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HOUSE BILL 11-1300

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

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

SECTION 1. Part 5 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) COLORADO'S CONSERVATION EASEMENT PROGRAM IS AN IMPORTANT PRESERVATION TOOL USED TO BALANCE ECONOMIC NEEDS WITH NATURAL RESOURCES SUCH AS LAND AND WATER PRESERVATION. COLORADO'S CONSERVATION EASEMENT TAX CREDIT AND THE FEDERAL TAX DEDUCTION HAVE ALLOWED MANY FARMERS AND RANCHERS THE OPPORTUNITY TO DONATE THEIR DEVELOPMENT RIGHTS TO PRESERVE A LEGACY OF OPEN SPACES IN COLORADO FOR WILDLIFE, AGRICULTURE, AND RANCHING.

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

(c) COLORADO'S CONSERVATION EASEMENT TAX CREDIT PROGRAM WAS DESIGNED TO GIVE LANDOWNERS AN INCENTIVE TO CONSERVE AND PRESERVE THEIR LAND IN A PREDOMINANTLY NATURAL, SCENIC, OR OPEN CONDITION;

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

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

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

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

(h) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE TAXPAYERS WITH INCENTIVES TO WAIVE AN ADMINISTRATIVE HEARING AND PROCEED DIRECTLY TO A DE NOVO APPEAL TO THE DISTRICT COURT IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS SECTION. THE INCENTIVES INCLUDE WAIVER OF THE BOND REQUIREMENT AND WAIVER OF ACCRUAL OF INTEREST AND PENALTIES DURING THE TIME THE MATTER IS ON APPEAL TO THE DISTRICT COURT.

(i) THE GENERAL ASSEMBLY STRONGLY ENCOURAGES THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE TO AGREE TO WAIVE INTEREST AND PENALTIES FOR TAX MATTERS REPRESENTATIVES AND CREDIT BUYERS WHO HAVE ACTED IN GOOD FAITH TO RESOLVE DISPUTED CONSERVATION EASEMENT TAX CREDITS.

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

(2) FOR ANY CREDIT CLAIMED PURSUANT TO SECTION 39-22-522, FOR WHICH A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE OF REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE DEPARTMENT OF REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE TAX MATTERS REPRESENTATIVE MAY ELECT TO WAIVE THE ADMINISTRATIVE PROCESS PROVIDED BY SECTION 39-21-103 AND APPEAL THE NOTICE OF DEFICIENCY, DISALLOWANCE, OR REJECTION OF REFUND CLAIM DIRECTLY TO A DISTRICT COURT IN ACCORDANCE WITH THE FOLLOWING PROVISIONS, WHICH ALSO APPLY TO AN APPEAL FILED IN ACCORDANCE WITH SUBSECTION

(6) OF THIS SECTION; EXCEPT THAT PARAGRAPHS (a), (c), AND (d) SHALL NOT APPLY TO SUCH AN APPEAL:

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

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

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

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

(d) IF THE TAX MATTERS REPRESENTATIVE ELECTS TO WAIVE THE ADMINISTRATIVE PROCESS AND APPEAL DIRECTLY TO A DISTRICT COURT PURSUANT TO THIS SUBSECTION (2), ADDITIONAL INTEREST AND PENALTIES SHALL CEASE TO ACCRUE WHILE THE MATTER IS ON APPEAL BEFORE THE DISTRICT COURT, BEGINNING WITH THE DATE THE NOTICE OF APPEAL IS RECEIVED BY THE DISTRICT COURT. THIS PARAGRAPH (d) SHALL NOT APPLY TO TAX MATTERS REPRESENTATIVES WHO DO NOT ELECT TO WAIVE THE ADMINISTRATIVE PROCESS.

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

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

(g) NOTICE OF THE DATE OF ANY HEARING OR ANY PHASE OF THE TRIAL SHALL BE MAILED TO THE TAX MATTERS REPRESENTATIVE, ANY OTHER PARTY, AND TO THE EXECUTIVE DIRECTOR AT LEAST THIRTY DAYS PRIOR THERETO.

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

(i) FOLLOWING THE COURT'S ORDER IDENTIFYING THE PARTIES AND CONSOLIDATING CASES AND PARTIES, THE COURT MAY HOLD A HEARING TO DETERMINE THE VALIDITY OF THE CONSERVATION EASEMENT CREDIT

CLAIMED PURSUANT TO SECTION 39-22-522 AND TO DETERMINE ANY OTHER CLAIMS OR DEFENSES TOUCHING THE REGULARITY OF THE PROCEEDINGS. THE COURT SHALL DETERMINE WHETHER THE DONATION IS ELIGIBLE TO QUALIFY AS A QUALIFIED CONSERVATION CONTRIBUTION. THE COURT MAY SET AN EXPEDITED BRIEFING SCHEDULE AND GIVE THE MATTER PRIORITY ON THE DOCKET. THE COURT MAY ORDER PRELIMINARY DISCOVERY, LIMITED TO VALIDITY OF THE EASEMENT CREDITS AND ANY OTHER CLAIMS OR DEFENSES RAISED AT THIS STAGE OF THE PROCEEDING.

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

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

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

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

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

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

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

(F) STATEMENTS OF ADJUSTMENT.

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

(A) TAX RETURNS FOR THE RELEVANT TAX YEARS;

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

(C) THE CONSERVATION EASEMENT DEED AND AMENDMENTS;

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

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

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

(A) AGREEMENTS RELATED TO THE TRANSFER OF CREDITS;

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

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

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

(l) IN ADVANCE OF THE TRIAL DATE, THE COURT MAY REQUIRE THE PARTIES TO CONFER AND SUBMIT A PROPOSED TRIAL MANAGEMENT ORDER TO THE COURT.

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

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

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

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

(n) THE DISTRICT COURT SHALL HEAR THE APPEAL IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE AND THE RULES OF EVIDENCE.

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

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

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

(3) A TAX MATTERS REPRESENTATIVE WHO DOES NOT MAKE AN ELECTION TO WAIVE A HEARING PURSUANT TO SUBSECTION (2) OF THIS SECTION AND APPEAL DIRECTLY TO A DISTRICT COURT MAY SEND A WRITTEN REQUEST FOR HEARING AND FINAL DETERMINATION BY CERTIFIED MAIL TO THE EXECUTIVE DIRECTOR ON OR BEFORE OCTOBER 1, 2011. IF A TAX MATTERS REPRESENTATIVE FILES A REQUEST PURSUANT TO THIS SUBSECTION (3), THE EXECUTIVE DIRECTOR SHALL ISSUE A FINAL DETERMINATION ON OR BEFORE JULY 1, 2014, UNLESS THE EXECUTIVE DIRECTOR AND THE TAX MATTERS REPRESENTATIVE MUTUALLY AGREE IN WRITING TO EXTEND SUCH DATE TO A SPECIFIED DATE. THE EXECUTIVE DIRECTOR SHALL SEND A COPY OF THE FINAL DETERMINATION TO THE TAX MATTERS REPRESENTATIVE BY CERTIFIED MAIL ON OR BEFORE JULY 1, 2014. IF THE UNITED STATES POST OFFICE RETURNS THE FINAL DETERMINATION AS UNDELIVERABLE BY CERTIFIED MAIL, THE DEPARTMENT SHALL THEN MAIL THE FINAL DETERMINATION IN ACCORDANCE WITH SECTION 39-21-105.5. THIS SUBSECTION (3) SHALL APPLY ONLY TO THOSE TAX MATTERS REPRESENTATIVES FOR WHICH A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE OF REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE DEPARTMENT OF REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (3).

(4) THE EXECUTIVE DIRECTOR SHALL ISSUE A FINAL DETERMINATION ON OR BEFORE JULY 1, 2016, FOR ANY TAX MATTERS REPRESENTATIVE WHO DOES NOT MAKE AN ELECTION TO WAIVE A HEARING PURSUANT TO SUBSECTION (2) OF THIS SECTION OR FILE A WRITTEN REQUEST FOR FINAL HEARING AND FINAL DETERMINATION WITH THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (3) OF THIS SECTION. THE EXECUTIVE DIRECTOR

SHALL SEND A COPY OF THE FINAL DETERMINATION TO THE TAX MATTERS REPRESENTATIVE BY CERTIFIED MAIL ON OR BEFORE JULY 1, 2016. IF THE UNITED STATES POST OFFICE RETURNS THE FINAL DETERMINATION AS UNDELIVERABLE BY CERTIFIED MAIL, THE DEPARTMENT SHALL THEN MAIL THE FINAL DETERMINATION IN ACCORDANCE WITH SECTION 39-21-105.5. IF A TAX MATTERS REPRESENTATIVE DOES NOT MAKE AN ELECTION TO WAIVE A HEARING PURSUANT TO SUBSECTION (2) OF THIS SECTION OR FILE A WRITTEN REQUEST FOR FINAL HEARING AND FINAL DETERMINATION WITH THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (3) OF THIS SECTION, ANY PERSON WHO HAS CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO CLAIM A TAX CREDIT IN RELATION TO THE TAX MATTERS REPRESENTATIVE'S DONATION MAY PETITION THE DEPARTMENT ON OR BEFORE NOVEMBER 1, 2011, TO CHANGE THE TAX MATTERS REPRESENTATIVE'S DESIGNATION. THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES ON OR BEFORE SEPTEMBER 1, 2011, SPECIFYING THE PROCEDURES FOR A CHANGE TO THE TAX MATTERS REPRESENTATIVE'S DESIGNATION WHEN THE EXECUTIVE DIRECTOR DETERMINES THAT THE TAX MATTERS REPRESENTATIVE IS UNAVAILABLE OR UNWILLING TO ACT AS THE TAX MATTERS REPRESENTATIVE. IF THE DEPARTMENT GRANTS THE PETITION, THE NEW TAX MATTERS REPRESENTATIVE MAY FILE AN APPEAL PURSUANT TO SUBSECTION (2) OF THIS SECTION OR FILE A WRITTEN REQUEST FOR FINAL HEARING AND FINAL DETERMINATION WITH THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (3) OF THIS SECTION WITHIN THIRTY DAYS OF THE DEPARTMENT'S ORDER REGARDING THE PETITION. THIS SUBSECTION (4) SHALL APPLY ONLY TO THOSE TAX MATTERS REPRESENTATIVES FOR WHICH A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE OF REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE DEPARTMENT OF REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (4).

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

(a) CONSOLIDATE CASES INVOLVING COMMON OR RELATED ISSUES

OF FACT OR LAW. IN IDENTIFYING RELATED CASES, THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY CONSIDER ANY COMMON ISSUES OF LAW OR FACT, INCLUDING BUT NOT LIMITED TO COMMON OWNERSHIP OF THE PROPERTY SUBJECT TO THE EASEMENT, RELATIONSHIPS OF THE TAXPAYERS, AND LOCATION OF THE EASEMENTS.

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

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

(d) INVITING PARTICIPATION IN THE ADMINISTRATIVE PROCESS BY ANY PERSON WHO MAY BE AFFECTED OR AGGRIEVED BY A FINAL DETERMINATION, INCLUDING BUT NOT LIMITED TO TRANSFEREES. SUCH PARTICIPATION SHALL INCLUDE THE RIGHT TO BE ADMITTED AS A PARTY TO A HEARING. UPON THE PERSON'S FILING OF A WRITTEN REQUEST SETTING FORTH A BRIEF AND PLAIN STATEMENT OF THE FACTS THAT ENTITLE THE PERSON TO BE ADMITTED AND THE MATTERS TO BE DECIDED, THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DELEGATE SHALL HAVE THE AUTHORITY TO ADMIT SUCH PERSON FOR LIMITED PURPOSES. THIS PROCESS SHALL BE AVAILABLE ONLY TO PERSONS WHO HAVE CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO CLAIM A TAX CREDIT IN RELATION TO THE CONSERVATION EASEMENT.

(e) IF A TAX MATTERS REPRESENTATIVE HAS NOT PROVIDED ANY DOCUMENT RELATED TO THE CREDIT THAT WAS REQUIRED TO BE PROVIDED

AS PART OF THE TAXPAYER'S RETURN, INCLUDING THE RETURN ITSELF, OR, IF REQUESTED BY THE DEPARTMENT, A COPY OF THE COMPLETE APPRAISAL OBTAINED AT THE TIME OF DONATION, THE DEPARTMENT MAY SEND A WRITTEN REQUEST TO THE TAXPAYER FOR SUCH DOCUMENT. FAILURE TO PROVIDE THE REQUESTED DOCUMENTS WITHIN SIXTY DAYS OF ANY SUCH REQUEST SHALL CONSTITUTE GROUNDS FOR THE ISSUANCE OF A FINAL DETERMINATION DENYING THE CREDIT.

(6) FOR ANY TAX MATTERS REPRESENTATIVE FOR WHICH THE EXECUTIVE DIRECTOR ISSUED A FINAL DETERMINATION ON OR AFTER MAY 1, 2011, THE TAX MATTERS REPRESENTATIVE MAY APPEAL THE FINAL DETERMINATION OF THE EXECUTIVE DIRECTOR PURSUANT TO THE PROVISIONS OF SECTION 39-21-105. THE PROCEDURE GOVERNING SUCH APPEAL SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION; EXCEPT THAT PARAGRAPHS (a), (c), AND (d) OF SAID SUBSECTION (2) SHALL NOT APPLY. IF A TAX MATTERS REPRESENTATIVE FAILS TO FILE A TIMELY APPEAL PURSUANT TO THIS SUBSECTION (6), ANY PERSON WHO HAS CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO CLAIM A TAX CREDIT IN RELATION TO THE TAX MATTERS REPRESENTATIVE'S DONATION MAY PETITION THE DEPARTMENT TO CHANGE THE TAX MATTERS REPRESENTATIVE'S DESIGNATION WITHIN TEN DAYS AFTER THE FINAL DATE FOR FILING AN APPEAL. THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES ON OR BEFORE SEPTEMBER 1, 2011, SPECIFYING THE PROCEDURES FOR A CHANGE TO THE TAX MATTERS REPRESENTATIVE'S DESIGNATION WHEN THE EXECUTIVE DIRECTOR DETERMINES THAT THE TAX MATTERS REPRESENTATIVE IS UNAVAILABLE OR UNWILLING TO ACT AS THE TAX MATTERS REPRESENTATIVE. IF THE DEPARTMENT OF REVENUE GRANTS THE PETITION, THE NEW TAX MATTERS REPRESENTATIVE MAY FILE AN APPEAL PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (6) WITHIN THIRTY DAYS OF THE DEPARTMENT'S ORDER REGARDING THE PETITION.

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

(8) ON OR BEFORE AUGUST 1, 2011, THE CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED IN SECTION 12-61-721 (1), C.R.S., SHALL

REVIEW CONSERVATION EASEMENTS FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTIONS 39-22-522 (3.5) (a) AND 12-61-721 (3), C.R.S., AND FOR WHICH A NOTICE OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF DISALLOWANCE ISSUED ON OR BEFORE MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (8) AND FOR WHICH THE COMMISSION HAS NOT ALREADY REVIEWED THE CREDIT. FOR EACH CONSERVATION EASEMENT TAX CREDIT CLAIM SO REVIEWED, THE COMMISSION SHALL ISSUE AN INITIAL RECOMMENDATION TO THE EXECUTIVE DIRECTOR ON WHETHER EACH CREDIT CLAIMED BY A TAXPAYER WHO IS ELIGIBLE TO WAIVE A HEARING AND APPEAL A NOTICE OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF DISALLOWANCE MAY BE DENIED OR ACCEPTED. NO OTHER INFORMATION SHALL BE REQUIRED OF THE COMMISSION ON OR BEFORE SUCH DATE.

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

(10) IF THE EXECUTIVE DIRECTOR MAKES A DETERMINATION THAT THE TAX MATTERS REPRESENTATIVE HAS TRANSFERRED A DISPUTED CREDIT TO ANOTHER PERSON WHO HAS NOT CLAIMED THE CREDIT OR THAT A PERSON WHO CLAIMED OR MAY CLAIM A DISPUTED CREDIT PURSUANT TO SECTION 39-22-522 CANNOT BE IDENTIFIED OR LOCATED, THE EXECUTIVE DIRECTOR SHALL PROVIDE NOTICE TO SUCH PERSONS AS FOLLOWS:

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

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

(11) IF A TAX MATTERS REPRESENTATIVE PROCEEDS WITH THE HEARING PROCESS BEFORE THE EXECUTIVE DIRECTOR RATHER THAN APPEAL TO A DISTRICT COURT PURSUANT TO SUBSECTION (2) OF THIS SECTION AND EITHER THE TAX MATTERS REPRESENTATIVE OR ONE OR MORE TRANSFEREES PAYS AN AMOUNT ON OR BEFORE JUNE 30, 2012, THAT SATISFIES A DEFICIENCY IN AN AMOUNT AGREED TO BY THE DEPARTMENT OF REVENUE FOR THE TAX OWED BY THE TAX MATTERS REPRESENTATIVE OR THE TRANSFEREE, ALL ADDITIONAL AMOUNTS OF PENALTIES AND INTEREST OWED SHALL BE WAIVED.

(12) ON OR BEFORE JULY 1, 2011, AND ON A QUARTERLY BASIS THEREAFTER, THE EXECUTIVE DIRECTOR SHALL PROVIDE A REPORT TO THE JOINT BUDGET COMMITTEE AND THE FINANCE COMMITTEES OF THE GENERAL ASSEMBLY DESCRIBING:

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

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

(c) THE NUMBER OF SUCH CASES RETURNED TO THE EXECUTIVE

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

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

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

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

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

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

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

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

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

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

(c) THE NUMBER OF CASES FINALLY RESOLVED;

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

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

(14) PRIOR TO THE ISSUANCE OF A FINAL DETERMINATION OR THE CONCLUSION OF AN APPEAL OF A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE OF REJECTION OF REFUND CLAIM FOR A TAX CREDIT CLAIMED BY A TAX MATTERS REPRESENTATIVE OR A TRANSFEREE PURSUANT TO SECTION 39-22-522, THE EXECUTIVE DIRECTOR SHALL CEASE ALL ACTIONS TO COLLECT ANY AMOUNT OF THE DISPUTED TAXES, INTEREST, OR OTHER CHARGES ASSERTED TO BE OWED. THE EXECUTIVE DIRECTOR SHALL PROVIDE NOTICE OF THE PROVISIONS OF THIS SUBSECTION (14) IN ACCORDANCE WITH SUBSECTION (9) OF THIS SECTION.

SECTION 2. 12-61-721 (3), Colorado Revised Statutes, is amended, and the said 12-61-721 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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

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

(6.5) COMMISSION MEMBERS SHALL BE IMMUNE FROM LIABILITY IN

ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

SECTION 3. 39-21-113, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(17.5) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY PROVIDE SUCH DETAILED INFORMATION PERTINENT TO A CLAIM FOR A CREDIT FOR THE DONATION OF A CONSERVATION EASEMENT PURSUANT TO SECTION 39-22-522 TO TAXPAYERS, INCLUDING DONORS AND TRANSFEREES, WITH CASES INVOLVING COMMON OR RELATED ISSUES OF FACT OR LAW. THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DULY AUTHORIZED AGENTS MAY ALSO PROVIDE SUCH INFORMATION TO THE PARTIES TO A CONSOLIDATED ADMINISTRATIVE HEARING PURSUANT TO 39-22-522.5 (5) (a) AS NECESSARY AND APPROPRIATE FOR THE EFFICIENT AND FAIR RESOLUTION OF DISPUTES.

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

SECTION 4. 39-22-522 (2.5), Colorado Revised Statutes, is amended to read:

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

(2.5) Notwithstanding any other provision of this section, for income tax years commencing during the 2011, 2012, and 2013 calendar years, a taxpayer conveying a conservation easement in 2011, 2012, or 2013 and claiming a credit pursuant to this section shall, in addition to any other requirements of this section, submit a claim for the credit to the division of real estate in the department of regulatory agencies. The division shall issue a certificate for the claims received in the order submitted. After certificates have been issued for credits that exceed an aggregate of ~~twenty-six~~ TWENTY-TWO million dollars for all taxpayers for income tax years commencing in each of the 2011 AND 2012 ~~and 2013~~ calendar years AND THIRTY-FOUR MILLION DOLLARS FOR EACH INCOME TAX YEAR COMMENCING IN THE 2013 CALENDAR YEAR, any claims that exceed the

amount allowed for a specified calendar year shall be placed on a wait list in the order submitted and a certificate shall be issued for use of the credit in 2012 or 2013. The division shall not issue credit certificates that exceed ~~twenty-six~~ TWENTY-TWO million dollars for each income tax year commencing in the 2011 AND 2012 ~~and 2013~~ calendar years AND THIRTY-FOUR MILLION DOLLARS FOR EACH INCOME TAX YEAR COMMENCING IN THE 2013 CALENDAR YEAR. No claim for a credit shall be allowed for any income tax year commencing during the 2011, 2012, or 2013 calendar years unless a certificate has been issued by the division. The right to claim the credit shall be vested in the taxpayer at the time a credit certificate is issued. The division may promulgate rules in accordance with article 4 of title 24, C.R.S., for the issuance of certificates in accordance with this subsection (2.5).

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for allocation to the central department operations division, for the fiscal year beginning July 1, 2010, the sum of one thousand nine hundred seventy-four dollars (\$1,974), or so much thereof as may be necessary, for the implementation of this act.

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

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

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the conservation easement holder

certification fund created in section 12-61-720 (3), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 2011, the sum of twelve thousand one hundred twelve dollars (\$12,112) cash funds, or so much thereof as may be necessary, for the implementation of this act. Of this sum, two thousand three hundred fifty-two dollars (\$2,352) shall be allocated to the executive director's office and administrative services division for legal services and nine thousand seven hundred sixty dollars (\$9,760) shall be allocated to the division of real estate.

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

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2011, the sum of two million seven hundred forty-two thousand nine hundred ninety-one dollars (\$2,742,991) and 3.6 FTE or so much thereof as may be necessary, for the implementation of this act.

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

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

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

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO