TO THE
21 EFFECTIVE DATE OF HOUSE BILL 26-1230. THIS SUBSECTION (14.3) DOES
22 NOT LIMIT THE AUTHORITY OF THE DIVISION OF CONSERVATION TO ISSUE
23 A TAX CREDIT CERTIFICATE AGAINST THE LIMITS SET FORTH IN SUBSECTION
24 (2.5) OF THIS SECTION FOR A CALENDAR YEAR PRIOR TO 2032 WITH
25 RESPECT TO A DONATION MADE PRIOR TO THE EFFECTIVE DATE OF
26 HB26-1230.

27 (14.5) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES

1 THAT:

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

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

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

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

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

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

23 (VII) EQUITY IN CONSERVATION REQUIRES ONGOING
24 COLLABORATION WITH PRIVATE LANDOWNERS, STATE AND FEDERAL
25 PUBLIC LAND MANAGERS, AND COUNTIES AND MUNICIPALITIES.
26 UNDERSCORING AND INVESTING IN THE INCLUSION OF UNDERSERVED
27 COMMUNITIES, TRIBES, AND HISTORICALLY MARGINALIZED LAND

1 INTERESTS WILL FURTHER AMPLIFY THESE EFFORTS; AND

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

4 (b) (I) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
5 REQUIRES EACH BILL THAT EXTENDS AN EXPIRING TAX EXPENDITURE TO
6 INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT, THE GENERAL
7 ASSEMBLY FURTHER FINDS AND DECLARES THAT THE GENERAL PURPOSE
8 OF THE EXTENSION OF THE EXPIRING TAX CREDIT PROVIDED FOR IN
9 SUBSECTIONS (2) AND (2.5) OF THIS SECTION IS TO INDUCE CERTAIN
10 BEHAVIOR BY TAXPAYERS. SPECIFICALLY, THIS EXTENSION OF AN EXPIRING
11 TAX EXPENDITURE IS INTENDED TO INDUCE PRIVATE LANDOWNERS TO
12 VOLUNTARILY PROTECT THEIR PROPERTIES THROUGH CONSERVATION
13 EASEMENTS.

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

19 (15) This section is repealed, effective ~~January 1, 2052~~ JANUARY
20 1, 2057.

21 **SECTION 2. Safety clause.** The general assembly finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety or for appropriations for
24 the support and maintenance of the departments of the state and state
25 institutions.