

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

INTRODUCED

LLS NO. 18-0029.01 Gregg Fraser x4325

HOUSE BILL 18-1122

HOUSE SPONSORSHIP

Lewis, Becker J., Beckman, Buck, Everett, Humphrey, Landgraf, Lebsock, Leonard, Lundeen, Neville P., Reyher, Saine, Sias, Van Winkle, Williams D., Wilson, Wist, Catlin, Rankin

SENATE SPONSORSHIP

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House Committees

Health, Insurance, & Environment
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A PUBLIC ACCOUNTING OF CONSERVATION EASEMENTS**

102 **CREATED IN THE STATE.**

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 creating the easement are recorded in the public records affecting the ownership of the property. The easement is held by a third party (holder), which monitors the use of the land and ensures that the terms of the

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.

agreement are upheld.

Current law allows a taxpayer to claim a state income tax credit for a portion of the value of a perpetual conservation easement that is granted by the taxpayer on real property located in the state. The aggregate amount of credits that may be claimed each year by all taxpayers is capped at \$45 million; except that the amount of credits allowed in recent years has been substantially lower than that amount.

There is currently no centralized public source of information to identify the number, size, location, or validity of conservation easements in the state and whether the conservation purposes of the easements are being monitored and defended. The bill requires a comprehensive accounting of the conservation easements that have been created in the state since 1998. The state auditor shall contract with an independent contractor to perform the accounting. The accounting includes information about the instruments creating each easement, the size and location of each easement, the grantors and holders of each easement, tax credits claimed for the donation of each easement, and whether the conservation purposes of each easement are being protected. The accounting includes the creation of a corresponding map showing the location of each conservation easement in the state.

Certain public entities are encouraged to provide information and input into the preparation of the accounting. The state auditor is directed to review the accounting and present it at a public meeting to the legislative audit committee by a specified date. The committee is required to conduct a subsequent meeting to allow public testimony on the accounting. The auditor is further directed to annually update the information in the accounting and make it available to the public on the auditor's website.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-522, **add** (12)
3 as follows:

4 **39-22-522. Credit against tax - conservation easements.**

5 (12) (a) ON OR BEFORE NOVEMBER 1, 2018, THE STATE AUDITOR SHALL
6 CONTRACT WITH A QUALIFIED INDEPENDENT PERSON OR ENTITY TO
7 CONDUCT AN ACCOUNTING OF THE CONSERVATION EASEMENTS IN GROSS
8 THAT HAVE BEEN CREATED WITH RESPECT TO ANY LAND, WATER AREA,
9 AIRSPACE ABOVE THE LAND OR WATER, OR WATER RIGHTS BENEFICIALLY

1 USED UPON THAT LAND OR WATER AREA WITHIN THE STATE SINCE
2 JANUARY 1, 1998. THE PERSON OR ENTITY SHALL NOT HAVE PARTICIPATED
3 IN THE CREATION, PROMOTION, VALUATION, OR SALE OR OTHERWISE HAVE
4 RECEIVED A FINANCIAL BENEFIT FROM A CONSERVATION EASEMENT. FOR
5 EACH EASEMENT, THE ACCOUNTING SHALL INCLUDE INFORMATION
6 REGARDING:

7 (I) ANY DEEDS, CONTRACTS, OR OTHER INSTRUMENTS CREATING,
8 ASSIGNING, TRANSFERRING, CONVEYING, TERMINATING, OR OTHERWISE
9 AFFECTING THE EASEMENT;

10 (II) THE LOCATION AND ACREAGE OF EACH EASEMENT,
11 DELINEATED BY COUNTY;

12 (III) THE NAMES AND ADDRESSES OF ANY GRANTORS OF THE
13 EASEMENT OR THEIR HEIRS OR ASSIGNS AND THE NAMES AND ADDRESSES
14 OF ANY HOLDERS OF THE EASEMENT SINCE ITS CREATION;

15 (IV) WHETHER THE HOLDER OF THE EASEMENT IS A CERTIFIED
16 ORGANIZATION PURSUANT TO SECTION 12-61-724;

17 (V) THE CONSERVATION PURPOSES OF THE EASEMENT AND
18 WHETHER THE HOLDER OF THE EASEMENT IS ADEQUATELY MAINTAINING,
19 MONITORING, AND DEFENDING THE PURPOSES OF THE EASEMENT;

20 (VI) THE AMOUNT OF ANY INCOME TAX CREDITS CLAIMED OR
21 ALLOWED FOR THE EASEMENT AND THE AMOUNT OF ANY SUCH CREDITS
22 THAT WERE TRANSFERRED TO ANOTHER TAXPAYER PURSUANT TO
23 SUBSECTION (7) OF THIS SECTION; AND

24 (VII) ANY DEFECTS, INCONSISTENCIES, OR OTHER ISSUES RAISED
25 IN CONNECTION WITH THE REVIEW OF THE EASEMENT.

26 (b) THE ACCOUNTING MUST INCLUDE A CORRESPONDING MAP
27 DISPLAYING THE BOUNDARIES OF EACH EASEMENT IN THE STATE RELATIVE

1 TO COUNTY BOUNDARIES AND OTHER RELEVANT MAPPING INFORMATION.

2 (c) THE PERSON OR ENTITY CONDUCTING THE ACCOUNTING MAY
3 USE PUBLIC RECORDS, AVAILABLE REPORTS, WORK PAPERS, INTERVIEWS
4 WITH LANDOWNERS AND EASEMENT HOLDERS, AND ANY OTHER
5 APPROPRIATE MEANS TO COMPLETE THE ACCOUNTING. PUBLIC ENTITIES,
6 INCLUDING THE DIVISION OF REAL ESTATE, THE CONSERVATION EASEMENT
7 OVERSIGHT COMMISSION, THE DEPARTMENT OF REVENUE, LOCAL
8 GOVERNMENTS, AND THE STATE BOARD OF THE GREAT OUTDOORS
9 COLORADO TRUST FUND ARE ENCOURAGED TO PROVIDE INFORMATION AND
10 INPUT INTO THE PREPARATION OF THE ACCOUNTING.

11 (d) THE STATE AUDITOR SHALL REVIEW THE ACCOUNTING AND
12 PRESENT THE CONTENTS OF THE ACCOUNTING AND ANY ISSUES ARISING
13 FROM THE AUDITOR'S REVIEW OF THE ACCOUNTING TO THE LEGISLATIVE
14 AUDIT COMMITTEE AT A PUBLIC MEETING NO LATER THAN DECEMBER 31,
15 2019. THE LEGISLATIVE AUDIT COMMITTEE SHALL CONDUCT A
16 SUBSEQUENT MEETING NO FEWER THAN SIXTY DAYS AND NO MORE THAN
17 ONE HUNDRED TWENTY DAYS AFTER SUCH MEETING TO ALLOW PUBLIC
18 TESTIMONY ON THE CONTENTS OF THE ACCOUNTING.

19 (e) THE STATE AUDITOR SHALL ANNUALLY UPDATE THE
20 INFORMATION IN THE ACCOUNTING FOR ANY NEW EASEMENTS THAT ARE
21 CREATED AND MAKE THE INFORMATION AVAILABLE TO THE PUBLIC ON THE
22 WEBSITE OF THE AUDITOR. THE MAP CREATED AS PART OF THE
23 ACCOUNTING PURSUANT TO SUBSECTION (12)(b) OF THIS SECTION MUST BE
24 MADE AVAILABLE ON THE WEBSITE OF THE STATE AUDITOR IN A FORMAT
25 THAT CAN BE READILY ACCESSED AND NAVIGATED BY THE GENERAL
26 PUBLIC. ANY DATA USED TO CREATE THE MAP MUST BE MADE PUBLICLY
27 AVAILABLE FOR DOWNLOAD. THE MAP MUST BE UPDATED ANNUALLY TO

1 REFLECT ANY NEW EASEMENTS OR OTHER CHANGES IN THE DATA USED TO
2 CREATE THE MAP.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2018 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.