

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

PREAMENDED

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

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.

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 JULY 15,
5 2019. IN MAKING APPOINTMENTS, CONSIDERATION SHOULD BE GIVEN TO
6 APPOINTING INDIVIDUALS WHO ARE CERTIFIED EASEMENT HOLDERS,
7 TAXPAYERS WHO HAVE CONVEYED A CONSERVATION EASEMENT AND
8 CLAIMED A TAX CREDIT, CONSERVATION EASEMENT APPRAISERS, AND
9 CONSERVATION ATTORNEYS.

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

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

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

24 (b) ADOPT BEST PRACTICES, PROCESSES, AND PROCEDURES USED
25 BY OTHER ENTITIES THAT REGULARLY REVIEW CONSERVATION EASEMENT
26 TRANSACTIONS, INCLUDING A PRACTICE, PROCESS, OR PROCEDURE
27 DEEMING QUALIFIED CONSERVATION EASEMENT APPRAISALS APPROVED BY

1 THESE ENTITIES BASED ON THEIR INDEPENDENT REVIEWS AS CREDIBLE FOR
2 PURPOSES OF THE CONSERVATION EASEMENT TAX CREDIT.

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

5 **38-30.5-103. Creation of conservation easements in gross.**

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

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

19 **38-30.5-107. Release - termination.** ~~Conservation easements in~~
20 ~~gross may, in whole or in part, be released, terminated, extinguished, or~~
21 ~~abandoned by merger with the underlying fee interest in the servient land~~
22 ~~or water rights or in any other manner in which easements may be~~
23 ~~lawfully terminated, released, extinguished, or abandoned.~~ IF IT IS
24 DETERMINED THAT CONDITIONS ON OR SURROUNDING A PROPERTY
25 ENCUMBERED BY A CONSERVATION EASEMENT IN GROSS CHANGE SO THAT
26 IT BECOMES IMPOSSIBLE TO FULFILL ITS CONSERVATION PURPOSES THAT
27 ARE DEFINED IN THE DEED OF CONSERVATION EASEMENT, A COURT WITH

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

19 **SECTION 8.** In Colorado Revised Statutes, 39-22-522, **amend**
20 (2.7), (3.3), and (4)(a)(II.5); and **repeal** (3.8) as follows:

21 **39-22-522. Credit against tax - conservation easements.**

22 (2.7) Notwithstanding any other provision, for income tax years
23 commencing on or after January 1, 2014, no claim for a credit shall be
24 allowed unless a tax credit certificate is issued by the DIVISION OF REAL
25 ESTATE PRIOR TO MAY 30, 2018, OR BY THE division of conservation ON
26 OR AFTER MAY 30, 2018, in accordance with sections 12-61-1105 and
27 12-61-1106 and the taxpayer files the tax credit certificate with the

1 income tax return filed with the department of revenue.

2 (3.3) The appraisal for a conservation easement in gross donated
3 prior to January 1, 2014, and for which a credit is claimed shall be a
4 qualified appraisal from a qualified appraiser, as those terms are defined
5 in section 170 (f)(11) of the internal revenue code. The appraisal shall be
6 in conformance with the uniform standards of professional appraisal
7 practice promulgated by the appraisal standards board of the appraisal
8 foundation and any other provision of law. The appraiser shall hold a
9 valid license as a certified general appraiser in accordance with the
10 provisions of part 7 of article 61 of title 12. ~~C.R.S. The appraiser shall~~
11 ~~also meet any education and experience requirements established by the~~
12 ~~board of real estate appraisers in accordance with section 12-61-704~~
13 ~~(1)(k), C.R.S.~~ If there is a final determination, other than by settlement of
14 the taxpayer, that an appraisal submitted in connection with a claim for
15 a credit pursuant to this section is a substantial or gross valuation
16 misstatement as such misstatements are defined in section 1219 of the
17 federal "Pension Protection Act of 2006", Pub.L. 109-280, the department
18 shall submit a complaint regarding the misstatement to the board of real
19 estate appraisers for disciplinary action in accordance with the provisions
20 of part 7 of article 61 of title 12. ~~C.R.S.~~

21 (3.8) ~~(a) The division of conservation shall convene a working~~
22 ~~group in conjunction with the department of law the department of~~
23 ~~revenue and the department of regulatory agencies to develop statutory~~
24 ~~and regulatory recommendations that do not conflict with federal law for~~
25 ~~the following:~~

26 ~~(1) An alternate method to the appraisal process set forth in~~
27 ~~subsection (3.3) of this section to establish a baseline property value,~~

1 using agreed upon publicly available datasets for rural and agricultural
2 properties. The baseline valuation would then be subject to different
3 levels of restriction including, but not limited to, a most restrictive,
4 medium restrictive, and least restrictive easement to arrive at a final
5 determination established through public policy from which the amount
6 of a tax credit could be calculated pursuant to this section. The alternate
7 method should work across the state of Colorado.

8 (H) A recommendation for a process to petition a court of
9 competent jurisdiction consistent with federal laws and regulations to
10 extinguish a conservation easement, including proposed definitions for
11 the terms "impossible" and "impracticable" as they are applied for
12 purposes of determining whether an easement may be extinguished under
13 state and federal law;

14 (HH) A process to provide retroactive tax credits to taxpayers who
15 claimed tax credits pursuant to this section between January 1, 2000, and
16 December 31, 2008, and whose tax credits were denied in whole or in
17 part, including the development of eligibility criteria for such retroactive
18 tax credits; and

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

22 (b) The working group shall submit a report to the transportation
23 and energy committee of the house of representatives, the agriculture,
24 livestock, and natural resources committee of the house of
25 representatives, the agriculture, natural resources, and energy committee
26 of the senate, and the transportation committee of the senate no later than
27 December 1, 2018. The report must include any recommendations for

1 legislation or rulemaking to address the issues addressed pursuant to this
2 subsection (3.8):

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

19 
20 **SECTION 9.** In Colorado Revised Statutes, 23-3.3-103, **add** (4)
21 as follows:

22 **23-3.3-103. Annual appropriations - repeal.** (4) THE
23 PROVISIONS OF SUBSECTION (1) OF THIS SECTION CONCERNING
24 APPROPRIATIONS FOR STUDENT FINANCIAL ASSISTANCE UNDER THIS
25 ARTICLE 3.3 SHALL NOT APPLY TO APPROPRIATIONS MADE FOR THE
26 PURPOSE OF PROVIDING A FEE-FOR-SERVICE CONTRACT TO PROVIDE PUBLIC
27 ACCESS TO THE COLORADO OWNERSHIP, MANAGEMENT, AND PROTECTION

1 (COMAP) SERVICE PURSUANT TO SECTION 23-18-308 (1)(d). THIS
2 SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2020.

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

5 **23-18-308. Fee-for-service contracts - limited purpose - repeal.**

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

8 (b) The inclusive higher education pilot program pursuant to
9 section 23-75-104; and

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

12 (d) THE PROVISION OF PUBLIC ACCESS TO THE COLORADO
13 OWNERSHIP, MANAGEMENT, AND PROTECTION (COMAP) SERVICE THAT IS
14 MANAGED BY THE COLORADO NATURAL HERITAGE PROGRAM AND THE
15 GEOSPATIAL CENTROID AT COLORADO STATE UNIVERSITY. THIS
16 SUBSECTION (1)(d) IS REPEALED, EFFECTIVE JUNE 30, 2020.

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

19 **12-10-604. Powers and duties of the board - rules.** (1) In
20 addition to all other powers and duties imposed upon it by law, the board
21 has the following powers and duties:

22 (k) ~~To establish classroom education and experience requirements~~
23 ~~for an appraiser who prepares an appraisal for a conservation easement~~
24 ~~for which a tax credit is claimed pursuant to section 39-22-522. The~~
25 ~~requirements must ensure that appraisers have a sufficient amount of~~
26 ~~training and expertise to accurately prepare appraisals that comply with~~
27 ~~the uniform standards of professional appraisal practice and any other~~

1 ~~provision of law related to the appraisal of conservation easements for~~
2 ~~which a tax credit is claimed. A tax credit certificate for a conservation~~
3 ~~easement shall not be given in accordance with sections 12-61-1105 and~~
4 ~~12-61-1106 unless the appraiser who prepared the appraisal of the~~
5 ~~easement met all requirements established in accordance with this~~
6 ~~subsection (1)(k) in effect at the time the appraisal certification is signed.~~

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

10 **12-15-101. Legislative declaration.** (1) The general assembly
11 finds, determines, and declares that:

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

14 (II) Allow the conservation easement oversight commission to
15 advise the division of conservation and the department of revenue
16 regarding conservation easements for which a tax credit is claimed and
17 to review applications for conservation easement holder certification; ~~and~~

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

22 (IV) ENSURE THAT THE FEES PAID BY TAXPAYERS ARE ADEQUATE
23 TO PAY FOR THE ADMINISTRATIVE COSTS OF THE DIVISION OF
24 CONSERVATION AND THE CONSERVATION EASEMENT OVERSIGHT
25 COMMISSION IN ADMINISTERING THE REQUIREMENTS OF THIS ARTICLE 15,
26 BUT NOT SO HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF
27 CONSERVATION EASEMENTS IN THE STATE.

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

3 **12-15-103. Conservation easement oversight commission -**
4 **created - repeal.** (8) This section is repealed, effective ~~July 1, 2019~~ JULY
5 1, 2026.

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

8 **12-15-104. Certification of conservation easement holders -**
9 **rules - definition - repeal.** (7) The division shall promulgate rules to
10 effectuate the duties of the commission pursuant to article 4 of title 24.
11 Such rules shall specifically address the following:

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

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

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

23 (d) ~~The adoption of best practices, processes, and procedures used~~
24 ~~by other entities that regularly review conservation easement transactions,~~
25 ~~including a practice, process, or procedure deeming qualified~~
26 ~~conservation easement appraisals approved by these entities based on~~
27 ~~their independent reviews as credible for purposes of the conservation~~

1 ~~easement tax credit.~~

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

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

7 **12-15-106. Conservation easement tax credit certificate**
8 **application process - definitions - rules.** (2) (a) The division shall
9 establish and administer a process by which a landowner seeking to claim
10 an income tax credit for any conservation easement donation made on or
11 after January 1, 2014, must apply for a tax credit certificate as required by
12 section 39-22-522 (2.5) and (2.7). The purpose of the application process
13 is to determine whether a conservation easement donation for which a tax
14 credit will be claimed:

15 (II) Is substantiated with a qualified appraisal prepared by a
16 qualified appraiser in accordance with the SUBSTANCE AND PRINCIPLES OF
17 uniform standards of professional appraisal practice OR AN ALTERNATIVE
18 METHOD ACCEPTABLE TO THE DIVISION OF CONSERVATION AND THE
19 CONSERVATION EASEMENT OVERSIGHT COMMISSION; and

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

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

26 (II) The appraisal conforms with THE SUBSTANCE AND PRINCIPLES
27 OF the uniform standards of professional appraisal practice promulgated

1 by the appraisal standards board of the appraisal foundation and any other
2 provision of law;

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

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

24 (14.5) (a) THE DIVISION SHALL CONVENE A WORKING GROUP IN
25 CONJUNCTION WITH THE DEPARTMENT OF LAW AND THE DEPARTMENT OF
26 REVENUE TO DEVELOP PROPOSED STATUTES AND REGULATIONS FOR THE
27 FOLLOWING:

1 (I) AN ALTERNATIVE METHOD TO THE APPRAISAL PROCESS SET
2 FORTH IN SECTION 39-22-522 (3.3) TO ESTABLISH THE AMOUNT OF TAX
3 CREDITS FOR WHICH A QUALIFIED CONSERVATION EASEMENT
4 CONTRIBUTION WOULD BE ELIGIBLE; AND

5 (II) A PROCESS TO PROVIDE RETROACTIVE TAX CREDITS TO
6 TAXPAYERS WHO CLAIMED CREDITS PURSUANT TO SECTION 39-22-522
7 BETWEEN JANUARY 1, 2000, AND DECEMBER 31, 2013, AND WHOSE TAX
8 CREDITS WERE DENIED IN WHOLE OR IN PART, INCLUDING THE
9 DEVELOPMENT OF ELIGIBILITY CRITERIA FOR RECEIVING SUCH
10 RETROACTIVE TAX CREDITS.

11 (b) THE WORKING GROUP SHALL CONSIST OF EIGHT MEMBERS. THE
12 PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE
13 SPEAKER OF THE HOUSE, AND THE MINORITY LEADER OF THE HOUSE SHALL
14 EACH APPOINT TWO MEMBERS TO THE WORKING GROUP PRIOR TO JULY 15,
15 2019. IN MAKING APPOINTMENTS, CONSIDERATION SHOULD BE GIVEN TO
16 APPOINTING INDIVIDUALS WHO ARE CERTIFIED EASEMENT HOLDERS,
17 TAXPAYERS WHO HAVE CONVEYED A CONSERVATION EASEMENT AND
18 CLAIMED A TAX CREDIT, CONSERVATION EASEMENT APPRAISERS, AND
19 CONSERVATION ATTORNEYS.

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

27 (15) The division may promulgate rules to effectuate the purpose,

1 implementation, and administration of this section pursuant to article 4 of
2 title 24. The authority to promulgate rules includes the authority to:

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

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

13 **SECTION 16. Appropriation.** (1) For the 2019-20 state fiscal
14 year, \$250,000 is appropriated to the department of higher education. This
15 appropriation is from the general fund. To implement this act, the
16 department may use this appropriation for the college opportunity fund
17 program to be used for limited purpose fee-for-service contracts with
18 state institutions.

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

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

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

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

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

14 **SECTION 18. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.