

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-1046.01 Gregg Fraser x4325

HOUSE BILL 19-1264

HOUSE SPONSORSHIP

Roberts and Wilson, Buentello, Arndt, Bird, Duran, Esgar, Hansen, Herod, Kennedy, McCluskie, Snyder, Sullivan, Valdez D., Will

SENATE SPONSORSHIP

Winter and Donovan,

House Committees

Rural Affairs & Agriculture
Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING PROGRAMMATIC EFFICIENCY OF THE CONSERVATION**
102 **EASEMENT TAX CREDIT PROGRAM, AND, IN CONNECTION**
103 **THEREWITH, INCREASING THE TRANSPARENCY OF THE PROGRAM**
104 **AND MAKING AN APPROPRIATION.**

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>.)

A conservation easement is an agreement in which a property owner agrees to limit the use of his or her land in perpetuity in order to protect one or more specified conservation purposes. The instruments

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
May 1, 2019

HOUSE
3rd Reading Unamended
April 24, 2019

HOUSE
Amended 2nd Reading
April 23, 2019

creating the conservation easement are recorded in the public records affecting the ownership of the property. The conservation easement is held by a third party (holder), which monitors the use of the land and ensures that the terms of the agreement are upheld. A state income tax credit is currently allowed for a portion of the value of a donated conservation easement.

The statutes establishing the conservation easement oversight commission and the program to certify conservation easement holders in the division of conservation are currently set to repeal on July 1, 2019. The bill extends the repeal dates for each to July 1, 2026. In addition, the bill would:

- ! Eliminate a requirement that the board of real estate appraisers establish education and experience requirements for conservation easement appraisers;
- ! Relocate and modify certain provisions governing the creation and valuation of conservation easements;
- ! Allow the division of conservation to use an alternative method acceptable to the division and the conservation easement oversight commission to value a conservation easement;
- ! Modify provisions governing a conservation easement working group convened to address specified issues relating to claiming a state income tax credit for the donation of a conservation easement;
- ! Require the owner of property who is granting a conservation easement to execute a disclosure form developed by the division of conservation and the conservation easement oversight commission regarding the easement;
- ! Modify provisions governing when a conservation easement may be extinguished;
- ! Prohibit a conservation easement for which a state income tax credit has been allowed from being released, terminated, extinguished, or abandoned by merger, which occurs when the same entity holds both the easement and the land subject to the easement;
- ! Increase the percentage of the value of a conservation easement that may be claimed as an income tax credit and the total amount that may be claimed for the easement, while limiting the amount of credits that may be issued per year; and
- ! Make an appropriation to Colorado state university to facilitate the provision of public access to the Colorado ownership, management, and protection (COMaP) service which maintains a database and corresponding map of

conservation easements and other protected lands in Colorado.

Additionally, the bill makes conforming amendments to certain statutory sections contained in HB 19-1172, which recodifies title 12, to ensure that the provisions of the bill will be effective if HB 19-1172 becomes law.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-61-704, **repeal**
3 (1)(k) as follows:

4 **12-61-704. Powers and duties of the board - rules.** (1) In
5 addition to all other powers and duties imposed upon it by law, the board
6 has the following powers and duties:

7 (k) ~~To establish classroom education and experience requirements~~
8 ~~for an appraiser who prepares an appraisal for a conservation easement~~
9 ~~for which a tax credit is claimed pursuant to section 39-22-522. The~~
10 ~~requirements must ensure that appraisers have a sufficient amount of~~
11 ~~training and expertise to accurately prepare appraisals that comply with~~
12 ~~the uniform standards of professional appraisal practice and any other~~
13 ~~provision of law related to the appraisal of conservation easements for~~
14 ~~which a tax credit is claimed. A tax credit certificate for a conservation~~
15 ~~easement shall not be given in accordance with sections 12-61-1105 and~~
16 ~~12-61-1106 unless the appraiser who prepared the appraisal of the~~
17 ~~easement met all requirements established in accordance with this~~
18 ~~subsection (1)(k) in effect at the time the appraisal certification is signed.~~

19 **SECTION 2.** In Colorado Revised Statutes, 12-61-1101, **amend**
20 (1)(e)(II) and (1)(e)(III); and **add** (1)(e)(IV) as follows:

21 **12-61-1101. Legislative declaration.** (1) The general assembly
22 finds, determines, and declares that:

1 (e) Establishing the division of conservation to administer the
2 conservation easement tax credit program will:

3 (II) Allow the conservation easement oversight commission to
4 advise the division of conservation and the department of revenue
5 regarding conservation easements for which a tax credit is claimed and
6 to review applications for conservation easement holder certification; ~~and~~

7 (III) Ensure that the division of conservation and the department
8 of revenue are sharing relevant information concerning conservation
9 easement appraisals in order to ensure compliance with accepted
10 appraisal practices and other provisions of law; AND

11 (IV) ENSURE THAT THE FEES PAID BY TAXPAYERS ARE ADEQUATE
12 TO PAY FOR THE ADMINISTRATIVE COSTS OF THE DIVISION OF
13 CONSERVATION AND THE CONSERVATION EASEMENT OVERSIGHT
14 COMMISSION IN ADMINISTERING THE REQUIREMENTS OF THIS ARTICLE 61,
15 BUT NOT SO HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF
16 CONSERVATION EASEMENTS IN THE STATE.

17 **SECTION 3.** In Colorado Revised Statutes, 12-61-1103, **amend**
18 (8) as follows:

19 **12-61-1103. Conservation easement oversight commission -**
20 **created - repeal.** (8) This section is repealed, effective ~~July 1, 2019~~ JULY
21 1, 2026.

22 **SECTION 4.** In Colorado Revised Statutes, 12-61-1104, **amend**
23 (7) and (13) as follows:

24 **12-61-1104. Certification of conservation easement holders -**
25 **rules - definition - repeal.** (7) The division shall promulgate rules to
26 effectuate the duties of the commission pursuant to article 4 of title 24.
27 Such rules shall specifically address the following:

1 (a) Allowing for the expedited or automatic certification of an
2 entity that is currently accredited by national land conservation
3 organizations that are broadly accepted by the conservation industry; AND

4 (b) A streamlined and lower-cost process for conservation
5 easement holders that do not intend to accept new donations of
6 conservation easements for which tax credits would be claimed that
7 focuses on the holder's stewardship capabilities.

8 ~~(c) The fees charged pursuant to subsection (3) of this section or~~
9 ~~section 12-61-1106(6), specifically ensuring that the fees are adequate to~~
10 ~~pay for administrative costs but not so high as to act as a disincentive to~~
11 ~~the creation of conservation easements in the state; and~~

12 ~~(d) The adoption of best practices, processes, and procedures used~~
13 ~~by other entities that regularly review conservation easement transactions,~~
14 ~~including a practice, process, or procedure deeming qualified~~
15 ~~conservation easement appraisals approved by these entities based on~~
16 ~~their independent reviews as credible for purposes of the conservation~~
17 ~~easement tax credit.~~

18 (13) This section is repealed, effective ~~July 1, 2019~~ JULY 1, 2026.

19 **SECTION 5.** In Colorado Revised Statutes, 12-61-1106, **amend**
20 **(2)(a)(II), (3)(b)(II), (13)(c) introductory portion, and (15); repeal**
21 **(3)(b)(IV); and add (14.5) as follows:**

22 **12-61-1106. Conservation easement tax credit certificate**
23 **application process - definitions - rules.** (2) (a) The division shall
24 establish and administer a process by which a landowner seeking to claim
25 an income tax credit for any conservation easement donation made on or
26 after January 1, 2014, must apply for a tax credit certificate as required by
27 section 39-22-522 (2.5) and (2.7). The purpose of the application process

1 is to determine whether a conservation easement donation for which a tax
2 credit will be claimed:

3 (II) Is substantiated with a qualified appraisal prepared by a
4 qualified appraiser in accordance with the SUBSTANCE AND PRINCIPLES OF
5 uniform standards of professional appraisal practice OR AN ALTERNATIVE
6 METHOD ACCEPTABLE TO THE DIVISION OF CONSERVATION AND THE
7 CONSERVATION EASEMENT OVERSIGHT COMMISSION; and

8 (3) For the purpose of reviewing applications and making
9 determinations regarding the issuance of tax credit certificates, including
10 the dollar amount of the tax credit certificate to be issued:

11 (b) The director has authority and responsibility to determine the
12 credibility of the appraisal. In determining credibility, the director shall
13 consider, at a minimum, compliance with the following requirements:

14 (II) The appraisal conforms with THE SUBSTANCE AND PRINCIPLES
15 OF the uniform standards of professional appraisal practice promulgated
16 by the appraisal standards board of the appraisal foundation and any other
17 provision of law;

18 ~~(IV) The appraiser meets any education and experience~~
19 ~~requirements established by the board of real estate appraisers in~~
20 ~~accordance with section 12-61-704 (1)(k).~~

21 (13) (c) The director is authorized to share publicly available
22 information regarding conservation easements with a third-party vendor
23 for the purpose of developing and maintaining a registry of conservation
24 easements in the state with a corresponding map displaying the
25 boundaries of each easement in the state relative to county boundaries and
26 other relevant mapping information. FOR PURPOSES OF THIS SUBSECTION
27 (13)(c), "PUBLICLY AVAILABLE INFORMATION" MEANS ANY DOCUMENT

1 SHOWING EVIDENCE OF ITS RECORDATION IN THE RECORDS OF A COUNTY
2 CLERK AND RECORDER OR OTHER INFORMATION READILY AVAILABLE TO
3 THE GENERAL PUBLIC. Prior to sharing the information, the director shall
4 consult with the commission regarding the appropriate types of
5 information and the methods used for collecting the information. The
6 department of regulatory agencies shall annually report on the
7 information contained in the registry as a part of its presentation to its
8 committee of reference at a hearing held pursuant to section 2-7-203
9 (2)(a) of the "State Measurement for Accountable, Responsive, and
10 Transparent (SMART) Government Act". The information to be shared
11 shall include the following:

12 (14.5) (a) THE DIVISION SHALL CONVENE A WORKING GROUP IN
13 CONJUNCTION WITH THE DEPARTMENT OF LAW AND THE DEPARTMENT OF
14 REVENUE TO DEVELOP PROPOSED STATUTES AND REGULATIONS FOR THE
15 FOLLOWING:

16 (I) AN ALTERNATIVE METHOD TO THE APPRAISAL PROCESS SET
17 FORTH IN SECTION 39-22-522 (3.3) TO ESTABLISH THE AMOUNT OF TAX
18 CREDITS FOR WHICH A QUALIFIED CONSERVATION EASEMENT
19 CONTRIBUTION WOULD BE ELIGIBLE;

20 (II) A PROCESS TO PROVIDE RETROACTIVE TAX CREDITS,
21 PAYMENTS, OR REFUNDS TO TAXPAYERS WHO CLAIMED CREDITS PURSUANT
22 TO SECTION 39-22-522 BETWEEN JANUARY 1, 2000, AND DECEMBER 31,
23 2013, AND WHOSE TAX CREDITS WERE DENIED IN WHOLE OR IN PART,
24 INCLUDING THE DEVELOPMENT OF ELIGIBILITY CRITERIA FOR RECEIVING
25 SUCH RETROACTIVE TAX CREDITS, PAYMENTS, OR REFUNDS; AND

26 (III) RECOMMENDATIONS FOR ADMINISTERING ORPHANED
27 CONSERVATION EASEMENTS.

1 (b) THE WORKING GROUP SHALL CONSIST OF EIGHT MEMBERS. THE
2 PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE
3 SPEAKER OF THE HOUSE, AND THE MINORITY LEADER OF THE HOUSE SHALL
4 EACH APPOINT TWO MEMBERS TO THE WORKING GROUP PRIOR TO JUNE 1,
5 2019. IN MAKING APPOINTMENTS, CONSIDERATION SHOULD BE GIVEN TO
6 APPOINTING INDIVIDUALS WHO ARE CERTIFIED EASEMENT HOLDERS,
7 TAXPAYERS WHO HAVE CONSIDERED CONVEYING A CONSERVATION
8 EASEMENT OR CONVEYED A CONSERVATION EASEMENT AND CLAIMED A
9 TAX CREDIT, CONSERVATION EASEMENT APPRAISERS, AND CONSERVATION
10 ATTORNEYS. THE WORKING GROUP SHALL CONVENE ITS FIRST MEETING IN
11 A HEARING ROOM AT THE STATE CAPITOL BUILDING AT 9:00 A.M. ON JUNE
12 25, 2019. THE WORKING GROUP SHALL SELECT A CHAIRPERSON AT THE
13 FIRST MEETING. AT EACH MEETING OF THE WORKING GROUP, IT SHALL
14 DESIGNATE THE DATE, PLACE, AND TIME OF ITS NEXT MEETING.

15 (c) THE WORKING GROUP SHALL SUBMIT A REPORT TO THE RURAL
16 AFFAIRS AND AGRICULTURE COMMITTEE OF THE HOUSE OF
17 REPRESENTATIVES AND THE AGRICULTURE AND NATURAL RESOURCES
18 COMMITTEE OF THE SENATE BY NO LATER THAN DECEMBER 1, 2019. THE
19 REPORT MUST INCLUDE ANY RECOMMENDATIONS FOR LEGISLATION OR
20 RULE MAKING TO ADDRESS THE ISSUES ADDRESSED PURSUANT TO THIS
21 SUBSECTION (14.5).

22 (15) The division may promulgate rules to effectuate the purpose,
23 implementation, and administration of this section pursuant to article 4 of
24 title 24. The authority to promulgate rules includes the authority to:

25 (a) Define further in rule the administrative processes and
26 requirements, including application processing and review time frames,
27 for obtaining and issuing an optional preliminary advisory opinion

1 pursuant to subsection (14) of this section; AND

2 (b) ADOPT BEST PRACTICES, PROCESSES, AND PROCEDURES USED
3 BY OTHER ENTITIES THAT REGULARLY REVIEW CONSERVATION EASEMENT
4 TRANSACTIONS, INCLUDING A PRACTICE, PROCESS, OR PROCEDURE
5 DEEMING QUALIFIED CONSERVATION EASEMENT APPRAISALS APPROVED BY
6 THESE ENTITIES BASED ON THEIR INDEPENDENT REVIEWS AS CREDIBLE FOR
7 PURPOSES OF THE CONSERVATION EASEMENT TAX CREDIT.

8 **SECTION 6.** In Colorado Revised Statutes, 38-30.5-103, **add** (6)
9 as follows:

10 **38-30.5-103. Creation of conservation easements in gross.**

11 (6) ON AND AFTER JANUARY 1, 2020, PRIOR TO CREATING A
12 CONSERVATION EASEMENT IN GROSS, THE OWNER OF THE PROPERTY WHO
13 IS GRANTING THE CONSERVATION EASEMENT SHALL EXECUTE A
14 DISCLOSURE FORM THAT INCLUDES, BUT IS NOT LIMITED TO, AN
15 ACKNOWLEDGMENT THAT THE CONSERVATION EASEMENT IS BEING
16 GRANTED IN PERPETUITY. THE DIVISION OF CONSERVATION IN
17 COOPERATION WITH THE CONSERVATION EASEMENT OVERSIGHT
18 COMMISSION SHALL DEVELOP THE DISCLOSURE FORM AND PUBLISH THE
19 APPROVED FORM ON ITS WEBSITE. THE SIGNED DISCLOSURE FORM MUST BE
20 SUBMITTED TO THE DIVISION OF CONSERVATION AS PART OF THE TAX
21 CREDIT APPLICATION.

22 **SECTION 7.** In Colorado Revised Statutes, **amend** 38-30.5-107
23 as follows:

24 **38-30.5-107. Release - termination.** ~~Conservation easements in~~
25 ~~gross may, in whole or in part, be released, terminated, extinguished, or~~
26 ~~abandoned by merger with the underlying fee interest in the servient land~~
27 ~~or water rights or in any other manner in which easements may be~~

1 ~~lawfully terminated, released, extinguished, or abandoned.~~ IF IT IS
2 DETERMINED THAT CONDITIONS ON OR SURROUNDING A PROPERTY
3 ENCUMBERED BY A CONSERVATION EASEMENT IN GROSS CHANGE SO THAT
4 IT BECOMES IMPOSSIBLE TO FULFILL ITS CONSERVATION PURPOSES THAT
5 ARE DEFINED IN THE DEED OF CONSERVATION EASEMENT, A COURT WITH
6 JURISDICTION MAY, AT THE JOINT REQUEST OF BOTH THE OWNER OF
7 PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT AND THE
8 HOLDER OF THE EASEMENT, TERMINATE, RELEASE, EXTINGUISH, OR
9 ABANDON THE CONSERVATION EASEMENT. IF CONDEMNATION BY A PUBLIC
10 AUTHORITY OF A PART OF A PROPERTY OR OF THE ENTIRE PROPERTY
11 ENCUMBERED BY A CONSERVATION EASEMENT IN GROSS RENDERS IT
12 IMPOSSIBLE TO FULFILL ANY OF THE CONSERVATION PURPOSES OUTLINED
13 IN THE DEED OF CONSERVATION EASEMENT, THE CONSERVATION
14 EASEMENT MAY BE TERMINATED, RELEASED, EXTINGUISHED, OR
15 ABANDONED THROUGH CONDEMNATION PROCEEDINGS. A CONSERVATION
16 EASEMENT IN GROSS FOR WHICH A COLORADO STATE INCOME TAX CREDIT
17 HAS BEEN ALLOWED MAY NOT IN WHOLE OR IN PART BE RELEASED,
18 TERMINATED, EXTINGUISHED, OR ABANDONED BY MERGER WITH THE
19 UNDERLYING FEE INTEREST IN THE SERVIENT LAND OR WATER RIGHTS.
20 ANY RELEASE, TERMINATION, OR EXTINGUISHMENT OF A CONSERVATION
21 EASEMENT UNDER THIS SECTION MUST BE RECORDED IN THE RECORDS OF
22 THE OFFICE OF THE CLERK AND RECORDER IN THE COUNTY WHERE THE
23 CONSERVATION EASEMENT IS LOCATED.

24 **SECTION 8.** In Colorado Revised Statutes, 39-22-522, **amend**
25 (2.7), (3.3), and (4)(a)(II.5); and **repeal** (3.8) as follows:

26 **39-22-522. Credit against tax - conservation easements.**
27 (2.7) Notwithstanding any other provision, for income tax years

1 commencing on or after January 1, 2014, no claim for a credit shall be
2 allowed unless a tax credit certificate is issued by the DIVISION OF REAL
3 ESTATE PRIOR TO MAY 30, 2018, OR BY THE division of conservation ON
4 OR AFTER MAY 30, 2018, in accordance with sections 12-61-1105 and
5 12-61-1106 and the taxpayer files the tax credit certificate with the
6 income tax return filed with the department of revenue.

7 (3.3) The appraisal for a conservation easement in gross donated
8 prior to January 1, 2014, and for which a credit is claimed shall be a
9 qualified appraisal from a qualified appraiser, as those terms are defined
10 in section 170 (f)(11) of the internal revenue code. The appraisal shall be
11 in conformance with the uniform standards of professional appraisal
12 practice promulgated by the appraisal standards board of the appraisal
13 foundation and any other provision of law. The appraiser shall hold a
14 valid license as a certified general appraiser in accordance with the
15 provisions of part 7 of article 61 of title 12. ~~C.R.S. The appraiser shall~~
16 ~~also meet any education and experience requirements established by the~~
17 ~~board of real estate appraisers in accordance with section 12-61-704~~
18 ~~(1)(k), C.R.S.~~ If there is a final determination, other than by settlement of
19 the taxpayer, that an appraisal submitted in connection with a claim for
20 a credit pursuant to this section is a substantial or gross valuation
21 misstatement as such misstatements are defined in section 1219 of the
22 federal "Pension Protection Act of 2006", Pub.L. 109-280, the department
23 shall submit a complaint regarding the misstatement to the board of real
24 estate appraisers for disciplinary action in accordance with the provisions
25 of part 7 of article 61 of title 12. ~~C.R.S.~~

26 (3.8) ~~(a) The division of conservation shall convene a working~~
27 ~~group in conjunction with the department of law the department of~~

1 revenue and the department of regulatory agencies to develop statutory
2 and regulatory recommendations that do not conflict with federal law for
3 the following:

4 (I) ~~An alternate method to the appraisal process set forth in~~
5 ~~subsection (3.3) of this section to establish a baseline property value,~~
6 ~~using agreed upon publicly available datasets for rural and agricultural~~
7 ~~properties. The baseline valuation would then be subject to different~~
8 ~~levels of restriction including, but not limited to, a most restrictive,~~
9 ~~medium restrictive, and least restrictive easement to arrive at a final~~
10 ~~determination established through public policy from which the amount~~
11 ~~of a tax credit could be calculated pursuant to this section. The alternate~~
12 ~~method should work across the state of Colorado.~~

13 (II) ~~A recommendation for a process to petition a court of~~
14 ~~competent jurisdiction consistent with federal laws and regulations to~~
15 ~~extinguish a conservation easement, including proposed definitions for~~
16 ~~the terms "impossible" and "impracticable" as they are applied for~~
17 ~~purposes of determining whether an easement may be extinguished under~~
18 ~~state and federal law;~~

19 (III) ~~A process to provide retroactive tax credits to taxpayers who~~
20 ~~claimed tax credits pursuant to this section between January 1, 2000, and~~
21 ~~December 31, 2008, and whose tax credits were denied in whole or in~~
22 ~~part, including the development of eligibility criteria for such retroactive~~
23 ~~tax credits; and~~

24 (IV) ~~The development of a written form to warn landowners who~~
25 ~~have conservation easements on their property of the legal and other~~
26 ~~consequences of terminating an easement on their property.~~

27 (b) ~~The working group shall submit a report to the transportation~~

1 and energy committee of the house of representatives, the agriculture,
2 livestock, and natural resources committee of the house of
3 representatives, the agriculture, natural resources, and energy committee
4 of the senate, and the transportation committee of the senate no later than
5 December 1, 2018. The report must include any recommendations for
6 legislation or rulemaking to address the issues addressed pursuant to this
7 subsection (3.8):

8 (4)(a)(II.5) For a conservation easement in gross created in
9 accordance with article 30.5 of title 38 C.R.S., that is donated on or after
10 January 1, 2015, to a governmental entity or a charitable organization
11 described in section 38-30.5-104 (2), C.R.S., the credit provided for in
12 subsection (2) of this section shall be an amount equal to seventy-five
13 percent of the first one hundred thousand dollars of the fair market value
14 of the donated portion of such conservation easement in gross when
15 created, and fifty percent of all amounts of the donation in excess of one
16 hundred thousand dollars; except that in no case shall the credit exceed
17 one million five hundred thousand FIVE MILLION dollars per donation.
18 CREDITS SHALL BE ISSUED IN INCREMENTS OF NO MORE THAN ONE MILLION
19 FIVE HUNDRED THOUSAND DOLLARS PER YEAR. CREDITS FOR EASEMENTS
20 DONATED IN A PRIOR YEAR SHALL BE ELIGIBLE FOR TAX CREDIT
21 CERTIFICATES IN SUBSEQUENT YEARS IN ORDER OF APPLICATION AND
22 BEFORE NEW APPLICATIONS AND THOSE CREDIT APPLICATIONS, IF ANY, ON
23 THE WAIT LIST.

24

25 **SECTION 9.** In Colorado Revised Statutes, 23-3.3-103, **add** (4)
26 as follows:

27 **23-3.3-103. Annual appropriations - repeal.** (4) **THE**

1 PROVISIONS OF SUBSECTION (1) OF THIS SECTION CONCERNING
2 APPROPRIATIONS FOR STUDENT FINANCIAL ASSISTANCE UNDER THIS
3 ARTICLE 3.3 SHALL NOT APPLY TO APPROPRIATIONS MADE FOR THE
4 PURPOSE OF PROVIDING A FEE-FOR-SERVICE CONTRACT TO PROVIDE PUBLIC
5 ACCESS TO THE COLORADO OWNERSHIP, MANAGEMENT, AND PROTECTION
6 (COMAP) SERVICE PURSUANT TO SECTION 23-18-308 (1)(d). THIS
7 SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2020.

8 **SECTION 10.** In Colorado Revised Statutes, 23-18-308, **amend**
9 (1)(b) and (1)(c); and **add** (1)(d) as follows:

10 **23-18-308. Fee-for-service contracts - limited purpose - repeal.**

11 (1) Subject to available appropriations, the department shall enter into
12 fee-for-service contracts for the following purposes:

13 (b) The inclusive higher education pilot program pursuant to
14 section 23-75-104; ~~and~~

15 (c) Cybersecurity and distributed ledger technologies, such as
16 blockchains, as set forth in sections 24-33.5-1904 and 24-33.5-1905; AND

17 (d) THE PROVISION OF PUBLIC ACCESS TO THE COLORADO
18 OWNERSHIP, MANAGEMENT, AND PROTECTION (COMAP) SERVICE THAT IS
19 MANAGED BY THE COLORADO NATURAL HERITAGE PROGRAM AND THE
20 GEOSPATIAL CENTROID AT COLORADO STATE UNIVERSITY. THIS
21 SUBSECTION (1)(d) IS REPEALED, EFFECTIVE JUNE 30, 2020.

22 **SECTION 11.** In Colorado Revised Statutes, 12-10-604, **repeal**
23 **as relocated by HB 19-1172** (1)(k) as follows:

24 **12-10-604. Powers and duties of the board - rules.** (1) In
25 addition to all other powers and duties imposed upon it by law, the board
26 has the following powers and duties:

27 (k) ~~To establish classroom education and experience requirements~~

1 for an appraiser who prepares an appraisal for a conservation easement
2 for which a tax credit is claimed pursuant to section 39-22-522. The
3 requirements must ensure that appraisers have a sufficient amount of
4 training and expertise to accurately prepare appraisals that comply with
5 the uniform standards of professional appraisal practice and any other
6 provision of law related to the appraisal of conservation easements for
7 which a tax credit is claimed. A tax credit certificate for a conservation
8 easement shall not be given in accordance with sections 12-61-1105 and
9 12-61-1106 unless the appraiser who prepared the appraisal of the
10 easement met all requirements established in accordance with this
11 subsection (1)(k) in effect at the time the appraisal certification is signed.

12 **SECTION 12.** In Colorado Revised Statutes, 12-15-101, **amend**
13 **as relocated by HB 19-1172 (1)(e)(II) and (1)(e)(III); and add as**
14 **relocated by HB 19-1172 (1)(e)(IV)** as follows:

15 **12-15-101. Legislative declaration.** (1) The general assembly
16 finds, determines, and declares that:

17 (e) Establishing the division of conservation to administer the
18 conservation easement tax credit program will:

19 (II) Allow the conservation easement oversight commission to
20 advise the division of conservation and the department of revenue
21 regarding conservation easements for which a tax credit is claimed and
22 to review applications for conservation easement holder certification; **and**

23 (III) Ensure that the division of conservation and the department
24 of revenue are sharing relevant information concerning conservation
25 easement appraisals in order to ensure compliance with accepted
26 appraisal practices and other provisions of law; **AND**

27 (IV) **ENSURE THAT THE FEES PAID BY TAXPAYERS ARE ADEQUATE**

1 TO PAY FOR THE ADMINISTRATIVE COSTS OF THE DIVISION OF
2 CONSERVATION AND THE CONSERVATION EASEMENT OVERSIGHT
3 COMMISSION IN ADMINISTERING THE REQUIREMENTS OF THIS ARTICLE 15,
4 BUT NOT SO HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF
5 CONSERVATION EASEMENTS IN THE STATE.

6 **SECTION 13.** In Colorado Revised Statutes, 12-15-103, **amend**
7 **as relocated by HB 19-1172** (8) as follows:

8 **12-15-103. Conservation easement oversight commission -**
9 **created - repeal.** (8) This section is repealed, effective ~~July 1, 2019~~ JULY
10 1, 2026.

11 **SECTION 14.** In Colorado Revised Statutes, 12-15-104, **amend**
12 **as relocated by HB 19-1172** (7) and (13) as follows:

13 **12-15-104. Certification of conservation easement holders -**
14 **rules - definition - repeal.** (7) The division shall promulgate rules to
15 effectuate the duties of the commission pursuant to article 4 of title 24.
16 Such rules shall specifically address the following:

17 (a) Allowing for the expedited or automatic certification of an
18 entity that is currently accredited by national land conservation
19 organizations that are broadly accepted by the conservation industry; AND

20 (b) A streamlined and lower-cost process for conservation
21 easement holders that do not intend to accept new donations of
22 conservation easements for which tax credits would be claimed that
23 focuses on the holder's stewardship capabilities.

24 (c) ~~The fees charged pursuant to subsection (3) of this section or~~
25 ~~section 12-61-1106(6), specifically ensuring that the fees are adequate to~~
26 ~~pay for administrative costs but not so high as to act as a disincentive to~~
27 ~~the creation of conservation easements in the state; and~~

1 (d) ~~The adoption of best practices, processes, and procedures used~~
2 ~~by other entities that regularly review conservation easement transactions,~~
3 ~~including a practice, process, or procedure deeming qualified~~
4 ~~conservation easement appraisals approved by these entities based on~~
5 ~~their independent reviews as credible for purposes of the conservation~~
6 ~~easement tax credit.~~

7 (13) This section is repealed, effective ~~July 1, 2019~~ JULY 1, 2026.

8 **SECTION 15.** In Colorado Revised Statutes, 12-15-106, **amend**
9 **as relocated by HB 19-1172** (2)(a)(II), (3)(b)(II), (13)(c) introductory
10 portion, and (15); **repeal as relocated by HB 19-1172** (3)(b)(IV); and
11 **add as relocated by HB 19-1172** (14.5) as follows:

12 **12-15-106. Conservation easement tax credit certificate**
13 **application process - definitions - rules.** (2) (a) The division shall
14 establish and administer a process by which a landowner seeking to claim
15 an income tax credit for any conservation easement donation made on or
16 after January 1, 2014, must apply for a tax credit certificate as required by
17 section 39-22-522 (2.5) and (2.7). The purpose of the application process
18 is to determine whether a conservation easement donation for which a tax
19 credit will be claimed:

20 (II) Is substantiated with a qualified appraisal prepared by a
21 qualified appraiser in accordance with the SUBSTANCE AND PRINCIPLES OF
22 uniform standards of professional appraisal practice OR AN ALTERNATIVE
23 METHOD ACCEPTABLE TO THE DIVISION OF CONSERVATION AND THE
24 CONSERVATION EASEMENT OVERSIGHT COMMISSION; and

25 (3) For the purpose of reviewing applications and making
26 determinations regarding the issuance of tax credit certificates, including
27 the dollar amount of the tax credit certificate to be issued:

1 (b) The director has authority and responsibility to determine the
2 credibility of the appraisal. In determining credibility, the director shall
3 consider, at a minimum, compliance with the following requirements:

4 (II) The appraisal conforms with THE SUBSTANCE AND PRINCIPLES
5 OF the uniform standards of professional appraisal practice promulgated
6 by the appraisal standards board of the appraisal foundation and any other
7 provision of law;

8 (IV) ~~The appraiser meets any education and experience~~
9 ~~requirements established by the board of real estate appraisers in~~
10 ~~accordance with section 12-61-704 (1)(k).~~

11 (13) (c) The director is authorized to share publicly available
12 information regarding conservation easements with a third-party vendor
13 for the purpose of developing and maintaining a registry of conservation
14 easements in the state with a corresponding map displaying the
15 boundaries of each easement in the state relative to county boundaries and
16 other relevant mapping information. FOR PURPOSES OF THIS SUBSECTION
17 (13)(c), "PUBLICLY AVAILABLE INFORMATION" MEANS ANY DOCUMENT
18 SHOWING EVIDENCE OF ITS RECORDATION IN THE RECORDS OF A COUNTY
19 CLERK AND RECORDER OR OTHER INFORMATION READILY AVAILABLE TO
20 THE GENERAL PUBLIC. Prior to sharing the information, the director shall
21 consult with the commission regarding the appropriate types of
22 information and the methods used for collecting the information. The
23 department of regulatory agencies shall annually report on the
24 information contained in the registry as a part of its presentation to its
25 committee of reference at a hearing held pursuant to section 2-7-203
26 (2)(a) of the "State Measurement for Accountable, Responsive, and
27 Transparent (SMART) Government Act". The information to be shared

1 shall include the following:

2 (14.5) (a) THE DIVISION SHALL CONVENE A WORKING GROUP IN
3 CONJUNCTION WITH THE DEPARTMENT OF LAW AND THE DEPARTMENT OF
4 REVENUE TO DEVELOP PROPOSED STATUTES AND REGULATIONS FOR THE
5 FOLLOWING:

6 (I) AN ALTERNATIVE METHOD TO THE APPRAISAL PROCESS SET
7 FORTH IN SECTION 39-22-522 (3.3) TO ESTABLISH THE AMOUNT OF TAX
8 CREDITS FOR WHICH A QUALIFIED CONSERVATION EASEMENT
9 CONTRIBUTION WOULD BE ELIGIBLE; ==

10 (II) A PROCESS TO PROVIDE RETROACTIVE TAX CREDITS,
11 PAYMENTS, OR REFUNDS TO TAXPAYERS WHO CLAIMED CREDITS PURSUANT
12 TO SECTION 39-22-522 BETWEEN JANUARY 1, 2000, AND DECEMBER 31,
13 2013, AND WHOSE TAX CREDITS WERE DENIED IN WHOLE OR IN PART,
14 INCLUDING THE DEVELOPMENT OF ELIGIBILITY CRITERIA FOR RECEIVING
15 SUCH RETROACTIVE TAX CREDITS, PAYMENTS, OR REFUNDS; AND

16 (III) RECOMMENDATIONS FOR ADMINISTERING ORPHANED
17 CONSERVATION EASEMENTS.

18 (b) THE WORKING GROUP SHALL CONSIST OF EIGHT MEMBERS. THE
19 PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE
20 SPEAKER OF THE HOUSE, AND THE MINORITY LEADER OF THE HOUSE SHALL
21 EACH APPOINT TWO MEMBERS TO THE WORKING GROUP PRIOR TO JUNE 1,
22 2019. IN MAKING APPOINTMENTS, CONSIDERATION SHOULD BE GIVEN TO
23 APPOINTING INDIVIDUALS WHO ARE CERTIFIED EASEMENT HOLDERS,
24 TAXPAYERS WHO HAVE CONSIDERED CONVEYING A CONSERVATION
25 EASEMENT OR CONVEYED A CONSERVATION EASEMENT AND CLAIMED A
26 TAX CREDIT, CONSERVATION EASEMENT APPRAISERS, AND CONSERVATION
27 ATTORNEYS. THE WORKING GROUP SHALL CONVENE ITS FIRST MEETING IN

1 A HEARING ROOM AT THE STATE CAPITOL BUILDING AT 9:00 A.M. ON JUNE
2 25, 2019. THE WORKING GROUP SHALL SELECT A CHAIRPERSON AT THE
3 FIRST MEETING. AT EACH MEETING OF THE WORKING GROUP, IT SHALL
4 DESIGNATE THE DATE, PLACE, AND TIME OF ITS NEXT MEETING. ■

5 (c) THE WORKING GROUP SHALL SUBMIT A REPORT TO THE RURAL
6 AFFAIRS AND AGRICULTURE COMMITTEE OF THE HOUSE OF
7 REPRESENTATIVES AND THE AGRICULTURE AND NATURAL RESOURCES
8 COMMITTEE OF THE SENATE BY NO LATER THAN DECEMBER 1, 2019. THE
9 REPORT MUST INCLUDE ANY RECOMMENDATIONS FOR LEGISLATION OR
10 RULE MAKING TO ADDRESS THE ISSUES ADDRESSED PURSUANT TO THIS
11 SUBSECTION (14.5).

12 (15) The division may promulgate rules to effectuate the purpose,
13 implementation, and administration of this section pursuant to article 4 of
14 title 24. The authority to promulgate rules includes the authority to:

15 (a) Define further in rule the administrative processes and
16 requirements, including application processing and review time frames,
17 for obtaining and issuing an optional preliminary advisory opinion
18 pursuant to subsection (14) of this section; AND

19 (b) ADOPT BEST PRACTICES, PROCESSES, AND PROCEDURES USED
20 BY OTHER ENTITIES THAT REGULARLY REVIEW CONSERVATION EASEMENT
21 TRANSACTIONS, INCLUDING A PRACTICE, PROCESS, OR PROCEDURE
22 DEEMING QUALIFIED CONSERVATION EASEMENT APPRAISALS APPROVED BY
23 THESE ENTITIES BASED ON THEIR INDEPENDENT REVIEWS AS CREDIBLE FOR
24 PURPOSES OF THE CONSERVATION EASEMENT TAX CREDIT.

25 **SECTION 16. Appropriation.** (1) For the 2019-20 state fiscal
26 year, \$250,000 is appropriated to the department of higher education. This
27 appropriation is from the general fund. To implement this act, the

1 department may use this appropriation for the college opportunity fund
2 program to be used for limited purpose fee-for-service contracts with
3 state institutions.

4 (2) For the 2019-20 state fiscal year, \$250,000 is appropriated to
5 the department of higher education. This appropriation is from
6 reappropriated funds received from the limited purpose fee-for-service
7 contracts with state institutions under subsection (1) of this section. To
8 implement this act, the department may use this appropriation for the
9 board of governors of the Colorado state university system for allocation
10 to the Colorado natural heritage program and the geospatial centroid to
11 facilitate the provision of public access to the Colorado ownership,
12 management, and protection (COMaP) service.

13 (3) For the 2019-20 state fiscal year, \$500,000 is appropriated to
14 the department of regulatory agencies for use by the division of
15 conservation. This appropriation is from the conservation cash fund
16 created in section 12-61-1107 (1), C.R.S. To implement this act, the
17 division may use this appropriation as follows:

18 (a) \$464,926 for conservation easement program costs, which
19 amount is based on an assumption that the division will require an
20 additional 3.8 FTE; and

21 (b) \$35,074 for indirect cost assessment.

22 **SECTION 17. Effective date.** This act takes effect June 30,
23 2019; except that sections 11 to 15 of this act take effect only if House
24 Bill 19-1172 becomes law, in which case sections 11 to 15 take effect on
25 October 1, 2019.

26 **SECTION 18. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.