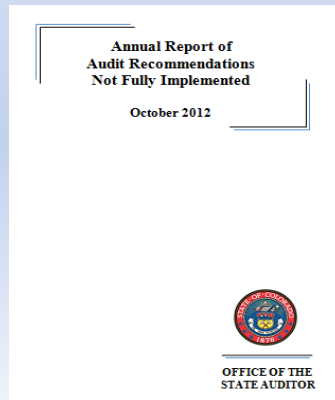


Office of the Colorado State Auditor



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Annual Report of Audit Recommendations Not Fully Implemented



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What is It?

- Report on the implementation status of all of the recommendations the OSA has made over the last 5 years.
- Provides summary and department-specific data on the total financial, performance, and IT audit recommendations made, the number implemented, and the number outstanding.



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How Do We Produce the Report?

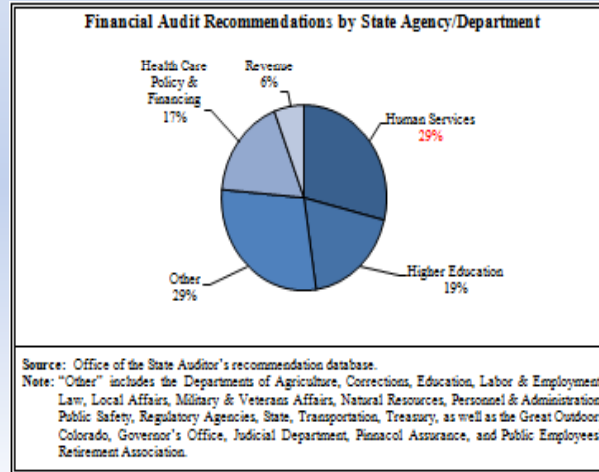
- We developed a database of all audit recommendations made. The database includes:
 - The audit, recommendation, agency response, agency implementation date, status updates.
- To update the database:
 - Financial recommendations: Implementation status is determined through the annual financial audit.
 - Performance/IT recommendations: Self-reported information provided by the state agencies.



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Breakdown of Agencies Receiving Financial Recommendations



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Agencies With Outstanding Financial Recommendations

Outstanding Financial Audit Recommendations
 Fiscal Year 2008 Through 2011
 As of June 30, 2012

State Agency/Department	Number of Outstanding Recommendations	Percentage of Total Recommendations Made to Agency/Department
Agriculture	1	6%
Governor's Office		
Governor's Office of Information Technology	6	26%
Governor's Office	1	2
Total	7	8%
Health Care Policy & Financing	20	6%
Higher Education		
Colorado Community College System	2	1%
Colorado State University System	1	3
Metro State College of Denver	1	3
Total	4	24%
Human Services	51	10%
Judicial	1	20%
Labor & Employment	7	10%
Law	1	17%
Local Affairs	1	6%
Natural Resources	2	4%
Personnel & Administration	5	6%
Public Health & Environment	1	3%
Public Safety	1	8%
Regulatory Agencies	1	13%
Revenue	10	10%
State	3	12%
TOTAL	116	76%

Source: Office of the State Auditor's recommendation database.



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Severity Level of Outstanding Financial Recommendations

State Agency/Department	Material Weakness (Most Serious)	Significant Deficiency (Moderately Serious)	Deficiency in Internal Control (Least Serious)	Not Classified/ Not an Internal Control Issue	Total
Agriculture				1	1
Governor's Office					
Governor's Office of Information Technology		5	1		6
Governor's Office	1				1
Total	6	6	1		7
Health Care Policy & Financing	2	6	12		20
Higher Education					
Colorado Community College System	2				2
Colorado State University			1		1
Metro State College of Denver			1		1
Total	2	2	2		4
Human Services		35	15	1	51
Judicial				1	1
Labor & Employment		1	5		6
Law				1	1
Local Affairs				1	1
Natural Resources			1		1
Personnel & Administration			4		4
Public Health & Environment				1	1
Public Safety				1	1
Regulatory Agencies				1	1
Revenue	1		8		9
State		2			2
TOTAL	2	51	50	15	118

Source: Office of the State Auditor's recommendation database.



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Length of Time the Financial Recommendations Have Been Outstanding

State Agency/Department	2011	2010	2009	2008	Total
Agriculture				1	1
Governor's Office					
Governor's Office of Information Technology	5			1	6
Governor's Office	1				1
Total	6			1	7
Health Care Policy & Financing		4	7	9	20
Higher Education					
Colorado Community College System	2				2
Colorado State University			1		1
Metro State College of Denver		1			1
Total	2	1	1		4
Human Services	3	38	3	7	51
Judicial		1			1
Labor & Employment	1	1	5		7
Law				1	1
Local Affairs				1	1
Natural Resources	1			1	2
Personnel & Administration		5			5
Public Health & Environment				1	1
Public Safety			1		1
Regulatory Agencies				1	1
Revenue	1	8		1	10
State		3			3
TOTAL	14	61	10	24	118

Source: Office of the State Auditor's recommendation database.



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What Else Does the Report Include?

Report also includes:

- Similar data and statistics for performance and IT audit recommendations.
- Department-specific tabs with information on all of their outstanding recommendations.
 - Financial – the programs and issue areas within the department that the outstanding recommendations related to.
 - Performance/IT – the specific audit reports and issue areas that the outstanding recommendations related to.



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What is the Purpose of the Report?



Presented to:

- The LAC in October each year.
- The Joint Budget Committee (JBC) in November each year.
- Committees of Reference (COR) for specific departments at the end of year.



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What is the Purpose of the Report (con't)?

- Mechanism for holding state agencies accountable for implementing the recommendations they agreed to implement.
- Legislative Audit Committee (LAC) had expressed concern with the number of recommendations it heard repeated year-after-year.



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Challenges with the Report

- Determining the “right” amount of information to include in the report.
- Presenting the information to CORs who aren't familiar with our audits.
- Short time frames for completing the report.



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Benefits of the Report

- State agencies have implemented many outstanding recommendations.
- State agencies have an opportunity to highlight their progress to the General Assembly.
- OSA has increased the visibility of our audit reports to the General Assembly.



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How Has Collaboration Helped to Make the Report a Success?

Internal Collaboration

- Cross-divisional team within the OSA works together to produce the report.
- Senior management, audit managers, and team leaders review data/report to ensure its accuracy.

External Collaboration

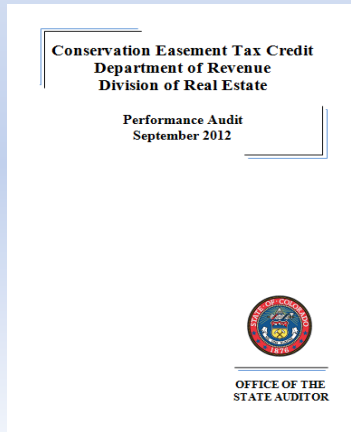
- Work with state agencies to obtain updated implementation status for the recommendations.
- Work with legislators to provide them with the information they find useful to question state agencies.



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Conservation Easement Tax Credit Performance Audit



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Conservation Easements are a way for the State and landowners to work together to protect valuable open space, agricultural, and ranch land from development.



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What Exactly is a Conservation Easement?

- First established by state statute in 1976, a conservation easement is a freely transferable interest in real property with the purpose of promoting land conservation.
- A conservation easement is a right of the owner of the easement, also known as the conservation easement holder, to restrict the landowner from subdividing and building on the land or using the land in certain ways.
- The restrictions imposed by a conservation easement are intended to maintain the property in a relatively undeveloped state, thereby preserving and protecting certain conservation purposes.
- Conservation easements typically afford the protection of fish, wildlife, and plant habitats, or the preservation of land areas for outdoor recreation, education, open space, or historical importance.
- As of September 2011, there were more than 4,300 conservation easements in Colorado covering approximately 1.6 million acres, or about 2.4 percent of the state's total land area.



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A Tax Credit, You Say?

- Federal Income Tax Deduction
- State Income Tax Credit
 - 50% of the donation's fair market value
 - \$375,000 maximum per donation
 - 20 year carry-forward period
 - Transferrable to other taxpayers
 - No annual usage limit



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Who is Involved?

State Agencies:

- Department of Revenue (DOR) – Responsible for administration and enforcement of Colorado’s tax laws.
- Division of Real Estate (DRE) – Responsible for regulation of real estate professionals doing business in Colorado.
- Conservation Easement Oversight Commission (CEOC) – Responsible for reviewing conservation easement transactions and providing advice upon request of DOR and/or DRE.



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Who Else is Involved?

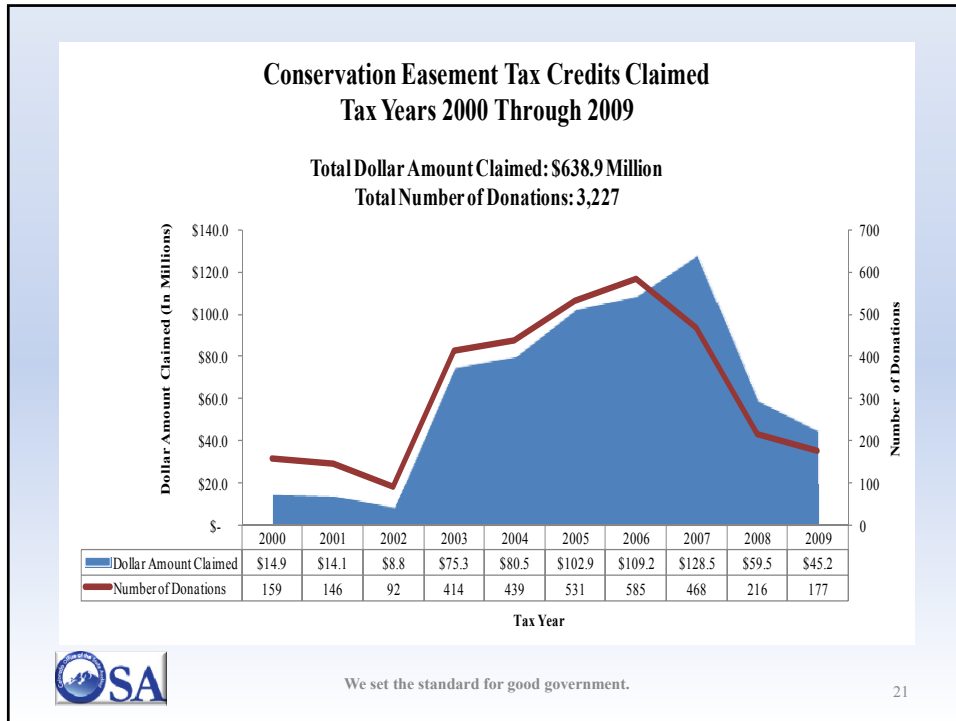
Outside Entities:

- Landowner – An individual or corporate taxpayer who owns the land and donates all or a portion of a conservation easement to a conservation easement holder.
- Easement Holder – A governmental or nonprofit entity that acquires the easement and monitors the land to ensure that the easement’s conditions are met.
- Appraiser – A state-licensed professional who determines the conservation easement’s fair market value



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Conservation Easement Tax Credit Performance Audit

- Are processes for examining conservation easement appraisals, certifying appraisers and easement holders, and reviewing tax credit claims sufficient to ensure that only tax credits for qualified easements are approved?
- Are all essential elements related to conservation easement tax credit claims reviewed at the most effective and efficient point in the process?



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Collaboration During the Audit Process



- Interviews with staff at Revenue and Real Estate, and with all members of the CEOC.
- Promoted dialogue between all of the state entities involved in the conservation easement process.
- This dialogue helped with developing recommendations requiring cooperation between the entities.
- Collaboration helped achieve agreement with audit recommendations.



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What We Found

- DOR should strengthen its conservation easement tax credit claim review process and improve its information management practices.
- DRE should strengthen its processes for reviewing conservation easement appraisals and certifying conservation easement holders.
- DOR, DRE, and the Conservation Easement Oversight Commission (CEOC) should ensure that the CEOC consultation process furthers the State's ability to determine the validity of conservation easement tax credit claims.
- DOR and DRE should evaluate options to better protect the State's investment of public resources in tax-credit-generating conservation easements.
- ***DOR, DRE, and the CEOC should work together to design a pre-approval process for reviewing and approving conservation easement tax credits.***



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Who Did What and When?

The Way It Was		
Landowner, Easement Holder, and Transferee	Landowner obtains appraisal, places an easement on the land, donates the easement to a certified holder, and possibly sells the tax credit to a transferee. After all this, and only once a tax credit claim is filed does the entire review process begin.	
Entity	Expertise	Authority
Department of Revenue	Taxes	<ul style="list-style-type: none"> • DECIDE if conservation purpose is valid • DECIDE if appraisal is valid • DECIDE if tax credit claim meets tax code
Division of Real Estate	Real Estate	<ul style="list-style-type: none"> • DECIDE if appraiser should be licensed • DECIDE if holder should be certified • ADVISE, on request, about appraisal validity
Oversight Commission	Conservation Easements	<ul style="list-style-type: none"> • ADVISE, on request, about any aspect of the conservation easement transaction



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Fundamental Changes

- One of the key findings in the audit report was that the State should fundamentally shift the manner in which the conservation easement tax credit is administered by requiring that certain aspects of a conservation easement donation be reviewed and approved by the Division of Real Estate and the Conservation Easement Oversight Commission within the Department of Regulatory Agencies before a tax credit claim can be filed with the Department of Revenue.
- Adopting this process would align decision-making with appropriate areas of expertise and provide the State with stronger assurances that conservation easement tax credits are supported by qualified appraisals and are being granted for valid conservation purposes. The new process would provide clearer lines of authority, responsibility, and accountability for decision-making and yield more certainty for taxpayers when claiming and using the tax credits on their tax returns.



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Realignment of Roles and Responsibilities

What We Recommended		
Landowner, Easement Holder, and Transferee	Landowner obtains appraisal and works with the easement holder to outline the easement and donation agreement. Once easement is placed and donated, pre-approval process will occur. Landowner can sell tax credit at this point. Once tax credit is claimed, final tax review begins.	
Entity	Expertise	Authority
Department of Revenue	Taxes	<ul style="list-style-type: none"> • DECIDE if tax credit claim(s) comply with tax code
Division of Real Estate	Real Estate	<ul style="list-style-type: none"> • DECIDE if appraisers should be licensed • DECIDE if holders should be certified • DECIDE if appraisals meet standards
Oversight Commission	Conservation Easements	<ul style="list-style-type: none"> • DECIDE if conservation purpose is appropriate • DECIDE if easement and donation agreement sufficiently protect land and State's investment



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Facilitating a Collaborative Legislative Process

- DOR Staff – Operations and Legal
- DRE Staff – Operations and Legal
- CEOC Representative
- State Land Trust Representative
- Office of Legislative Legal Services – Bill Drafter
- Office of the Attorney General



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The Fruits of Collaboration

SB 13- 221

- Moves authority and responsibility for determining whether the conservation easement appraisal complies with applicable requirements from the Department of Revenue to the Division of Real Estate.
- Moves authority and responsibility for determining whether the conservation purpose and other aspects of the easement comply with applicable requirements from the Department of Revenue to the Conservation Easement Oversight Commission.
- The Department of Revenue retains authority and responsibility for administering all other aspects of tax credit claims and uses that are not specifically granted to the Division of Real Estate or the Conservation Easement Oversight Commission.
- Establishes a process and time frame for (1) the review of tax credit applications, (2) the communication of potential deficiencies to the landowner, (3) the landowner's ability to submit additional information and documentation to address potential deficiencies, and (4) completing the review and making a final determination on the application.
- Provides a process by which landowners may request an optional, nonbinding preliminary advisory opinion from the Division of Real Estate and the Conservation Easement Oversight Commission on pending conservation easement transactions.



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New Law of the Land

Senate Bill SB 13- 221

- Passed Senate on a 35 – 0 vote on April 19, 2013
- Passed House on a 65 – 0 vote on May 6, 2013
- Signed by the Governor on May 23, 2013



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QUESTIONS?



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