



State Policy Alert

April 13, 2009

Tax Credit Could be Subject to State Budget Battle

If you haven't been paying attention to the state's budget debate, we urge you to start. This year may be harder on land conservation than any we have seen. The state legislature is working diligently to approve a \$19.9 billion budget for the fiscal year starting July 1, 2009, however they first have to find a way to fill a shortfall of nearly \$800 million. Some of the debate has been widely publicized, such as whether the state should take \$500 million from the quasi-public Pinnacol Assurance or cut the state's contribution to higher education by half.

This debate matters to all Coloradans because it concerns the fiscal health and policies of our state. However, for the first time, our state Conservation Easement Tax Credit may be one of the cuts the state considers to balance the budget. There is no firm proposal for this cut at this time, and CCLT and many others are working hard to protect it. These issues can move fast however, so this is a heads-up to pay close attention to the news over the next week.

Why Is This Happening Now?

Balancing the state's budget is often a challenge. However, last week the legislature's legal staff advised the Joint Budget Committee that a recent ruling by the Colorado Supreme Court gave the legislature the right to rescind tax credits and exemptions without a vote of the general public. Previously, the common wisdom was that the Taxpayers' Bill of Rights (TABOR) restricted legislator's ability to rescind tax credits including the conservation easement tax credit. (Click here to see the entire [Supreme Court Ruling](#))

4/2/09: [Stash seen as budget fix](#). (scroll all the way to the bottom for the highlight on the conservation easement tax credit)

4/7/09: [Blowing the lid off TABOR](#).

4/8/09: [Digging for fixes to cover budget - State starts to look into salaries, tax exemptions](#).

4/9/09: [Cuts pursued to rescue higher ed](#).

4/10/09: [Senate closer to Pinnacol asset seizure](#).

4/13/09: [Pinnacol digs in for Senate fight](#).

What's the Process Moving Forward?

Last week, the [Joint Budget Committee](#) made their recommendations to the General Assembly in a budget bill referred to as the "Long Bill." The Long Bill balanced the budget by cutting higher education by \$300 million (half of the state's usual contribution). The Senate voted to eliminate the cut and instead seize \$500 million from the quasi-public Pinnacol Assurance company.

The Senate will have a final vote on the Long Bill today (Monday 4/13/09). Then, the Long Bill goes to the House. Given the

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public outcry over the Pinnacol deal or cutting higher education, we expect any number of amendments to be offered on the House floor Tuesday, Wednesday, or Thursday. Any of these could be targeted to the conservation easement tax credit. Ultimately, the Long Bill will go back to the Joint Budget Committee for final approval.

What Can You Do to Help?

First, stay on top of the news for the next few days and be prepared to respond quickly. We are keeping a low profile unless it becomes absolutely necessary to respond publically. **Second, if (and only if) you know your legislator well and know that they are a strong advocate of the conservation easement tax credit program, please contact them ASAP and remind them of just how critical this program is.** We have come to the point where personal relationships really matter. Talking points are below. We already owe a great round of thanks to Senators Isgar, Penry, and White and Representatives Curry and Pommer. If these are your representatives please send them a special thank you and encouragement ASAP. Third, CCLT will be giving a briefing on the program to the Joint Agriculture Committee on Wednesday morning (8 - 9 a.m. in the Room 0107). If you are within reasonable driving distance, please consider joining us to show your support for the program. You can also listen to the broadcast live via [Live Legislative Audio](#). Contact greg.yankee@cclt.org to coordinate.

Again, please contact supportive legislators -- particularly Members of the House of Representatives -- ASAP with a supportive message about the tax credit. Legislators are in a real bind with the budget and they need to hear from their constituents who value this program. If you don't know who your legislator is, you can look it up at [Project Vote Smart](#). However, if you don't already know your legislator this may not be the time. Contact Jill (jill.ozarski@cclt.org) or Greg (greg.yankee@cclt.org) at 303-271-1577 to find out.

Talking Points

- Now that reforms are in place, the annual cost of the program will decrease dramatically. The Colorado Division of Real Estate estimates that the 2008 costs were approximately \$45 million. This is much less (50%) than the high numbers seen in the past because past numbers included fraud and abuse. The state is aggressively pursuing the fraud and abuse (committed by a few bad actors who cost the state as much as \$100 million from 2003-2008) and will collect revenue back.
- It is critical to realize that hundreds of farmers and ranchers made a permanent commitment to restrict their land based on the state's promise of the conservation easement tax credit. These individuals based their financial futures on this program and eliminating it would interrupt many credits and transactions already in the pipeline.
- The tax credit is a critical tool that helps to stretch other conservation dollars further. For example, in 2008, the Colorado Cattlemen's Agricultural Land Trust leveraged \$4 in public and private funds for every \$1 in credits.

General Background on the Tax Credit Program:

- The tax credit has helped thousands of landowners across Colorado conserve farms and ranchland, scenic and historic areas, wildlife habitat, and unique natural areas that would have otherwise been lost forever to development. Conservation easements have preserved over 1.5 million acres across the state!
- While the tax incentives for landowners offer only a fraction of what they would get for the outright sale of the property, it allows some of these cash-poor but land-rich farmers and ranchers to preserve their family traditions and Colorado's agricultural heritage.
- Conservation easements allow for the preservation of more land for far less money than would be needed to purchase these areas outright.
- Preserving working farms and ranches and other scenic open spaces directly supports two of our state's three top industries - tourism and agriculture.
- Comprehensive reforms in 2007 and 2008 legislation increased accountability and oversight of the program by:
 - (1) Requiring state certification of land trusts and government entities;
 - (2) Review and accountability of conservation easement appraisals;
 - (3) Increased public transparency and coordination between state enforcement agencies;
 - (4) Creation of a Conservation Easement Oversight Commission to advise the agencies on enforcement and regulation of the program.

If you have any questions, please feel free to contact Jill (jill.ozarski@cclt.org) or Greg (greg.yankee@cclt.org) at 303-271-1577.

Other State Policy Issues: Progress on Habitat Stamp Reauthorization

Senate Bill 235 (Isgar/Gibbs/Merrifield) would reauthorize and improve the Habitat Stamp program. It is moving through the legislature with the strong support of the Division of Wildlife, sportsmen, and conservation organizations. You can view the bill and its progress on the [Senate bills page](#). If approved, this bill would fund about \$7 million annually in habitat acquisition and management. Some changes from the current program include a \$10 stamp for all license buyers and encouraging non-consumptive user participation through Colorado Wildlife Passports. If you have any issues, concerns, or questions about this bill, please contact jill.ozarski@cclt.org or greg.yankee@cclt.org.



4/1/09: [Stamp revision yields more advantages](#)

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