

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0621.01 Gregg Fraser

HOUSE BILL 11-1300

HOUSE SPONSORSHIP

Looper, Acree, DelGrosso, Priola, Swalm

SENATE SPONSORSHIP

Grantham and Nicholson, Jahn

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE RESOLUTION OF A DISPUTED CLAIM FOR A STATE**
102 **INCOME TAX CREDIT FOR A DONATION OF A PERPETUAL**
103 **CONSERVATION EASEMENT THAT INCLUDES A PROCESS THAT**
104 **ALLOWS A TAXPAYER TO WAIVE AN EXPEDITED ADMINISTRATIVE**
105 **HEARING FOR THE PURPOSE OF APPEALING DIRECTLY TO A**
106 **DISTRICT COURT, AND MAKING AN APPROPRIATION THEREFOR.**

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://www.leg.state.co.us/billsummaries>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
May 2, 2011

Taxpayers are currently allowed to claim a state income tax credit for a portion of the value of a perpetual conservation easement that the taxpayer donates. If the executive director of the department of revenue (executive director) disputes the claim of the credit, a notice of deficiency, notice of rejection of refund claim, or notice of disallowance is mailed to the taxpayer, and the tax matters representative may request a hearing on the deficiency, rejection, or disallowance.

Under current law, a tax matters representative may not appeal such a notice to a district court until the hearing has been held and a final determination has been made by the executive director. Additionally, under current law, it is difficult to consolidate related claims in the administrative process for efficient and equitable resolution of conservation easement tax credit claims. There are currently a large number of disputes regarding conservation easement credit claims awaiting hearing and final determination by the executive director. The bill allows the tax matters representative to waive the hearing process and appeal directly to a district court. The bill further:

- ! Establishes venue for the appeals in a manner that allows cases to be consolidated regionally;
- ! Eliminates surety bond requirements for taxpayers who appeal directly to a district court;
- ! Suspends the imposition of additional interest and penalties during the appeal for taxpayers who appeal directly to a district court;
- ! Provides clearer and more effective procedures for the administrative process in order to facilitate an efficient and equitable process for all parties;
- ! Establishes a process for courts to publish notices to taxpayers who cannot be located;
- ! Allows claims to be consolidated and settled, and allows additional parties to intervene at the discretion of the court;
- ! Specifies procedures related to discovery, case management conferences, the disclosure of information by the parties, trial management orders, and the phasing of issues to be resolved by the court.

The bill allows a tax matters representative for a currently backlogged case who does not waive the hearing process before the executive director to request a hearing and final determination by the executive director by a certain date. In the case of a tax matters representative who elects to remain in the hearing process, the executive director has the authority to consolidate related cases. The executive director is required to issue a final determination on any remaining disputes by a subsequent date. If the executive director does not make a final determination by the dates specified, the authority of the executive director to dispute the allowance of the credits shall be waived and the

amount of the credit claimed by the taxpayer will be allowed. If a taxpayer fails to appear at a hearing with the executive director or fails to participate in the hearing process, the executive director may issue a final determination without further proceedings. Interest and penalties are waived for taxpayers who continue with the hearing process and pay an amount agreed upon for taxes owed by a certain date.

The executive director is further required to:

- ! Provide notice to the tax matters representative and the public regarding the provisions of the bill; and
- ! Report to the general assembly regarding the status of disputed conservation easement tax credits.

The state court administrator is required to report to the general assembly on the appeals brought as a result of the bill.

The bill requires the conservation easement oversight commission to review and advise the department of revenue regarding credits referred to it by the executive director by a specified date. The commission is further required to report to the general assembly regarding the conservation easements for which it has provided advice to the executive director. The bill specifies that members of the commission are immune from liability in accordance with the "Colorado Governmental Immunity Act".

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

2 **SECTION 1.** 39-21-113, Colorado Revised Statutes, is amended

3 **BY THE ADDITION OF A NEW SUBSECTION to read:**

4 **39-21-113. Reports and returns - repeal.**

5 (17.5) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
6 EXECUTIVE DIRECTOR MAY PROVIDE SUCH DETAILED INFORMATION
7 PERTINENT TO A CLAIM FOR A CREDIT FOR THE DONATION OF A
8 CONSERVATION EASEMENT PURSUANT TO SECTION 39-22-522 TO
9 TAXPAYERS, INCLUDING DONORS AND TRANSFEREES, WITH CLAIMS
10 RELATED TO A SINGLE CONSERVATION EASEMENT DONATION. THE
11 EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DULY AUTHORIZED
12 AGENTS MAY ALSO PROVIDE SUCH INFORMATION TO THE PARTIES TO A
13 CONSOLIDATED ADMINISTRATIVE HEARING PURSUANT TO 39-22-522.5 (5)

1 (a) AS NECESSARY AND APPROPRIATE FOR THE EFFICIENT AND FAIR
2 RESOLUTION OF DISPUTES.

3 (b) PERSONS WHO RECEIVE TAXPAYER INFORMATION PURSUANT TO
4 PARAGRAPH (a) OF THIS SUBSECTION (17.5) SHALL BE SUBJECT TO THE
5 PROVISIONS OF THIS SECTION, INCLUDING THE LIMITATIONS IN SUBSECTION
6 (4) OF THIS SECTION AND THE PENALTIES IN SUBSECTION (6) OF THIS
7 SECTION REGARDING DISCLOSURE OF TAXPAYER INFORMATION.

8 **SECTION 2.** 39-22-522 (2.5), Colorado Revised Statutes, is
9 amended to read:

10 **39-22-522. Credit against tax - conservation easements.**

11 (2.5) Notwithstanding any other provision of this section, for income tax
12 years commencing during the 2011, 2012, and 2013 calendar years, a
13 taxpayer conveying a conservation easement in 2011, 2012, or 2013 and
14 claiming a credit pursuant to this section shall, in addition to any other
15 requirements of this section, submit a claim for the credit to the division
16 of real estate in the department of regulatory agencies. The division shall
17 issue a certificate for the claims received in the order submitted. After
18 certificates have been issued for credits that exceed an aggregate of
19 ~~twenty-six~~ TWENTY-TWO million dollars for all taxpayers for income tax
20 years commencing in each of the 2011 AND 2012 ~~and 2013~~ calendar years
21 AND THIRTY-FOUR MILLION DOLLARS FOR EACH INCOME TAX YEAR
22 COMMENCING IN THE 2013 CALENDAR YEAR, any claims that exceed the
23 amount allowed for a specified calendar year shall be placed on a wait list
24 in the order submitted and a certificate shall be issued for use of the credit
25 in 2012 or 2013. The division shall not issue credit certificates that
26 exceed ~~twenty-six~~ TWENTY-TWO million dollars for each income tax year
27 commencing in the 2011 AND 2012 ~~and 2013~~ calendar years AND

1 THIRTY-FOUR MILLION DOLLARS FOR EACH INCOME TAX YEAR
2 COMMENCING IN THE 2013 CALENDAR YEAR. No claim for a credit shall
3 be allowed for any income tax year commencing during the 2011, 2012,
4 or 2013 calendar years unless a certificate has been issued by the division.
5 The right to claim the credit shall be vested in the taxpayer at the time a
6 credit certificate is issued. The division may promulgate rules in
7 accordance with article 4 of title 24, C.R.S., for the issuance of
8 certificates in accordance with this subsection (2.5).

9 **SECTION 3.** Part 5 of article 22 of title 39, Colorado Revised
10 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
11 read:

12 **39-22-522.5. Conservation easement tax credits - dispute**
13 **resolution - legislative declaration.** (1) THE GENERAL ASSEMBLY
14 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

15 (a) COLORADO'S CONSERVATION EASEMENT PROGRAM IS AN
16 IMPORTANT PRESERVATION TOOL USED TO BALANCE ECONOMIC NEEDS
17 WITH NATURAL RESOURCES SUCH AS LAND AND WATER PRESERVATION.
18 COLORADO'S CONSERVATION EASEMENT TAX CREDIT, FEDERAL TAX
19 DEDUCTION, AND CONTRIBUTIONS FROM THE GREAT OUTDOORS
20 COLORADO TRUST FUND HAVE ALLOWED MANY FARMERS AND RANCHERS
21 THE OPPORTUNITY TO DONATE THEIR DEVELOPMENT RIGHTS TO PRESERVE
22 A LEGACY OF OPEN SPACES IN COLORADO FOR WILDLIFE, AGRICULTURE,
23 AND RANCHING.

24 (b) CITIZENS THROUGHOUT COLORADO BELIEVE GOOD, SOUND
25 CONSERVATION PRACTICES ARE IMPORTANT TO COLORADO'S QUALITY OF
26 LIFE, AGRICULTURE, AND WILDLIFE HERITAGE;

27 (c) COLORADO'S CONSERVATION EASEMENT TAX CREDIT PROGRAM

1 WAS DESIGNED TO GIVE LANDOWNERS AN INCENTIVE TO CONSERVE AND
2 PRESERVE THEIR LAND IN A PREDOMINANTLY NATURAL, SCENIC, OR OPEN
3 CONDITION;

4 (d) WHILE THE DEPARTMENT OF REVENUE HAS ALLOWED THE
5 GREAT MAJORITY OF CLAIMED CONSERVATION EASEMENT TAX CREDITS,
6 HUNDREDS OF CLAIMED CREDITS HAVE BEEN DENIED BUT HAVE NOT YET
7 BEEN FINALLY ADJUDICATED THROUGH THE EXISTING ADMINISTRATIVE
8 PROCESS;

9 (e) DUE TO THE UNIQUE ISSUES OF CONFIDENTIALITY AND
10 MULTIPLE INTERESTED AND RELATED PARTIES INVOLVED IN THE
11 LITIGATION OF DISPUTED CONSERVATION EASEMENT TAX CREDITS, THE
12 GENERAL ASSEMBLY DETERMINES THAT IT IS APPROPRIATE TO ENACT
13 PROCEDURAL CHANGES THAT WILL PROVIDE FOR EQUITABLE AND
14 EXPEDITED LITIGATION OR RESOLUTION OF THESE CASES;

15 (f) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENACT
16 PROCEDURAL CHANGES THAT FURTHER IMPORTANT MATTERS OF PUBLIC
17 POLICY CONCERNING THE EQUITABLE AND EFFICIENT RESOLUTION OF
18 DISPUTES REGARDING CLAIMED CONSERVATION EASEMENT TAX CREDITS.
19 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ANY APPEAL BROUGHT
20 PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE EXPEDITED TO
21 THE EXTENT PRACTICABLE AND ADMINISTERED IN THE MANNER DEEMED
22 MOST EFFICIENT AND FAIR BY THE EXECUTIVE DIRECTOR OR THE DISTRICT
23 COURT.

24 (g) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE TAX
25 MATTERS REPRESENTATIVE SHALL CONTINUE TO BE RESPONSIBLE FOR
26 REPRESENTING AND BINDING THE TRANSFEREES WITH RESPECT TO ALL
27 ISSUES AFFECTING THE CREDIT IN ACCORDANCE WITH SECTION 39-22-522

1 (7) (i);

2 (h) THE PROCEDURAL CHANGES SET FORTH IN THIS SECTION SHALL
3 APPLY TO ANY DISPUTE REGARDING A TAX CREDIT FROM A DONATION OF
4 A CONSERVATION EASEMENT MADE ON OR AFTER JANUARY 1, 2000, FOR
5 WHICH A FINAL DETERMINATION HAS NOT ISSUED;

6 (i) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE
7 TAXPAYERS WITH INCENTIVES TO WAIVE AN ADMINISTRATIVE HEARING
8 AND PROCEED DIRECTLY TO A DE NOVO APPEAL TO THE DISTRICT COURT IN
9 ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS SECTION. THE
10 INCENTIVES INCLUDE WAIVER OF THE BOND REQUIREMENT AND WAIVER OF
11 ACCRUAL OF INTEREST AND PENALTIES DURING THE TIME THE MATTER IS
12 ON APPEAL TO THE DISTRICT COURT. THESE INCENTIVES SHALL NOT APPLY
13 TO TAXPAYERS WHO CHOOSE NOT TO WAIVE THE ADMINISTRATIVE
14 HEARING.

15 (j) THIS SECTION IS INTENDED TO EFFECT CHANGES TO THE LAW
16 THAT ARE PROCEDURAL OR REMEDIAL IN NATURE. THE PROCEDURAL
17 CHANGES SET FORTH IN THIS SECTION SHALL NOT BE CONSTRUED TO TAKE
18 AWAY OR IMPAIR ANY VESTED RIGHT ACQUIRED UNDER EXISTING LAW, OR
19 TO CREATE ANY NEW OBLIGATION, IMPOSE ANY NEW DUTY, OR ATTACH
20 ANY NEW DISABILITY WITH RESPECT TO ANY PAST TRANSACTION OR
21 CONSIDERATION. THE PROVISIONS OF THIS SECTION ARE DESIGNED TO
22 ADDRESS MATTERS OF PUBLIC POLICY RELATED TO THE FAIR AND
23 EQUITABLE RESOLUTION OF CONSERVATION EASEMENT TAX CREDIT
24 DISPUTES IN ACCORDANCE WITH APPLICABLE LAWS AND COURT RULES.

25 (2) FOR ANY CREDIT CLAIMED PURSUANT TO SECTION 39-22-522,
26 FOR WHICH A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR
27 NOTICE OF REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE

1 DEPARTMENT OF REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL
2 DETERMINATION HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF
3 THIS SECTION, THE TAX MATTERS REPRESENTATIVE MAY ELECT TO WAIVE
4 THE ADMINISTRATIVE PROCESS PROVIDED BY SECTION 39-21-103 AND
5 APPEAL THE NOTICE OF DEFICIENCY, DISALLOWANCE, OR REJECTION OF
6 REFUND CLAIM DIRECTLY TO A DISTRICT COURT IN ACCORDANCE WITH THE
7 FOLLOWING PROVISIONS, WHICH ALSO APPLY TO AN APPEAL FILED IN
8 ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION; EXCEPT THAT
9 PARAGRAPHS (a), (c), AND (d) SHALL NOT APPLY TO SUCH AN APPEAL:

10 (a) THE TAX MATTERS REPRESENTATIVE SHALL MAKE THE
11 ELECTION BY MAILING A WRITTEN NOTICE OF APPEAL THAT INCLUDES THE
12 CERTIFIED SIGNATURE OF THE TAX MATTERS REPRESENTATIVE TO THE
13 EXECUTIVE DIRECTOR AND THE DISTRICT COURT FOR THE COUNTY THAT
14 HAS VENUE IN THE CASE AS SPECIFIED IN PARAGRAPH (b) OF THIS
15 SUBSECTION (2) ON OR BEFORE OCTOBER 1, 2011. THE NOTICE SHALL BE
16 SENT BY CERTIFIED MAIL.

17 (b) APPEALS BROUGHT PURSUANT TO THIS SECTION SHALL BE FILED
18 IN THE DISTRICT COURT FOR THE COUNTY WHERE THE LAND ENCUMBERED
19 BY THE EASEMENT IS LOCATED. AT THE DISCRETION OF THE CHIEF JUSTICE,
20 THE STATE MAY BE DIVIDED INTO THREE REGIONS FOR PURPOSES OF
21 CONSOLIDATING APPEALS, WITH EACH REGION CONSISTING OF THE
22 FOLLOWING JUDICIAL DISTRICTS:

23	REGION	JUDICIAL DISTRICTS
24	REGION 1	1ST, 2ND, 8TH, 13TH, 17TH, 18TH, 19TH, AND 20TH
25	REGION 2	3RD, 4TH, 10TH, 11TH, 12TH, 15TH, AND 16TH
26	REGION 3	5TH, 6TH, 7TH, 9TH, 14TH, 21ST, AND 22ND

27 (c) IF A TAX MATTERS REPRESENTATIVE ELECTS TO WAIVE THE

1 ADMINISTRATIVE PROCESS AND APPEAL DIRECTLY TO A DISTRICT COURT
2 PURSUANT TO THIS SUBSECTION (2), NO SURETY BOND OR OTHER DEPOSIT
3 SHALL BE REQUIRED IN CONNECTION WITH THE APPEAL. THIS PARAGRAPH
4 (c) SHALL NOT APPLY TO TAX MATTERS REPRESENTATIVES WHO DO NOT
5 ELECT TO WAIVE THE ADMINISTRATIVE PROCESS.

6 (d) IF THE TAX MATTERS REPRESENTATIVE ELECTS TO WAIVE THE
7 ADMINISTRATIVE PROCESS AND APPEAL DIRECTLY TO A DISTRICT COURT
8 PURSUANT TO THIS SUBSECTION (2), PENALTIES AND INTEREST SHALL NOT
9 BE IMPOSED OR COMMENCE TO ACCRUE ON ANY AMOUNT OWED BY A TAX
10 MATTERS REPRESENTATIVE UNTIL SUCH TIME AS THE DISTRICT COURT
11 ENTERS FINAL JUDGMENT.

12 (e) UPON RECEIPT OF THE NOTICE OF APPEAL BY THE COURT, THE
13 EXECUTIVE DIRECTOR SHALL BE DEEMED TO BE A PARTY TO SUCH APPEAL,
14 AND THE CLERK OF THE DISTRICT COURT SHALL DOCKET THE CAUSE AS A
15 CIVIL ACTION. THE APPELLANT SHALL CAUSE SUMMONS TO BE ISSUED AND
16 CAUSE THE SAME TO BE SERVED UPON THE EXECUTIVE DIRECTOR IN
17 ACCORDANCE WITH THE MANNER PROVIDED BY LAW IN CIVIL CASES. THE
18 ANSWER OF THE EXECUTIVE DIRECTOR SHALL CONTAIN A BRIEF, PLAIN
19 STATEMENT OF THE LEGAL ISSUES, A DETAILED ITEMIZATION OF THE TOTAL
20 AMOUNT IN CONTROVERSY, AND ANY PROPOSAL REGARDING THE JOINDER
21 OR CONSOLIDATION OF RELATED PARTIES AND APPEALS.

22 (f) ANY TRANSFEREE OF THE TAX CREDIT OR ANY OTHER PERSON
23 WHO HAS CLAIMED A TAX CREDIT RELATED TO THE TAX MATTERS
24 REPRESENTATIVE'S CLAIMED CONSERVATION EASEMENT TAX CREDIT
25 SHALL BE ALLOWED TO INTERVENE AS A MATTER OF RIGHT PURSUANT TO
26 THE COLORADO RULES OF CIVIL PROCEDURE.

27 (g) NOTICE OF THE DATE OF ANY HEARING OR ANY PHASE OF THE

1 TRIAL SHALL BE MAILED TO THE TAX MATTERS REPRESENTATIVE, ANY
2 OTHER PARTY, AND TO THE EXECUTIVE DIRECTOR AT LEAST THIRTY DAYS
3 PRIOR THERETO.

4 (h) JURISDICTION TO HEAR AND DETERMINE APPEALS PURSUANT TO
5 THIS SECTION IS CONFERRED UPON THE DISTRICT COURTS OF THIS STATE.
6 A COURT, IN ITS DISCRETION, MAY ALLOW FOR THE ASSERTION,
7 CONSOLIDATION, AND SETTLEMENT OF ANY CLAIMS AT LAW OR AT EQUITY,
8 FOR THE INTERVENTION OF ADDITIONAL PARTIES, AND FOR SUCH OTHER
9 MATTERS AS THE COURT DEEMS APPROPRIATE IN ACCORDANCE WITH ANY
10 APPLICABLE LAWS OR COURT RULES GOVERNING SUCH ISSUES; EXCEPT
11 THAT RESOLUTION OF DISPUTES BETWEEN PRIVATE PARTIES MAY BE
12 LIMITED TO THE THIRD PHASE OF THE CASE AS DESCRIBED IN PARAGRAPH
13 (m) OF THIS SUBSECTION (2). IN DETERMINING MATTERS REGARDING
14 JOINDER OR CONSOLIDATION, THE COURT MAY CONSIDER COMMON ISSUES
15 OF LAW AND FACT, INCLUDING BUT NOT LIMITED TO OWNERSHIP OF THE
16 PROPERTY SUBJECT TO THE EASEMENT, RELATIONSHIPS OF TAXPAYERS,
17 AND LOCATION OF THE EASEMENTS.

18 (i) FOLLOWING THE COURT'S ORDER IDENTIFYING THE PARTIES AND
19 CONSOLIDATING CASES AND PARTIES, THE COURT MAY HOLD A HEARING
20 TO DETERMINE THE VALIDITY OF THE CONSERVATION EASEMENT CREDIT
21 CLAIMED PURSUANT TO SECTION 39-22-522 AND TO DETERMINE ANY
22 OTHER CLAIMS OR DEFENSES TOUCHING THE REGULARITY OF THE
23 PROCEEDINGS. THE COURT SHALL DETERMINE WHETHER THE DONATION
24 IS ELIGIBLE TO QUALIFY AS A QUALIFIED CONSERVATION CONTRIBUTION
25 PURSUANT TO SECTION 170 (h) OF THE INTERNAL REVENUE CODE AND
26 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH
27 SECTION. THE COURT MAY SET AN EXPEDITED BRIEFING SCHEDULE AND

1 GIVE THE MATTER PRIORITY ON THE DOCKET. THE COURT MAY ORDER
2 PRELIMINARY DISCOVERY, LIMITED TO VALIDITY OF THE EASEMENT
3 CREDITS AND ANY OTHER CLAIMS OR DEFENSES RAISED AT THIS STAGE OF
4 THE PROCEEDING.

5 (j) UPON A DETERMINATION OF VALIDITY OF THE CREDIT AS
6 CLAIMED, THE COURT MAY SCHEDULE A CASE MANAGEMENT CONFERENCE
7 WITH ALL PARTIES TO THE PROCEEDING. ANY CASE MANAGEMENT
8 CONFERENCE SHALL ADDRESS THE PROCEEDINGS AS SET FORTH IN
9 PARAGRAPH (m) OF THIS SUBSECTION (2). PRIOR TO THE CASE
10 MANAGEMENT CONFERENCE, THE COURT MAY ORDER ALL PARTIES TO
11 MAKE THE FOLLOWING DISCLOSURES:

12 (I) THE DEPARTMENT OF REVENUE SHALL DISCLOSE, CONSISTENT
13 WITH ANY ORDERS OF THE COURT, INDIVIDUALS WITH KNOWLEDGE OF, AND
14 DOCUMENTS RELATED TO:

15 (A) NOTICES TO THE TAX MATTERS REPRESENTATIVE
16 DISALLOWING THE CONSERVATION EASEMENT CREDIT;

17 (B) NOTICES TO ANY TAXPAYER OF DEFICIENCY OR REJECTION OF
18 CLAIM FOR REFUND;

19 (C) CORRESPONDENCE WITH THE TAX MATTERS REPRESENTATIVE
20 OR DONEE OF THE EASEMENT AS WELL AS ANY PARTY TO THE
21 CONSERVATION EASEMENT TAX CREDIT ACTION;

22 (D) APPRAISALS AND REVIEW APPRAISALS OR OTHER EXPERT
23 REPORTS USED IN CONNECTION WITH REVIEW OF THE TAX MATTERS
24 REPRESENTATIVE'S APPLICATION FOR TAX CREDIT;

25 (E) TAX RETURNS OF THE TAX MATTERS REPRESENTATIVE,
26 TRANSFEREE, OR ANY PARTY TO THE CONSERVATION EASEMENT TAX
27 CREDIT ACTION, FOR RELEVANT TAX YEARS; AND

1 (F) STATEMENTS OF ADJUSTMENT.

2 (II) THE TAX MATTERS REPRESENTATIVE SHALL DISCLOSE
3 INDIVIDUALS WITH KNOWLEDGE OF, OR DOCUMENTS RELATED TO:

4 (A) TAX RETURNS FOR THE RELEVANT TAX YEARS;

5 (B) THE APPRAISAL USED TO DETERMINE THE VALUE OF THE
6 EASEMENT;

7 (C) THE CONSERVATION EASEMENT DEED AND AMENDMENTS;

8 (D) AGREEMENTS BETWEEN THE TAX MATTERS REPRESENTATIVE
9 AND THE TRANSFEREES; AND

10 (E) ANY OTHER EXPERT REPORT, BASIS, OR OTHER EVIDENCE
11 RELATING TO THE VALUATION AND SUBSTANTIATION OF THE AMOUNT OF
12 THE UNDERLYING EASEMENT OR CREDIT.

13 (III) TRANSFEREES OR OTHER PERSONS CLAIMING ALL OR PART OF
14 THE CONSERVATION EASEMENT TAX CREDIT WHO ARE PARTIES TO THE
15 CONSERVATION EASEMENT TAX CREDIT ACTION SHALL DISCLOSE
16 INDIVIDUALS WITH KNOWLEDGE OF, OR DOCUMENTS RELATED TO:

17 (A) AGREEMENTS RELATED TO THE TRANSFER OF CREDITS;

18 (B) TAX RETURNS FOR THE RELEVANT TAX YEARS; AND

19 (C) ANY OTHER EXPERT REPORT, BASIS, OR OTHER EVIDENCE
20 RELATING TO THE VALUATION AND SUBSTANTIATION OF THE AMOUNT OF
21 THE UNDERLYING EASEMENT OR CREDIT.

22 (k) THE COURT MAY MAKE ANY ORDER IT DEEMS APPROPRIATE TO
23 CONTROL AND LIMIT DISCOVERY TO AVOID UNNECESSARY DUPLICATION
24 BETWEEN OR AMONG PARTIES, INCLUDING SETTING SUCH LIMITATIONS IN
25 ACCORDANCE WITH THE PHASES OF THE PROCEEDINGS AS SET FORTH IN
26 PARAGRAPH (m) OF THIS SUBSECTION (2).

27 (l) IN ADVANCE OF THE TRIAL DATE, THE COURT MAY REQUIRE THE

1 PARTIES TO CONFER AND SUBMIT A PROPOSED TRIAL MANAGEMENT ORDER
2 TO THE COURT.

3 (m) AFTER A DETERMINATION PURSUANT TO PARAGRAPH (j) OF
4 THIS SUBSECTION (2) OF THE VALIDITY OF THE CREDIT AS CLAIMED, THE
5 COURT SHALL RESOLVE ALL REMAINING ISSUES AS FOLLOWS:

6 (I) THE FIRST PHASE SHALL BE LIMITED TO ISSUES REGARDING THE
7 VALUE OF THE EASEMENT.

8 (II) THE SECOND PHASE SHALL BE LIMITED TO DETERMINATIONS OF
9 THE TAX, INTEREST, AND PENALTIES DUE AND APPORTIONMENT OF SUCH
10 TAX LIABILITY AMONG PERSONS WHO CLAIMED A TAX CREDIT IN RELATION
11 TO THE CONSERVATION EASEMENT. THE CONSERVATION EASEMENT TAX
12 CREDIT ACTION SHALL BE FINAL AT THE CONCLUSION OF THE SECOND
13 PHASE AS TO THE DEPARTMENT OF REVENUE AND AS TO ANY TAXPAYER,
14 TRANSFEREE, OR OTHER PARTY WITH REGARD TO THAT PARTY'S TAX
15 CREDIT DISPUTE WITH THE DEPARTMENT OF REVENUE.

16 (III) THE THIRD PHASE SHALL ADDRESS ALL OTHER CLAIMS
17 RELATED TO THE CONSERVATION EASEMENT TAX CREDIT, INCLUDING
18 THOSE BETWEEN AND AMONG THE TAX MATTERS REPRESENTATIVE,
19 TRANSFEREES, OTHER PERSONS CLAIMING A TAX CREDIT IN CONNECTION
20 WITH THE DONATION, AND ANY THIRD PARTY JOINED AS A PARTY TO THE
21 ACTION. THE DEPARTMENT SHALL NOT BE REQUIRED TO PARTICIPATE IN
22 OR BE A PARTY TO THIS THIRD PHASE. ANY PARTICIPATION IN THESE
23 PROCEEDINGS BY PARTIES OTHER THAN THE TAX MATTERS
24 REPRESENTATIVE, TRANSFEREES, OR OTHER PERSONS WHO HAVE CLAIMED
25 ALL OR PART OF A CONSERVATION EASEMENT TAX CREDIT IS LIMITED TO
26 THIS THIRD PHASE.

27 (n) THE DISTRICT COURT SHALL HEAR THE APPEAL IN ACCORDANCE

1 WITH THE COLORADO RULES OF CIVIL PROCEDURE AND THE RULES OF
2 EVIDENCE.

3 (o) THE CHIEF JUSTICE OF THE SUPREME COURT MAY DESIGNATE
4 JUDGES TO HEAR APPEALS BROUGHT PURSUANT TO THIS SUBSECTION (2),
5 AND MAY DETERMINE THAT ONLY JUDGES SO DESIGNATED MAY HEAR SUCH
6 APPEALS. FOR THE CONVENIENCE OF THE PARTIES AND IN ORDER TO
7 FACILITATE THE USE OF AVAILABLE COURT FACILITIES, HEARINGS MAY BE
8 CONDUCTED AT THE DISCRETION OF THE COURT IN ANY COUNTY WITHIN
9 THE REGION FOR WHICH VENUE HAS BEEN ESTABLISHED FOR A CASE
10 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2).

11 (p) THE DISTRICT COURT SHALL ENTER JUDGMENT ON ITS FINDINGS.
12 THE COURT SHALL HAVE THE AUTHORITY TO ESTABLISH THE AMOUNT OF
13 ANY DEFICIENCY AND TO WAIVE OR OTHERWISE MODIFY THE AMOUNT OF
14 ANY INTEREST, PENALTIES, OR OTHER AMOUNTS OWED. THE COURT SHALL
15 INDICATE IN ANY ORDER WHETHER THE JUDGMENT OF THE COURT IS A
16 FINAL JUDGMENT SUBJECT TO APPEAL AS TO ANY PARTY.

17 (q) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ANY
18 APPEALS BROUGHT PURSUANT TO THIS SUBSECTION (2) SHALL BE
19 EXPEDITED TO THE EXTENT PRACTICABLE AND ADMINISTERED IN THE
20 MANNER DEEMED MOST EFFICIENT AND FAIR BY THE COURTS.

21 (3) A TAX MATTERS REPRESENTATIVE WHO DOES NOT MAKE AN
22 ELECTION TO WAIVE A HEARING PURSUANT TO SUBSECTION (2) OF THIS
23 SECTION AND APPEAL DIRECTLY TO A DISTRICT COURT MAY SEND A
24 WRITTEN REQUEST FOR HEARING AND FINAL DETERMINATION BY CERTIFIED
25 MAIL TO THE EXECUTIVE DIRECTOR ON OR BEFORE OCTOBER 1, 2011.
26 IF A TAX MATTERS REPRESENTATIVE FILES A REQUEST PURSUANT TO THIS
27 SUBSECTION (3), THE EXECUTIVE DIRECTOR SHALL ISSUE A FINAL

1 DETERMINATION ON OR BEFORE JULY 1, 2014, UNLESS THE EXECUTIVE
2 DIRECTOR AND THE TAX MATTERS REPRESENTATIVE MUTUALLY AGREE IN
3 WRITING TO EXTEND SUCH DATE TO A SPECIFIED DATE. THE EXECUTIVE
4 DIRECTOR SHALL SEND A COPY OF THE FINAL DETERMINATION TO THE TAX
5 MATTERS REPRESENTATIVE BY CERTIFIED MAIL ON OR BEFORE JULY 1,
6 2014. IF THE UNITED STATES POST OFFICE RETURNS THE FINAL
7 DETERMINATION AS UNDELIVERABLE BY CERTIFIED MAIL, THE
8 DEPARTMENT SHALL THEN MAIL THE FINAL DETERMINATION IN
9 ACCORDANCE WITH SECTION 39-21-105.5. THIS SUBSECTION (3) SHALL
10 APPLY ONLY TO THOSE TAX MATTERS REPRESENTATIVES FOR WHICH A
11 NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE OF
12 REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE DEPARTMENT OF
13 REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION
14 HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION
15 (3).

16 (4) THE EXECUTIVE DIRECTOR SHALL ISSUE A FINAL
17 DETERMINATION ON OR BEFORE JULY 1, 2016, FOR ANY TAX MATTERS
18 REPRESENTATIVE WHO DOES NOT MAKE AN ELECTION TO WAIVE A
19 HEARING PURSUANT TO SUBSECTION (2) OF THIS SECTION OR FILE A
20 WRITTEN REQUEST FOR FINAL HEARING AND FINAL DETERMINATION WITH
21 THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (3) OF THIS SECTION.
22 THE EXECUTIVE DIRECTOR SHALL SEND A COPY OF THE FINAL
23 DETERMINATION TO THE TAX MATTERS REPRESENTATIVE BY CERTIFIED
24 MAIL ON OR BEFORE JULY 1, 2016. IF THE UNITED STATES POST OFFICE
25 RETURNS THE FINAL DETERMINATION AS UNDELIVERABLE BY CERTIFIED
26 MAIL, THE DEPARTMENT SHALL THEN MAIL THE FINAL DETERMINATION IN
27 ACCORDANCE WITH SECTION 39-21-105.5. IF A TAX MATTERS

1 REPRESENTATIVE DOES NOT MAKE AN ELECTION TO WAIVE A HEARING
2 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR FILE A WRITTEN
3 REQUEST FOR FINAL HEARING AND FINAL DETERMINATION WITH THE
4 EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (3) OF THIS SECTION,
5 ANY PERSON WHO HAS CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO
6 CLAIM A TAX CREDIT IN RELATION TO THE TAX MATTERS
7 REPRESENTATIVE'S DONATION MAY PETITION THE DEPARTMENT ON OR
8 BEFORE NOVEMBER 1, 2011, TO CHANGE THE TAX MATTERS
9 REPRESENTATIVE'S DESIGNATION. IF THE DEPARTMENT GRANTS THE
10 PETITION, THE NEW TAX MATTERS REPRESENTATIVE MAY FILE AN APPEAL
11 PURSUANT TO SUBSECTION (2) OF THIS SECTION WITHIN THIRTY DAYS OF
12 THE DEPARTMENT'S ORDER REGARDING THE PETITION. THIS SUBSECTION
13 (4) SHALL APPLY ONLY TO THOSE TAX MATTERS REPRESENTATIVES FOR
14 WHICH A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE
15 OF REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE DEPARTMENT
16 OF REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION
17 HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION
18 (4).

19 (5) IN ORDER TO EXPEDITE THE EQUITABLE RESOLUTION OF
20 REQUESTS FOR AN ADMINISTRATIVE HEARING REGARDING ANY
21 CONSERVATION EASEMENT TAX CREDIT, AVOID INCONSISTENT
22 DETERMINATIONS, AND ALLOW THE EXECUTIVE DIRECTOR OR THE
23 EXECUTIVE DIRECTOR'S DESIGNEE TO CONSIDER THE FULL SCOPE OF
24 APPLICABLE ISSUES OF LAW AND FACT, THE EXECUTIVE DIRECTOR OR THE
25 EXECUTIVE DIRECTOR'S DESIGNEE SHALL HAVE DISCRETION TO ISSUE
26 ORDERS AS SET FORTH IN PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (5)
27 AS FOLLOWS:

1 (a) CONSOLIDATE CASES INVOLVING COMMON OR RELATED ISSUES
2 OF FACT OR LAW. IN IDENTIFYING RELATED CASES, THE EXECUTIVE
3 DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY CONSIDER ANY
4 COMMON ISSUES OF LAW OR FACT, INCLUDING BUT NOT LIMITED TO
5 COMMON OWNERSHIP OF THE PROPERTY SUBJECT TO THE EASEMENT,
6 RELATIONSHIPS OF THE TAXPAYERS, AND LOCATION OF THE EASEMENTS.

7 (b) ISSUE A FINAL ORDER FINDING THAT A CASE CANNOT
8 REASONABLY BE RESOLVED THROUGH THE ADMINISTRATIVE PROCESS AND
9 TRANSFERRING JURISDICTION OF THE CASE TO THE DISTRICT COURT IN
10 ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION. SUCH A FINAL
11 ORDER MAY ISSUE FOR REASONS INCLUDING BUT NOT LIMITED TO A
12 WAIVER OF ADMINISTRATIVE PROCESS PURSUANT TO PARAGRAPH (a) OF
13 SUBSECTION (2) OF THIS SECTION BY ANOTHER TAX MATTERS
14 REPRESENTATIVE WHERE CONSOLIDATION WOULD OTHERWISE BE
15 APPROPRIATE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5).
16 PRIOR TO ISSUANCE OF SUCH A FINAL ORDER, THE PARTIES SHALL HAVE
17 THE OPPORTUNITY TO FILE WRITTEN BRIEFS ADDRESSING THE PROPOSED
18 TRANSFER.

19 (c) IF A TAX MATTERS REPRESENTATIVE FAILS TO APPEAR AT A
20 HEARING OR THE TAX MATTERS REPRESENTATIVE HAS FAILED TO
21 ADEQUATELY PARTICIPATE IN SUCH HEARING, INCLUDING BUT NOT
22 LIMITED TO A FAILURE TO FILE THE REQUIRED PLEADINGS OR TO APPEAR AT
23 A SCHEDULED CONFERENCE, THE EXECUTIVE DIRECTOR MAY WITHOUT
24 FURTHER PROCEEDINGS ISSUE A FINAL DETERMINATION.

25 (d) INVITING PARTICIPATION IN THE ADMINISTRATIVE PROCESS BY
26 ANY PERSON WHO MAY BE AFFECTED OR AGGRIEVED BY A FINAL
27 DETERMINATION, INCLUDING BUT NOT LIMITED TO TRANSFEREES. SUCH

1 PARTICIPATION SHALL INCLUDE THE RIGHT TO BE ADMITTED AS A PARTY
2 TO A HEARING. UPON THE PERSON'S FILING OF A WRITTEN REQUEST
3 SETTING FORTH A BRIEF AND PLAIN STATEMENT OF THE FACTS THAT
4 ENTITLE THE PERSON TO BE ADMITTED AND THE MATTERS TO BE DECIDED,
5 THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DELEGATE
6 SHALL HAVE THE AUTHORITY TO ADMIT SUCH PERSON FOR LIMITED
7 PURPOSES. THIS PROCESS SHALL BE AVAILABLE ONLY TO PERSONS WHO
8 HAVE CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO CLAIM A TAX
9 CREDIT IN RELATION TO THE CONSERVATION EASEMENT.

10 (e) IF A TAX MATTERS REPRESENTATIVE HAS NOT PROVIDED ANY
11 DOCUMENT RELATED TO THE CREDIT THAT WAS REQUIRED TO BE PROVIDED
12 AS PART OF THE TAXPAYER'S RETURN, INCLUDING THE RETURN ITSELF, OR,
13 IF REQUESTED BY THE DEPARTMENT, A COPY OF THE COMPLETE APPRAISAL
14 OBTAINED AT THE TIME OF DONATION, THE DEPARTMENT MAY SEND A
15 WRITTEN REQUEST TO THE TAXPAYER FOR SUCH DOCUMENT. FAILURE TO
16 PROVIDE THE REQUESTED DOCUMENTS WITHIN SIXTY DAYS OF ANY SUCH
17 REQUEST SHALL CONSTITUTE GROUNDS FOR THE ISSUANCE OF A FINAL
18 DETERMINATION DENYING THE CREDIT.

19 (6) FOR ANY TAX MATTERS REPRESENTATIVE FOR WHICH THE
20 EXECUTIVE DIRECTOR ISSUED A FINAL DETERMINATION ON OR AFTER MAY
21 1, 2011, THE TAX MATTERS REPRESENTATIVE MAY APPEAL THE FINAL
22 DETERMINATION OF THE EXECUTIVE DIRECTOR PURSUANT TO THE
23 PROVISIONS OF SECTION 39-21-105. THE PROCEDURE GOVERNING SUCH
24 APPEAL SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION
25 (2) OF THIS SECTION; EXCEPT THAT PARAGRAPHS (a), (c), AND (d) OF SAID
26 SUBSECTION (2) SHALL NOT APPLY. IF A TAX MATTERS REPRESENTATIVE
27 FAILS TO FILE A TIMELY APPEAL PURSUANT TO THIS SUBSECTION (6), ANY

1 PERSON WHO HAS CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO CLAIM
2 A TAX CREDIT IN RELATION TO THE TAX MATTERS REPRESENTATIVE'S
3 DONATION MAY PETITION THE DEPARTMENT TO CHANGE THE TAX MATTERS
4 REPRESENTATIVE'S DESIGNATION WITHIN TEN DAYS AFTER THE FINAL DATE
5 FOR FILING AN APPEAL. IF THE DEPARTMENT OF REVENUE GRANTS THE
6 PETITION, THE NEW TAX MATTERS REPRESENTATIVE MAY FILE AN APPEAL
7 PURSUANT TO SECTION 39-21-105 WITHIN THIRTY DAYS OF THE
8 DEPARTMENT'S ORDER REGARDING THE PETITION.

9 (7) IF THE EXECUTIVE DIRECTOR FAILS TO ISSUE A FINAL
10 DETERMINATION ON OR BEFORE THE DATES SPECIFIED OR AGREED TO IN
11 SUBSECTION (3) OR (4) OF THIS SECTION, THE AUTHORITY OF THE
12 EXECUTIVE DIRECTOR TO DISPUTE THE CLAIM OF THE CREDIT SHALL BE
13 WAIVED, THE FULL AMOUNT OF THE CREDIT IN DISPUTE SHALL BE
14 ALLOWED, AND NO INTEREST OR PENALTIES SHALL BE IMPOSED UPON SUCH
15 AMOUNT.

16 (8) ON OR BEFORE AUGUST 1, 2011, THE CONSERVATION
17 EASEMENT OVERSIGHT COMMISSION CREATED IN SECTION 12-61-721 (1),
18 C.R.S., SHALL REVIEW CONSERVATION EASEMENTS FOR WHICH A TAX
19 CREDIT IS CLAIMED PURSUANT TO SECTIONS 39-22-522 (3.5) (a) AND
20 12-61-721 (3), C.R.S., AND FOR WHICH A NOTICE OF DEFICIENCY, NOTICE
21 OF REJECTION OF REFUND CLAIM, OR NOTICE OF DISALLOWANCE ISSUED ON
22 OR BEFORE MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION HAS
23 NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (8)
24 AND FOR WHICH THE COMMISSION HAS NOT ALREADY REVIEWED THE
25 CREDIT. FOR EACH CONSERVATION EASEMENT TAX CREDIT CLAIM SO
26 REVIEWED, THE COMMISSION SHALL ISSUE AN INITIAL RECOMMENDATION
27 TO THE EXECUTIVE DIRECTOR ON WHETHER EACH CREDIT CLAIMED BY A

1 TAXPAYER WHO IS ELIGIBLE TO WAIVE A HEARING AND APPEAL A NOTICE
2 OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF
3 DISALLOWANCE MAY BE DENIED OR ACCEPTED. NO OTHER INFORMATION
4 SHALL BE REQUIRED OF THE COMMISSION ON OR BEFORE SUCH DATE.

5 (9) THE EXECUTIVE DIRECTOR SHALL SEND A NOTICE TO EACH TAX
6 MATTERS REPRESENTATIVE ELIGIBLE TO WAIVE A HEARING AND APPEAL A
7 NOTICE OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR
8 NOTICE OF DISALLOWANCE TO A DISTRICT COURT PURSUANT TO
9 SUBSECTION (2) OF THIS SECTION TO NOTIFY THE TAX MATTERS
10 REPRESENTATIVE OF THE PROVISIONS OF THIS SECTION. THE NOTICE SHALL
11 BE SENT BY CERTIFIED MAIL TO THE TAX MATTERS REPRESENTATIVE'S
12 LAST-KNOWN ADDRESS ON OR BEFORE JULY 1, 2011. IF THE UNITED
13 STATES POST OFFICE RETURNS THE NOTICE AS UNDELIVERABLE BY
14 CERTIFIED MAIL, THE DEPARTMENT SHALL THEN MAIL THE NOTICE IN
15 ACCORDANCE WITH SECTION 39-21-105.5. THE NOTICE SHALL NOT BE
16 INCLUDED WITH ANY OTHER MAILING AND SHALL INCLUDE THE WORDS
17 "IMPORTANT TAX DOCUMENT ENCLOSED" ON THE EXTERIOR OF THE
18 MAILING. THE EXECUTIVE DIRECTOR SHALL FURTHER PROVIDE NOTICE OF
19 THE PROVISIONS OF THIS SECTION ON THE DEPARTMENT OF REVENUE'S WEB
20 SITE AND BY SUCH OTHER MEANS AS THE EXECUTIVE DIRECTOR DEEMS
21 APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL MAINTAIN ADEQUATE
22 RECORDS TO VERIFY COMPLIANCE WITH THE PROVISIONS OF THIS
23 SUBSECTION (9).

24 (10) IF THE EXECUTIVE DIRECTOR MAKES A DETERMINATION THAT
25 THE TAX MATTERS REPRESENTATIVE HAS TRANSFERRED A DISPUTED
26 CREDIT TO ANOTHER PERSON WHO HAS NOT CLAIMED THE CREDIT OR THAT
27 A PERSON WHO CLAIMED OR MAY CLAIM A DISPUTED CREDIT PURSUANT TO

1 SECTION 39-22-522 CANNOT BE IDENTIFIED OR LOCATED, THE EXECUTIVE
2 DIRECTOR SHALL PROVIDE NOTICE TO SUCH PERSONS AS FOLLOWS:

3 (a) THE EXECUTIVE DIRECTOR SHALL FILE AN AFFIDAVIT WITH THE
4 DISTRICT COURT HAVING JURISDICTION OVER AN APPEAL OF THE CREDIT
5 SETTING FORTH THAT THE EXECUTIVE DIRECTOR HAS MADE DILIGENT
6 INQUIRY AND HAS BEEN UNABLE TO LOCATE SUCH PERSONS.

7 (b) THE DISTRICT COURT SHALL THEN ORDER A NOTICE TO BE
8 PUBLISHED BY THE DEPARTMENT OF REVENUE IN SOME LOCAL NEWSPAPER
9 OF GENERAL CIRCULATION NAMED BY THE JUDGE AND ON THE
10 DEPARTMENT'S WEB SITE. THE NOTICE SHALL IDENTIFY THE PROPERTY
11 THAT IS SUBJECT TO THE CONSERVATION EASEMENT AND THE DATE OF THE
12 DONATION, AND SHALL EXPLAIN THE RIGHT OF THE PERSON TO REQUEST
13 JOINDER IN THE ACTION ON THE DISPUTED CREDIT BEFORE THE COURT, THE
14 TIME AND PLACE AT WHICH SUCH REQUEST MUST BE FILED, AND THE TITLE
15 AND ADDRESS OF THE COURT AT WHICH THE REQUEST MUST BE FILED.

16 (11) FOR ANY CREDIT CLAIMED PURSUANT TO SECTION 39-22-522
17 FOR WHICH A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR
18 NOTICE OF REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE
19 DEPARTMENT OF REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL
20 DETERMINATION HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF
21 THIS SECTION, PENALTIES AND INTEREST SHALL NOT BE IMPOSED OR
22 COMMENCE TO ACCRUE ON ANY AMOUNT OWED BY A TAX MATTERS
23 REPRESENTATIVE OR A TRANSFEREE OF A CREDIT UNTIL SUCH TIME AS THE
24 DEPARTMENT OF REVENUE ISSUES A FINAL DETERMINATION OR, IF THE
25 FINAL DETERMINATION IS APPEALED, UNTIL SUCH TIME AS THE DISTRICT
26 COURT ENTERS FINAL JUDGMENT.

27 (12) ON OR BEFORE JULY 1, 2011, AND ON A QUARTERLY BASIS

1 THEREAFTER, THE EXECUTIVE DIRECTOR SHALL PROVIDE A REPORT TO THE
2 JOINT BUDGET COMMITTEE AND THE FINANCE COMMITTEES OF THE
3 GENERAL ASSEMBLY DESCRIBING:

4 (a) THE NUMBER OF TAX CREDITS CLAIMED PURSUANT TO SECTION
5 39-22-522 FOR WHICH THE EXECUTIVE DIRECTOR MAILED A NOTICE OF
6 DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF
7 DISALLOWANCE PURSUANT TO SECTION 39-21-103;

8 (b) THE NUMBER OF SUCH CASES SENT TO THE CONSERVATION
9 EASEMENT OVERSIGHT COMMISSION FOR REVIEW PURSUANT TO SECTION
10 12-61-721, C.R.S.;

11 (c) THE NUMBER OF SUCH CASES RETURNED TO THE EXECUTIVE
12 DIRECTOR WITH THE ADVICE OF THE CONSERVATION EASEMENT
13 OVERSIGHT COMMISSION CREATED IN SECTION 12-61-721 (1), C.R.S., AND
14 THE ACTION, IF ANY, TAKEN BY THE DEPARTMENT OF REVENUE ON THE
15 CASES RETURNED BY THE COMMISSION;

16 (d) THE NUMBER AND PROGRESS OF ANY CASES THAT ARE IN A
17 MEDIATION PROCESS AND THE STATUS OF SUCH MEDIATION;

18 (e) THE NUMBER OF CASES REFERRED TO THE ATTORNEY
19 GENERAL'S OFFICE FOR RESOLUTION;

20 (f) THE NUMBER OF CASES FINALLY RESOLVED BY THE
21 DEPARTMENT OF REVENUE;

22 (g) THE AMOUNT OF DEFICIENT TAXES, INTEREST, AND PENALTIES
23 DETERMINED TO BE OWED OR WAIVED BY THE DEPARTMENT OF REVENUE
24 IN ADMINISTERING THE RESOLUTION OF CASES;

25 (h) THE NUMBER AND TOTAL AMOUNT OF CREDITS THAT WERE
26 ORIGINALLY CONTESTED BUT SUBSEQUENTLY ALLOWED TO BE CLAIMED IN
27 FULL; AND

1 (i) THE AMOUNT OF MONEYS EXPENDED BY THE DEPARTMENT OF
2 REVENUE IN ADMINISTERING THE RESOLUTION OF CASES.

3 (13) ON OR BEFORE MARCH 15, 2012, AND ON A QUARTERLY BASIS
4 THEREAFTER, THE STATE COURT ADMINISTRATOR SHALL PROVIDE A
5 REPORT TO THE JOINT BUDGET COMMITTEE AND THE FINANCE COMMITTEES
6 OF THE GENERAL ASSEMBLY DESCRIBING:

7 (a) THE NUMBER OF TAXPAYERS ELECTING TO APPEAL PURSUANT
8 TO SUBSECTION (2) OF THIS SECTION;

9 (b) THE NUMBER OF CASES PENDING BEFORE THE DISTRICT COURTS
10 OR ON APPEAL BEFORE OTHER COURTS;

11 (c) THE NUMBER OF CASES FINALLY RESOLVED;

12 (d) THE AMOUNT OF MONEYS ESTIMATED TO HAVE BEEN EXPENDED
13 BY THE COURTS IN ADMINISTERING THE APPEALS; AND

14 (e) THE AMOUNT OF DEFICIENT TAXES, INTEREST, AND PENALTIES
15 DETERMINED TO BE OWED OR WAIVED IN CONNECTION WITH THE APPEALS.

16 (14) PRIOR TO THE ISSUANCE OF A FINAL DETERMINATION OR THE
17 CONCLUSION OF AN APPEAL OF A NOTICE OF DEFICIENCY, NOTICE OF
18 DISALLOWANCE, OR NOTICE OF REJECTION OF REFUND CLAIM FOR A TAX
19 CREDIT CLAIMED BY A TAX MATTERS REPRESENTATIVE OR A TRANSFEREE
20 PURSUANT TO SECTION 39-22-522, THE EXECUTIVE DIRECTOR SHALL CEASE
21 ALL ACTIONS TO COLLECT ANY AMOUNT OF THE DISPUTED TAXES,
22 INTEREST, OR OTHER CHARGES ASSERTED TO BE OWED. THE EXECUTIVE
23 DIRECTOR SHALL PROVIDE NOTICE IN ACCORDANCE WITH SECTION
24 39-21-105.5 TO EACH TAX MATTERS REPRESENTATIVE OR TRANSFEREE AT
25 SUCH PERSON'S LAST KNOWN ADDRESS OF THE PROVISIONS OF THIS
26 SUBSECTION (14).

27 **SECTION 4.** 12-61-721 (3), Colorado Revised Statutes, is

1 amended, and the said 12-61-721 is further amended BY THE
2 ADDITION OF A NEW SUBSECTION, to read:

3 **12-61-721. Conservation easement oversight commission -**
4 **created - repeal.** (3) (a) The commission shall advise the division and
5 the department of revenue regarding conservation easements for which a
6 state income tax credit is claimed pursuant to section 39-22-522, C.R.S.
7 At the request of the division or the department, the commission shall
8 review conservation easement transactions, applications, and other
9 documents and advise the division and the department regarding
10 conservation values CONSISTENT WITH SECTION 170 (h) OF THE FEDERAL
11 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, the capacity of
12 conservation easement holders, and the integrity and accuracy of
13 conservation easement transactions related to the tax credits.

14 (b) ON OR BEFORE JULY 1, 2011, AND ON A QUARTERLY BASIS
15 THEREAFTER, THE COMMISSION SHALL PROVIDE A REPORT TO THE JOINT
16 BUDGET COMMITTEE AND THE FINANCE COMMITTEES OF THE GENERAL
17 ASSEMBLY DESCRIBING THE NUMBER OF CREDITS FOR WHICH THE
18 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE HAS SOUGHT THE
19 ADVICE OF THE COMMISSION PURSUANT TO PARAGRAPH (a) OF THIS
20 SUBSECTION (3), THE DATE ANY SUCH ADVICE WAS SOUGHT, THE NUMBER
21 OF CREDITS FOR WHICH THE COMMISSION PROVIDED ADVICE TO THE
22 EXECUTIVE DIRECTOR, AND THE DATE ANY SUCH ADVICE WAS PROVIDED.

23 (6.5) COMMISSION MEMBERS SHALL BE IMMUNE FROM LIABILITY IN
24 ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL
25 IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

26 **SECTION 5. Appropriation.** In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys in the

1 general fund not otherwise appropriated, to the department of revenue, for
2 allocation to the central department operations division, for the fiscal year
3 beginning July 1, 2010, the sum of three thousand three hundred fifty-four
4 dollars (\$3,354), or so much thereof as may be necessary, for the
5 implementation of this act.

6 **SECTION 6. Appropriation.** (1) In addition to any other
7 appropriation, there is hereby appropriated, out of any moneys in the
8 general fund not otherwise appropriated, to the judicial department, courts
9 administration, centrally administered programs, for courthouse capital/
10 infrastructure maintenance, for the fiscal year beginning July 1, 2011, the
11 sum of sixty-two thousand five hundred twenty-nine dollars (\$62,529), or
12 so much thereof as may be necessary, for the implementation of this act.

13 (2) In addition to any other appropriation, there is hereby
14 appropriated, out of any moneys in the general fund not otherwise
15 appropriated, to the judicial department, trial courts, trial court programs,
16 for personal services and operating expenditures, for the fiscal year
17 beginning July 1, 2011, the sum of five hundred ninety thousand four
18 hundred seventy-one dollars (\$590,471) and 6.0 FTE, or so much thereof
19 as may be necessary, for the implementation of this act.

20 (3) In addition to any other appropriation, there is hereby
21 appropriated, out of any moneys in the conservation easement holder
22 certification fund created in section 12-61-720 (3), Colorado Revised
23 Statutes, not otherwise appropriated, to the department of regulatory
24 agencies, for the fiscal year beginning July 1, 2011, the sum of twelve
25 thousand one hundred twelve dollars (\$12,112) cash funds, or so much
26 thereof as may be necessary, for the implementation of this act. Of this
27 sum, two thousand three hundred fifty-two dollars (\$2,352) shall be

1 allocated to the executive director's office and administrative services
2 division for legal services and nine thousand seven hundred sixty dollars
3 (\$9,760) shall be allocated to the division of real estate.

4 (4) In addition to any other appropriation, there is hereby
5 appropriated to the department of law, for the fiscal year beginning July
6 1, 2011, sum of two thousand three hundred fifty-two dollars (\$2,352), or
7 so much thereof as may be necessary, for the provision of legal services
8 to the department of regulatory agencies related to the implementation of
9 this act. Said sum shall be from reappropriated funds received from the
10 department of regulatory agencies out of the appropriation made in
11 subsection (3) of this section.

12 (5) In addition to any other appropriation, there is hereby
13 appropriated, out of any moneys in the general fund not otherwise
14 appropriated, to the department of revenue, for the fiscal year beginning
15 July 1, 2011, the sum of two million seven hundred forty-three thousand
16 two hundred twelve dollars (\$2,743,212) and 3.6 FTE or so much thereof
17 as may be necessary, for the implementation of this act.

18 (6) In addition to any other appropriation, there is hereby
19 appropriated to the department of law, for the fiscal year beginning July
20 1, 2011, sum of one million three hundred forty-nine thousand five
21 hundred eighty-one dollars (\$1,349,581) and 9.1 FTE, or so much thereof
22 as may be necessary, for the provision of legal services to the department
23 of revenue related to the implementation of this act. Said sum shall be
24 from reappropriated funds received from the department of revenue out
25 of the appropriation made in subsection (5) of this section.

26 **SECTION 7. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.