



Conservation Easement Enhancement and Rural Stimulus Act (HB21-1233)

Rep. Roberts & Rep. Will / Sen. Donovan & Sen. Winter

What is the Conservation Easement Tax Credit Program?

Colorado's Conservation Easement Tax Credit program, initiated by the General Assembly in 2000, sets aside \$45 million dollars annually in the form of "tax credits" to protect natural landscapes from development by protecting their conservation value in perpetuity. "Conservation value" refers to the type and amount of natural resources, diversity of wildlife and plants, open space, historic and recreational resources in an area.

Since its inception, Colorado's tax credit program has resulted in the voluntary conservation of millions of acres of working farms, ranches and private land across the state. Moreover, it has contributed significantly to the protection of open space, parks, and other natural areas and outdoor destinations for wildlife and people.

These conservation investments from the state continue to pay dividends - allowing small family farms and ranches to remain in operation, and supporting the recreation amenities our outdoor recreation economy and many communities across the state depend on. In fact, a recent CSU report shows that conservation easements yield a \$12:1 return on investment to the state.

Why This Bill Now?

While all Coloradans are struggling during this pandemic, our rural and agricultural neighbors have been hit especially hard. Conservation easements remain one of the few capital infusion opportunities for struggling landowners and rural communities. By providing the proper incentive for conservation programs, we can provide a boost to our agricultural operators, infuse capital into our rural communities, and achieve our state's conservation goals.

Lastly, the state's land- and water-based conservation program remains a critical tool in achieving Colorado's carbon reduction goals and is instrumental in achieving our biodiversity and resiliency objectives and accommodating the state's growing outdoor recreation demands.

The Conservation Easement Enhancement and Rural Stimulus bill addresses changes to provide the incentives necessary to meet all these goals.

What Does This Bill Do?

The technical adjustments to the Conservation Easement Tax Credit Program:

- **Align land and water conservation efforts.** By expanding the list of entities that are eligible to donate a conservation easement and receive a tax credit to include specific types of water entities, we better align the conservation of efforts of the land and water communities and incorporate additional landowners in the conservation easement program.



- **Create a more equitable tax credit incentive.** The bill adjusts the tax credit formula under the Conservation Easement Tax Credit Program to allow landowners who are donating an easement to receive up to 90% of the value of their easement in tax credits. This will ensure that the tax credit incentive works more equitably for landowners in rural communities. Additionally, this increases the incentive for landowners to permanently protect more critical landscapes across the state and offsets the reduction in federal tax incentives resulting from the State and Local Tax (SALT) federal legislation.
- **Increase efficiencies in the program.** The bill eliminates some administrative burdens and creates a more efficient system to track and verify tax credit certificates and transfers within the Department of Revenue. The bill also ensures the tax incentive works more effectively for landowners and tax credit buyers. Specifically, the bill:
 - Eliminates the burden on the Department of Revenue to “marry up” tax returns between landowners claiming a credit and transferees utilizing the credit.
 - Creates a tracking system for the transfer of tax credits within the Department of Revenue to increase processing efficiency.
 - Eliminates the 6-month waiting period for landowners and transferees to utilize the credit.
 - Eliminates the need for landowners to decide whether to sell credits or take advantage of the TABOR refund – they can do both.
 - Reduces the administrative burden on the Department of Revenue to determine how many credits are used each year by buyers, partners and shareholders for a given credit to ensure the total is under \$50,000.
- **Take steps to resolve orphaned easements.** The bill gives the Division of Conservation the authority to serve as a receivership of orphaned easements. (Orphaned easements are easements the holder fails to monitor, or for which the holder fails to receive accreditation from the state’s Conservation Easement Oversight Commission.) Future legislation and resources will be needed to implement a full program, but this is a necessary first step to ensuring that conserved lands that have been orphaned will be reconnected with a certified land trust and stewarded in perpetuity.

To learn more about this program, read “The Conservation Easement Tax Credit: 20 Years of Conservation Success in Colorado.”

For more information, contact Melissa Daruna – Melissa@keepitco.org