



Legislative  
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*Nonpartisan Services for Colorado's Legislature*

**HB 19-1091**

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 19-0532  
**Prime Sponsors:** Rep. Lewis

**Date:** June 19, 2019  
**Bill Status:** Postponed Indefinitely  
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**Bill Topic:** CONSERVATION EASEMENT TRANSPARENCY

**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill modifies the process for donating a conservation easement and requires the creation of a publically accessible map and database of conservation easements. The bill increases state and local expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2019-20, the bill requires appropriations totaling \$553,916.

**Fiscal Note Status:** This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1  
State Fiscal Impacts Under HB 19-1091**

		FY 2019-20	FY 2020-21	FY 2021-22
<b>Revenue</b>		-	-	-
<b>Expenditures</b>	General Fund	\$553,916	\$947,097	\$1,004,597
	Centrally Appropriated	\$137,714	\$225,254	\$237,082
	<b>Total</b>	\$691,630	\$1,172,351	\$1,241,679
	<b>Total FTE</b>	1.6 FTE	2.0 FTE	2.0 FTE
<b>Transfers</b>		-	-	-
<b>TABOR Refund</b>	General Fund	-	-	-

## Summary of Legislation

This bill requires certain disclosures when a conservation easement is created, requires state tracking of conservation easements, and modifies taxpayer remedies when a tax credit is reduced or disallowed.

**Conservation easement disclosures.** Before a property owner may donate land for the creation of a conservation easement, this bill requires that the recipient of the easement disclose specific information to the property owner. The bill specifies a series of statements that must be included with this disclosed information. A sample copy of the required disclosure must be posted on the website of the Colorado Department of Agriculture (CDA).

**Conservation easement tracking.** When a county clerk records the ownership of a conservation easement, the clerk is required to submit a complete copy of the recorded agreement to the CDA and to the county assessor where the easement is recorded. The CDA is required to create a tracking form with specified information, allowing the forms to be identified and indexed by the county where the easement is located. Completed forms must be publically accessible on the department's website.

**Database and map.** The bill requires that the CDA work with public officials in state and local government to create, maintain, and update a database of all conservation easements created since January 1998, including any conservation easement tax credits claimed for those properties. The department must also create a separate geographic information system (GIS) database and map that displays the boundaries of every easement along with other specified information. The GIS database and map must be free and publically available on the department's website in a format that can be accessed and downloaded.

Both the state and local governments may enter into vendor contracts to assist with gathering the information necessary to create the database and GIS tool. The CDA, at its discretion, may provide reasonable reimbursements to a county for the cost to provide local conservation easement data, or for the cost of vendor contracts to collect this data.

**Disallowed tax credits.** For any tax credit claimed for a conservation easement that is disallowed either in whole or in part, a landowner may elect to either extinguish the conservation easement for which the credit was claimed, or receive an equitable relief payment from the state. If a landowner elects to extinguish the easement, the Department of Revenue is required to reimburse the taxpayer for all reasonable costs incurred by the landowner in establishing the conservation easement donation, as well as any federal or state income tax liability including penalties and interest. The Department of Law is required to assist landowners with executing the necessary documents with the courts to extinguish a conservation easement.

## Background

The conservation easement tax credit was originally enacted in 1999. The credit is allowed for individuals and corporations that donate land for a perpetual conservation easement to a government entity or a charitable organization. The owner of an easement may prohibit certain acts on the property in order to preserve its value for recreation, education, habitat, open space, or historical importance. If the taxpayer's state income tax liability is larger than the amount of the tax credit, the unused portion of the credit may be carried forward for up to 20 years. Alternatively, the tax credit can be transferred to one or more other taxpayers.

Between 2001 and 2009, taxpayers claimed approximately \$639 million in conservation easement tax credits for donations of approximately 3,200 conservation easements. The program reached a high in 2007, with \$128.5 million in tax credits claimed for that year. As a result of legislative changes and the implementation of a fixed cap on total credits for 2011, 2012, and 2013, both donations and the amount of credits claimed have decreased since.

**Assumptions**

This fiscal note assumes the provisions related to disallowed tax credits only applies to conservation easement tax credits claimed on or after the bill's presumed effective date of August 2, 2019. That is, any equitable relief or financial reimbursement to taxpayers for disallowed credits is prospective and not retroactive.

**State Expenditures**

The bill will increase state expenditures by \$691,630 and 1.6 FTE for FY 2019-20, by \$1,172,351 and 2.0 FTE for FY 2020-21, and by \$1,241,679 and 2.0 FTE for FY 2021-22. New expenses are displayed in Table 2 and discussed below.

**Table 2  
Expenditures Under HB 19-1091**

<b>Cost Components</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Department of Agriculture</b>			
Personal Services	\$94,806	\$126,409	\$126,409
Operating and Capital Outlay	\$11,306	\$1,900	\$1,900
Information Technology	\$300,000	\$767,588	\$825,088
County Reimbursements	\$51,200	\$51,200	\$51,200
Centrally Appropriated Costs*	\$137,714	\$225,254	\$237,082
FTE – Personal Services	1.6 FTE	2.0 FTE	2.0 FTE
<b>CDA (Subtotal)</b>	<b>\$595,026</b>	<b>\$1,172,351</b>	<b>\$1,241,679</b>
<b>Department of Revenue</b>			
Computer Programming	\$81,250	-	-
GenTax Testing	\$15,354	-	-
<b>DOR (Subtotal)</b>	<b>\$96,604</b>	<b>\$1,172,351</b>	<b>\$1,241,679</b>
<b>Total</b>	<b>\$691,630</b>	<b>\$1,172,351</b>	<b>\$1,241,679</b>
<b>Total FTE</b>	<b>1.6 FTE</b>	<b>2.0 FTE</b>	<b>2.0 FTE</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Department of Agriculture.** The CDA is required to create a data collection and tracking procedure for conservation easements, coordinate a data collection process across multiple state agencies and local governments, and create and maintain a publically accessible GIS tool and database. Based on costs to research, create and maintain a similar mapping project, the department requires 2.0 FTE and associated personnel costs, technology services purchased from the Governor's Office of Information Technology (OIT), and resources to reimburse local governments for research or to hire vendors to collect local conservation easement data and transmit it to the CDA. Personnel costs in FY 2019-20 are prorated for the August effective date and the General Fund pay date shift.

**Governor's Office of Information Technology.** OIT will partner with the CDA to plan and implement the GIS tool and database. The estimated project length is 30 months. Costs in FY 2019-20 include assisting CDA with research, creating a baseline inventory of existing easements, and developing an RFP process to identify technology partners able to assist with system definitions and requirements. Year two and three costs include system development, testing, and implementation.

**Department of Revenue.** The DOR is required to assist the CDA and provide data and information for use by the CDA to create an online GIS tool. Conservation easement data available through GenTax in the DOR is limited. Assuming the DOR must extract additional data to complete the mapping and database at CDA, programming costs are increased during FY 2019-20 only.

**Other state agencies.** Other state agencies including the Department of Regulatory Agencies, the Department of Natural Resources, and the Department of Local Affairs will experience increased workload in order to assist the CDA in assembling the necessary data and information to create the GIS map and database tool. Under some circumstances, the Department of Law will have increased workload to assist individual landowners with executing the necessary documents with the courts, should that landowner have a tax credit disallowed and then seeks to either receive reimbursement and/or to extinguish the conservation easement. This workload increase is not anticipated to require additional appropriations during the next two fiscal years.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include a 20.57 percent indirect rate for the CDA, in addition to employee insurance and supplemental employee retirement payments, are estimated to be \$137,714 in FY 2019-20, \$225,254 in FY 2020-21, and \$237,082 in FY 2021-22.

## Local Government

The bill increases expenditures and workload for county clerks and county assessors to assist the CDA in researching data on conservation easements within their jurisdiction dating back to 1998. In some counties, this effort will require manually reviewing all easements recorded with the county clerk and isolating conservation easements to record the necessary data. This effort will also include additional research to identify information specific to any tax credit claimed, and to document any deeds, contracts, or other instruments affecting that claim and conservation easement. This effort likely requires a minimum of 40 hours of contracted research in each county. The CDA may reimburse local governments for the cost to conduct this research, or to contract for a vendor to conduct this research.

**Effective Date**

The bill was postponed indefinitely by the House Rural Affairs and Agriculture Committee on February 4, 2019,.

**State Appropriations**

For FY 2019-20, the bill requires the following General Fund appropriations:

- \$457,312 and 1.6 FTE to the Colorado Department of Agriculture, of which, \$300,000 is reappropriated to the Governor's Office of Information Technology; and
- \$96,604 to the Department of Revenue.

**State and Local Government Contacts**

Agriculture  
Information Technology  
Local Affairs  
Revenue

Counties  
Judicial  
Natural Resources

County Clerks  
Law  
Regulatory Agencies