

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0748.02 Jed Franklin x5484

HOUSE BILL 24-1138

HOUSE SPONSORSHIP

Catlin and Lukens,

SENATE SPONSORSHIP

Marchman,

House Committees

Agriculture, Water & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A STATE INCOME TAX CREDIT FOR A PERSON
102 TRANSFERRING AN AGRICULTURAL ASSET TO CERTAIN
103 AGRICULTURAL PRODUCERS.

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>.)

The bill establishes a state income tax credit (credit) for the sale or lease of land, crops, livestock and livestock facilities, farm equipment and machinery, grain storage, irrigation equipment, or water used for agriculture (agricultural assets) to certain agricultural producers for income tax years beginning on or after January 1, 2026, but before

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.

January 1, 2031. There are 3 different credits that may be earned by a qualified taxpayer. For the sale of an agricultural asset to a beginning farmer or rancher or socially disadvantaged farmer or rancher, a qualified taxpayer may earn a credit equal to 5% of the lesser of the sale price or fair market value of the agricultural asset up to a maximum credit of \$32,000 for one income tax year. For the lease of an agricultural asset to a beginning farmer or rancher or socially disadvantaged farmer or rancher, a qualified taxpayer may earn a credit equal to 10% of the gross rental income in each of the first, second, and third years of the rental agreement, up to a maximum credit of \$7,000 for one income tax year. For the lease of an agricultural asset to a beginning farmer or rancher or socially disadvantaged farmer or rancher for a period of 20 years or more, a qualified taxpayer may also earn a credit equal to 2% of the gross rental income for each year after the first 3 years of the extended term lease, up to a maximum amount of \$2,000 per income tax year. The credit is refundable and may not be carried forward.

To claim the credit, a qualified taxpayer must apply to the Colorado agricultural value-added development board (board) for a credit certificate (certificate). The board will evaluate the application and issue a certificate if the taxpayer qualifies for the credit. If a certificate is issued, the qualified taxpayer must attach it to the taxpayer's income tax return and submit it to the department of revenue to claim the credit. The board may issue rules to administer the credit.

The aggregate amount of credits issued in one calendar year cannot exceed \$2 million. After certificates have been issued for credits that exceed an aggregate of \$2 million for all qualified taxpayers during a calendar year, any claims that exceed the amount allowed are placed on a wait list in the order submitted and a certificate is issued for use of the credit in the next income tax year. No more than \$2 million in claims shall be placed on the wait list in any given calendar year.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-560 as
3 follows:

4 **39-22-560. Tax credit for leasing or selling agricultural asset**
5 **- tax preference performance statement - legislative declaration -**
6 **definitions - repeal.** (1) (a) IN ACCORDANCE WITH SECTION 39-21-304
7 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE
8 TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A

1 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY
2 DECLARES THAT THE PURPOSE OF THE TAX CREDIT CREATED IN THIS
3 SECTION IS TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS,
4 SPECIFICALLY TO ENCOURAGE AN INDIVIDUAL TO BECOME A FARMER OR
5 RANCHER AND PURCHASE OR LEASE AN AGRICULTURAL ASSET AND FOR AN
6 ESTABLISHED FARMER OR RANCHER TO SELL OR LEASE AN AGRICULTURAL
7 ASSET TO A BEGINNING OR DISADVANTAGED FARMER OR RANCHER.

8 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
9 MEASURE THE EFFECTIVENESS OF THE CREDIT IN ACHIEVING THE PURPOSE
10 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE
11 INFORMATION REQUIRED TO BE MAINTAINED BY AND REPORTED TO THE
12 STATE AUDITOR BY THE DEPARTMENT OF AGRICULTURE PURSUANT TO
13 SUBSECTION (4)(b) OF THIS SECTION.

14 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (a) "AGRICULTURAL ASSET" MEANS LAND, INCLUDING ESSENTIAL
17 INFRASTRUCTURE FOR AGRICULTURAL OPERATION, CROPS, LIVESTOCK AND
18 LIVESTOCK FACILITIES, FARM EQUIPMENT AND MACHINERY, GRAIN
19 STORAGE, IRRIGATION EQUIPMENT, OR WATER USED FOR AGRICULTURE.

20 (b) "BOARD" MEANS THE COLORADO AGRICULTURAL
21 VALUE-ADDED DEVELOPMENT BOARD CREATED IN SECTION 35-75-204.

22 (c) "CREDIT CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE
23 BOARD CERTIFYING THAT A QUALIFIED TAXPAYER QUALIFIES FOR AN
24 INCOME TAX CREDIT AUTHORIZED IN THIS SECTION AND SPECIFYING THE
25 AMOUNT OF THE CREDIT ALLOWED.

26 (d) "ELIGIBLE BEGINNING FARMER OR RANCHER" MEANS A
27 RESIDENT FARMER OR RANCHER WHO WILL PROVIDE THE MAJORITY OF THE

1 DAILY PHYSICAL LABOR OR MANAGEMENT ON OR USING THE QUALIFIED
2 TAXPAYER'S AGRICULTURAL ASSET, HAS PLANS TO FARM OR RANCH
3 FULL-TIME, HAS NOT BEEN ENGAGED IN FARMING OR RANCHING FOR MORE
4 THAN TEN YEARS, HAS FARMING OR RANCHING EXPERIENCE OR
5 EDUCATION, INCLUDING THE COMPLETION OF A FINANCIAL MANAGEMENT
6 EDUCATIONAL PROGRAM APPROVED BY THE BOARD, AND PROVIDES A
7 PROJECTED POSITIVE EARNINGS STATEMENT TO THE BOARD.

8 (e) "ELIGIBLE SOCIALLY DISADVANTAGED FARMER OR RANCHER"
9 MEANS A FARMER OR RANCHER RESIDING IN THE STATE WHO WILL PROVIDE
10 THE MAJORITY OF THE DAILY PHYSICAL LABOR OR MANAGEMENT ON OR
11 USING THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET, HAS PLANS TO
12 FARM OR RANCH FULL-TIME, HAS FARMING OR RANCHING EXPERIENCE OR
13 EDUCATION, INCLUDING THE COMPLETION OF A FINANCIAL MANAGEMENT
14 EDUCATIONAL PROGRAM APPROVED BY THE BOARD, PROVIDES A
15 PROJECTED POSITIVE EARNINGS STATEMENT TO THE BOARD, AND MEETS
16 THE DEFINITION OF "SOCIALLY DISADVANTAGED FARMER OR RANCHER" IN
17 7 U.S.C. SEC. 2279.

18 (f) "QUALIFIED LEASE" MEANS A LEASE ENTERED INTO BETWEEN
19 A QUALIFIED TAXPAYER AND AN ELIGIBLE BEGINNING FARMER OR
20 RANCHER OR ELIGIBLE SOCIALLY DISADVANTAGED FARMER OR RANCHER
21 FOR THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET THAT IS APPROVED
22 BY THE BOARD AND HAS A DURATION OF AT LEAST THREE YEARS BUT LESS
23 THAN TWENTY YEARS. IF THE LESSOR AND LESSEE OF A QUALIFIED LEASE
24 ARE FAMILY MEMBERS, THE LESSOR AND LESSEE MUST SUBMIT A
25 SUCCESSION PLAN, AS DEFINED AND APPROVED BY THE BOARD, FOR THE
26 AGRICULTURAL ASSET BEFORE THE TERMINATION OF THE QUALIFIED
27 LEASE.

1 (g) "QUALIFIED LEASE EXTENDED TERM" MEANS A LEASE ENTERED
2 INTO BETWEEN A QUALIFIED TAXPAYER AND AN ELIGIBLE BEGINNING
3 FARMER OR RANCHER OR ELIGIBLE SOCIALLY DISADVANTAGED FARMER OR
4 RANCHER FOR THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET THAT IS
5 APPROVED BY THE BOARD AND HAS A DURATION OF AT LEAST TWENTY
6 YEARS. IF THE LESSOR AND LESSEE OF A QUALIFIED LEASE EXTENDED TERM
7 ARE FAMILY MEMBERS, THE LESSOR AND LESSEE MUST SUBMIT A
8 SUCCESSION PLAN, AS DEFINED AND APPROVED BY THE BOARD, FOR THE
9 AGRICULTURAL ASSET BEFORE THE TERMINATION OF THE QUALIFIED LEASE
10 EXTENDED TERM.

11 (h) "QUALIFIED SALE" MEANS A SALE OF AN AGRICULTURAL ASSET
12 BY A QUALIFIED TAXPAYER TO AN ELIGIBLE BEGINNING FARMER OR
13 RANCHER OR ELIGIBLE SOCIALLY DISADVANTAGED FARMER OR RANCHER
14 THAT IS APPROVED BY THE BOARD. THE QUALIFIED TAXPAYER MUST
15 CONVEY A FEE SIMPLE ABSOLUTE INTEREST TO THE ELIGIBLE BEGINNING
16 FARMER OR RANCHER OR ELIGIBLE SOCIALLY DISADVANTAGED FARMER OR
17 RANCHER. A QUALIFIED SALE MUST BE BETWEEN A SELLER AND A BUYER
18 WHO ARE FINANCIALLY SEPARATE FROM EACH OTHER.

19 (i) "QUALIFIED TAXPAYER" MEANS A PERSON SUBJECT TO TAX
20 PURSUANT TO THIS ARTICLE 22 THAT OWNS AN AGRICULTURAL ASSET
21 LOCATED IN THE STATE AT THE TIME OF THE EXECUTION OF THE QUALIFIED
22 LEASE, QUALIFIED LEASE EXTENDED TERM, OR QUALIFIED SALE OF THE
23 AGRICULTURAL ASSET.

24 (3) (a) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION
25 (3)(b) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR
26 AFTER JANUARY 1, 2026, BUT BEFORE JANUARY 1, 2031, A QUALIFIED
27 TAXPAYER IS ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY

1 THIS ARTICLE 22 IN AN AMOUNT EQUAL TO:

2 (I) FIVE PERCENT OF THE LESSER OF THE SALE PRICE OR FAIR
3 MARKET VALUE OF AN AGRICULTURAL ASSET SOLD PURSUANT TO A
4 QUALIFIED SALE, UP TO A MAXIMUM AGGREGATE CREDIT OF THIRTY-TWO
5 THOUSAND DOLLARS PER INCOME TAX YEAR;

6 (II) TEN PERCENT OF AN AMOUNT EQUAL TO THE AGGREGATE
7 LEASE PAYMENTS FOR EACH OF THE FIRST THREE YEARS OF A QUALIFIED
8 LEASE, NOT TO EXCEED SEVEN THOUSAND DOLLARS PER INCOME TAX
9 YEAR; AND

10 (III) TWO PERCENT OF AN AMOUNT EQUAL TO THE AGGREGATE
11 LEASE PAYMENTS FOR EACH YEAR OF A QUALIFIED LEASE EXTENDED
12 TERM'S REMAINING TERM AFTER THE FIRST THREE YEARS, NOT TO EXCEED
13 TWO THOUSAND DOLLARS PER INCOME TAX YEAR.

14 (b) TO CLAIM THE CREDIT, THE TAXPAYER MUST ANNUALLY APPLY
15 FOR AND RECEIVE A TAX CREDIT CERTIFICATE FROM THE BOARD PURSUANT
16 TO SUBSECTION (4) OF THIS SECTION. IF THE BOARD DETERMINES THAT AN
17 APPLICANT IS NOT ENTITLED TO A TAX CREDIT CERTIFICATE UNDER THIS
18 SECTION, THE BOARD SHALL NOTIFY THE APPLICANT OF ITS DISAPPROVAL
19 IN WRITING.

20 (4) (a) A QUALIFIED TAXPAYER SHALL SUBMIT AN APPLICATION TO
21 THE BOARD FOR A TAX CREDIT CERTIFICATE TO CLAIM THE CREDIT
22 ALLOWED BY THIS SECTION ON A FORM AND IN A MANNER PRESCRIBED BY
23 THE BOARD. THE APPLICATION MUST INCLUDE SUFFICIENT INFORMATION,
24 INCLUDING A VALID SCHEDULE F, TO ALLOW THE BOARD TO MAKE A
25 DETERMINATION THAT A SALE OR LEASE IS A QUALIFIED SALE, QUALIFIED
26 LEASE, OR QUALIFIED LEASE EXTENDED TERM, AND TO VERIFY THE
27 AMOUNT FOR WHICH THE TAX CREDIT CERTIFICATE IS APPLIED.

1 (b) (I) THE BOARD SHALL MAINTAIN A DATABASE OF ANY
2 INFORMATION DETERMINED NECESSARY BY THE BOARD TO EVALUATE THE
3 EFFECTIVENESS OF THE INCOME TAX CREDIT ALLOWED IN THIS SECTION IN
4 MEETING THE PURPOSE SET FORTH IN SUBSECTION (1) OF THIS SECTION AND
5 SHALL PROVIDE SUCH INFORMATION, AND ANY OTHER INFORMATION THAT
6 MAY BE NEEDED, IF AVAILABLE, TO THE STATE AUDITOR AS PART OF THE
7 STATE AUDITOR'S EVALUATION OF THIS TAX EXPENDITURE REQUIRED BY
8 SECTION 39-21-305.

9 (II) THE BOARD SHALL, IN A SUFFICIENTLY TIMELY MANNER TO
10 ALLOW THE DEPARTMENT OF REVENUE TO PROCESS RETURNS ON WHICH A
11 QUALIFIED TAXPAYER CLAIMS THE INCOME TAX CREDIT ALLOWED IN THIS
12 SECTION, PROVIDE THE DEPARTMENT OF REVENUE WITH AN ELECTRONIC
13 REPORT FOR THE PRECEDING TAX YEAR THAT LISTS EACH QUALIFIED
14 TAXPAYER TO WHICH THE BOARD ISSUED A TAX CREDIT CERTIFICATE AND
15 INCLUDES THE FOLLOWING INFORMATION:

16 (A) THE QUALIFIED TAXPAYER'S NAME;

17 (B) THE AMOUNT OF THE INCOME TAX CREDIT THAT THE
18 CERTIFICATE INDICATES THE QUALIFIED TAXPAYER IS ELIGIBLE TO CLAIM;
19 AND

20 (C) THE QUALIFIED TAXPAYER'S SOCIAL SECURITY NUMBER OR THE
21 QUALIFIED TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL
22 EMPLOYER IDENTIFICATION NUMBER.

23 (5) TO CLAIM THE CREDIT AUTHORIZED BY THIS SECTION, A
24 QUALIFIED TAXPAYER SHALL FILE THE TAX CREDIT CERTIFICATE WITH THE
25 QUALIFIED TAXPAYER'S STATE INCOME TAX RETURN. THE AMOUNT OF THE
26 CREDIT THAT THE QUALIFIED TAXPAYER MAY CLAIM PURSUANT TO THIS
27 SECTION IS THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE,

1 SUBJECT TO THE LIMITATIONS IN SUBSECTION (3)(b) OF THIS SECTION.

2 (6) THE BOARD SHALL ISSUE CERTIFICATES FOR APPLICATIONS
3 RECEIVED AND APPROVED IN THE ORDER SUBMITTED BUT SHALL NOT ISSUE
4 CREDIT CERTIFICATES TO QUALIFIED TAXPAYERS THAT EXCEED AN
5 AGGREGATE AMOUNT OF TWO MILLION DOLLARS IN A CALENDAR YEAR FOR
6 INCOME TAX YEARS THAT COMMENCE DURING THE YEAR OF ISSUANCE. IF
7 THE BOARD RECEIVES AND APPROVES APPLICATIONS FOR CREDIT
8 CERTIFICATES THAT EXCEED AN AGGREGATE AMOUNT OF TWO MILLION
9 DOLLARS IN A CALENDAR YEAR, THOSE APPLICANTS MUST BE PLACED ON
10 A WAIT LIST IN THE ORDER SUBMITTED AND APPROVED AND A CERTIFICATE
11 MUST BE ISSUED FOR THE FOLLOWING CALENDAR YEAR THAT ALLOWS THE
12 TAXPAYER TO CLAIM THE CREDIT FOR INCOME TAX YEARS THAT
13 COMMENCE DURING THAT FOLLOWING CALENDAR YEAR; EXCEPT THAT NO
14 MORE THAN AN AGGREGATE AMOUNT OF TWO MILLION DOLLARS IN
15 APPROVED CREDIT CERTIFICATE APPLICATIONS MAY BE PLACED ON THE
16 WAIT LIST IN ANY GIVEN CALENDAR YEAR. NOTWITHSTANDING A
17 TAXPAYER'S QUALIFICATION FOR THE CREDIT PURSUANT TO THIS SECTION,
18 THE BOARD SHALL NOT ISSUE A CREDIT CERTIFICATE, AND A TAXPAYER
19 MAY NOT CLAIM A CREDIT, TO THE EXTENT THAT THE AMOUNT OF THE
20 CREDIT INCLUDED IN THE TAXPAYER'S APPLICATION EXCEEDS THE LIMITS
21 SET FORTH IN THIS SUBSECTION (6). A TAXPAYER MAY NOT CLAIM A
22 CREDIT FOR ANY INCOME TAX YEAR UNLESS A CERTIFICATE HAS BEEN
23 ISSUED BY THE BOARD.

24 (7) IF AN INCOME TAX CREDIT AUTHORIZED IN THIS SECTION
25 EXCEEDS THE INCOME TAX DUE ON THE INCOME OF THE QUALIFIED
26 TAXPAYER FOR THE TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE
27 CARRIED FORWARD AND MUST BE REFUNDED TO THE QUALIFIED

1 TAXPAYER.

2 (8) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2034.

3 **SECTION 2.** In Colorado Revised Statutes, 35-75-204, **amend**

4 (1) as follows:

5 **35-75-204. Duties of board - agriculture value-added grants,**

6 **loans and loan guarantees, and equity investments - rules - tax credit**

7 **certificates.** (1) The board has the power to make grants, loans and loan

8 guarantees, and equity investments to any person, including eligible

9 agricultural value-added cooperatives, as defined in section 35-75-202

10 (4), for new or ongoing agricultural projects and research that add value

11 to Colorado agricultural products and aid the economy of rural Colorado

12 communities and for agricultural projects that will reduce energy costs for

13 agricultural producers or businesses. The board also has the power to

14 fund market promotion activities of the department pursuant to section

15 35-75-205 (2)(f). THE BOARD HAS THE POWER TO ISSUE RULES TO

16 ADMINISTER SECTION 39-22-560 AND THE POWER TO ISSUE TAX CREDIT

17 CERTIFICATES PURSUANT TO SECTION 39-22-560.

18 **SECTION 3. Act subject to petition - effective date.** This act

19 takes effect at 12:01 a.m. on the day following the expiration of the

20 ninety-day period after final adjournment of the general assembly; except

21 that, if a referendum petition is filed pursuant to section 1 (3) of article V

22 of the state constitution against this act or an item, section, or part of this

23 act within such period, then the act, item, section, or part will not take

24 effect unless approved by the people at the general election to be held in

25 November 2024 and, in such case, will take effect on the date of the

26 official declaration of the vote thereon by the governor.