

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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

Finance
Appropriations

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.*

SENATE
3rd Reading Unamended
May 11, 2011

SENATE
Amended 2nd Reading
May 10, 2011

HOUSE
3rd Reading Unamended
May 3, 2011

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:*

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

6 **39-22-522.5. Conservation easement tax credits - dispute**
7 **resolution - legislative declaration.** (1) THE GENERAL ASSEMBLY
8 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

9 (a) COLORADO'S CONSERVATION EASEMENT PROGRAM IS AN
10 IMPORTANT PRESERVATION TOOL USED TO BALANCE ECONOMIC NEEDS
11 WITH NATURAL RESOURCES SUCH AS LAND AND WATER PRESERVATION.
12 COLORADO'S CONSERVATION EASEMENT TAX CREDIT AND THE FEDERAL
13 TAX DEDUCTION HAVE ALLOWED MANY FARMERS AND RANCHERS THE

1 OPPORTUNITY TO DONATE THEIR DEVELOPMENT RIGHTS TO PRESERVE A
2 LEGACY OF OPEN SPACES IN COLORADO FOR WILDLIFE, AGRICULTURE, AND
3 RANCHING.

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

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

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

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

22 (f) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENACT
23 PROCEDURAL CHANGES THAT FURTHER IMPORTANT MATTERS OF PUBLIC
24 POLICY CONCERNING THE EQUITABLE AND EFFICIENT RESOLUTION OF
25 DISPUTES REGARDING CLAIMED CONSERVATION EASEMENT TAX CREDITS.
26 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ANY APPEAL BROUGHT
27 PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE EXPEDITED TO

1 THE EXTENT PRACTICABLE AND ADMINISTERED IN THE MANNER DEEMED
2 MOST EFFICIENT AND FAIR BY THE EXECUTIVE DIRECTOR OR THE DISTRICT
3 COURT.

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

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

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

21 (j) THIS SECTION IS INTENDED TO EFFECT CHANGES TO THE LAW
22 THAT ARE PROCEDURAL OR REMEDIAL IN NATURE. THE PROCEDURAL
23 CHANGES SET FORTH IN THIS SECTION SHALL NOT BE CONSTRUED TO TAKE
24 AWAY OR IMPAIR ANY VESTED RIGHT ACQUIRED UNDER EXISTING LAW, OR
25 TO CREATE ANY NEW OBLIGATION, IMPOSE ANY NEW DUTY, OR ATTACH
26 ANY NEW DISABILITY WITH RESPECT TO ANY PAST TRANSACTION OR
27 CONSIDERATION. THE PROVISIONS OF THIS SECTION ARE DESIGNED TO

1 ADDRESS MATTERS OF PUBLIC POLICY RELATED TO THE FAIR AND
2 EQUITABLE RESOLUTION OF CONSERVATION EASEMENT TAX CREDIT
3 DISPUTES IN ACCORDANCE WITH APPLICABLE LAWS AND COURT RULES.

4 (2) FOR ANY CREDIT CLAIMED PURSUANT TO SECTION 39-22-522,
5 FOR WHICH A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR
6 NOTICE OF REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE
7 DEPARTMENT OF REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL
8 DETERMINATION HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF
9 THIS SECTION, THE TAX MATTERS REPRESENTATIVE MAY ELECT TO WAIVE
10 THE ADMINISTRATIVE PROCESS PROVIDED BY SECTION 39-21-103 AND
11 APPEAL THE NOTICE OF DEFICIENCY, DISALLOWANCE, OR REJECTION OF
12 REFUND CLAIM DIRECTLY TO A DISTRICT COURT IN ACCORDANCE WITH THE
13 FOLLOWING PROVISIONS, WHICH ALSO APPLY TO AN APPEAL FILED IN
14 ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION; EXCEPT THAT
15 PARAGRAPHS (a), (c), AND (d) SHALL NOT APPLY TO SUCH AN APPEAL:

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

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

1 FOLLOWING JUDICIAL DISTRICTS:

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

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

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

20 (e) UPON RECEIPT OF THE NOTICE OF APPEAL BY THE COURT, THE
21 EXECUTIVE DIRECTOR SHALL BE DEEMED TO BE A PARTY TO SUCH APPEAL,
22 AND THE CLERK OF THE DISTRICT COURT SHALL DOCKET THE CAUSE AS A
23 CIVIL ACTION. THE APPELLANT SHALL CAUSE SUMMONS TO BE ISSUED AND
24 CAUSE THE SAME TO BE SERVED UPON THE EXECUTIVE DIRECTOR IN
25 ACCORDANCE WITH THE MANNER PROVIDED BY LAW IN CIVIL CASES. THE
26 ANSWER OF THE EXECUTIVE DIRECTOR SHALL CONTAIN A BRIEF, PLAIN
27 STATEMENT OF THE LEGAL ISSUES, A DETAILED ITEMIZATION OF THE TOTAL

1 AMOUNT IN CONTROVERSY, AND ANY PROPOSAL REGARDING THE JOINDER
2 OR CONSOLIDATION OF RELATED PARTIES AND APPEALS.

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

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

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

26 (i) FOLLOWING THE COURT'S ORDER IDENTIFYING THE PARTIES AND
27 CONSOLIDATING CASES AND PARTIES, THE COURT MAY HOLD A HEARING

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

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

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

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

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

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

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

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

7 (F) STATEMENTS OF ADJUSTMENT.

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

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

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

13 (C) THE CONSERVATION EASEMENT DEED AND AMENDMENTS;

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

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

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

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

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

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

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

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

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

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

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

22 (III) THE THIRD PHASE SHALL ADDRESS ALL OTHER CLAIMS
23 RELATED TO THE CONSERVATION EASEMENT TAX CREDIT, INCLUDING
24 THOSE BETWEEN AND AMONG THE TAX MATTERS REPRESENTATIVE,
25 TRANSFEREES, OTHER PERSONS CLAIMING A TAX CREDIT IN CONNECTION
26 WITH THE DONATION, AND ANY THIRD PARTY JOINED AS A PARTY TO THE
27 ACTION. ~~THE DEPARTMENT SHALL NOT BE REQUIRED TO PARTICIPATE IN~~

1 OR BE A PARTY TO THIS THIRD PHASE. ANY PARTICIPATION IN THESE
2 PROCEEDINGS BY PARTIES OTHER THAN THE TAX MATTERS
3 REPRESENTATIVE, TRANSFEREES, OR OTHER PERSONS WHO HAVE CLAIMED
4 ALL OR PART OF A CONSERVATION EASEMENT TAX CREDIT IS LIMITED TO
5 THIS THIRD PHASE.

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

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

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

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

27 (3) A TAX MATTERS REPRESENTATIVE WHO DOES NOT MAKE AN

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

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

1 THE EXECUTIVE DIRECTOR SHALL SEND A COPY OF THE FINAL
2 DETERMINATION TO THE TAX MATTERS REPRESENTATIVE BY CERTIFIED
3 MAIL ON OR BEFORE JULY 1, 2016. IF THE UNITED STATES POST OFFICE
4 RETURNS THE FINAL DETERMINATION AS UNDELIVERABLE BY CERTIFIED
5 MAIL, THE DEPARTMENT SHALL THEN MAIL THE FINAL DETERMINATION IN
6 ACCORDANCE WITH SECTION 39-21-105.5. IF A TAX MATTERS
7 REPRESENTATIVE DOES NOT MAKE AN ELECTION TO WAIVE A HEARING
8 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR FILE A WRITTEN
9 REQUEST FOR FINAL HEARING AND FINAL DETERMINATION WITH THE
10 EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (3) OF THIS SECTION,
11 ANY PERSON WHO HAS CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO
12 CLAIM A TAX CREDIT IN RELATION TO THE TAX MATTERS
13 REPRESENTATIVE'S DONATION MAY PETITION THE DEPARTMENT ON OR
14 BEFORE NOVEMBER 1, 2011, TO CHANGE THE TAX MATTERS
15 REPRESENTATIVE'S DESIGNATION. THE EXECUTIVE DIRECTOR SHALL
16 PROMULGATE RULES ON OR BEFORE SEPTEMBER 1, 2011, SPECIFYING THE
17 PROCEDURES FOR A CHANGE TO THE TAX MATTERS REPRESENTATIVE'S
18 DESIGNATION WHEN THE EXECUTIVE DIRECTOR DETERMINES THAT THE
19 TAX MATTERS REPRESENTATIVE IS UNAVAILABLE OR UNWILLING TO ACT
20 AS THE TAX MATTERS REPRESENTATIVE. IF THE DEPARTMENT GRANTS THE
21 PETITION, THE NEW TAX MATTERS REPRESENTATIVE MAY FILE AN APPEAL
22 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR FILE A WRITTEN
23 REQUEST FOR FINAL HEARING AND FINAL DETERMINATION WITH THE
24 EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (3) OF THIS SECTION
25 WITHIN THIRTY DAYS OF THE DEPARTMENT'S ORDER REGARDING THE
26 PETITION. THIS SUBSECTION (4) SHALL APPLY ONLY TO THOSE TAX
27 MATTERS REPRESENTATIVES FOR WHICH A NOTICE OF DEFICIENCY, NOTICE

1 OF DISALLOWANCE, OR NOTICE OF REJECTION OF REFUND CLAIM HAS BEEN
2 MAILED BY THE DEPARTMENT OF REVENUE AS OF MAY 1, 2011, BUT FOR
3 WHICH A FINAL DETERMINATION HAS NOT BEEN ISSUED BEFORE THE
4 EFFECTIVE DATE OF THIS SUBSECTION (4).

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

14 (a) CONSOLIDATE CASES INVOLVING COMMON OR RELATED ISSUES
15 OF FACT OR LAW. IN IDENTIFYING RELATED CASES, THE EXECUTIVE
16 DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY CONSIDER ANY
17 COMMON ISSUES OF LAW OR FACT, INCLUDING BUT NOT LIMITED TO
18 COMMON OWNERSHIP OF THE PROPERTY SUBJECT TO THE EASEMENT,
19 RELATIONSHIPS OF THE TAXPAYERS, AND LOCATION OF THE EASEMENTS.

20 (b) ISSUE A FINAL ORDER FINDING THAT A CASE CANNOT
21 REASONABLY BE RESOLVED THROUGH THE ADMINISTRATIVE PROCESS AND
22 TRANSFERRING JURISDICTION OF THE CASE TO THE DISTRICT COURT IN
23 ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION. SUCH A FINAL
24 ORDER MAY ISSUE FOR REASONS INCLUDING BUT NOT LIMITED TO A
25 WAIVER OF ADMINISTRATIVE PROCESS PURSUANT TO PARAGRAPH (a) OF
26 SUBSECTION (2) OF THIS SECTION BY ANOTHER TAX MATTERS
27 REPRESENTATIVE WHERE CONSOLIDATION WOULD OTHERWISE BE

1 APPROPRIATE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5).
2 PRIOR TO ISSUANCE OF SUCH A FINAL ORDER, THE PARTIES SHALL HAVE
3 THE OPPORTUNITY TO FILE WRITTEN BRIEFS ADDRESSING THE PROPOSED
4 TRANSFER.

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

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

23 (e) IF A TAX MATTERS REPRESENTATIVE HAS NOT PROVIDED ANY
24 DOCUMENT RELATED TO THE CREDIT THAT WAS REQUIRED TO BE PROVIDED
25 AS PART OF THE TAXPAYER'S RETURN, INCLUDING THE RETURN ITSELF, OR,
26 IF REQUESTED BY THE DEPARTMENT, A COPY OF THE COMPLETE APPRAISAL
27 OBTAINED AT THE TIME OF DONATION, THE DEPARTMENT MAY SEND A

1 WRITTEN REQUEST TO THE TAXPAYER FOR SUCH DOCUMENT. FAILURE TO
2 PROVIDE THE REQUESTED DOCUMENTS WITHIN SIXTY DAYS OF ANY SUCH
3 REQUEST SHALL CONSTITUTE GROUNDS FOR THE ISSUANCE OF A FINAL
4 DETERMINATION DENYING THE CREDIT.

5 (6) FOR ANY TAX MATTERS REPRESENTATIVE FOR WHICH THE
6 EXECUTIVE DIRECTOR ISSUED A FINAL DETERMINATION ON OR AFTER MAY
7 1, 2011, THE TAX MATTERS REPRESENTATIVE MAY APPEAL THE FINAL
8 DETERMINATION OF THE EXECUTIVE DIRECTOR PURSUANT TO THE
9 PROVISIONS OF SECTION 39-21-105. THE PROCEDURE GOVERNING SUCH
10 APPEAL SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION
11 (2) OF THIS SECTION; EXCEPT THAT PARAGRAPHS (a), (c), AND (d) OF SAID
12 SUBSECTION (2) SHALL NOT APPLY. IF A TAX MATTERS REPRESENTATIVE
13 FAILS TO FILE A TIMELY APPEAL PURSUANT TO THIS SUBSECTION (6), ANY
14 PERSON WHO HAS CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO CLAIM
15 A TAX CREDIT IN RELATION TO THE TAX MATTERS REPRESENTATIVE'S
16 DONATION MAY PETITION THE DEPARTMENT TO CHANGE THE TAX MATTERS
17 REPRESENTATIVE'S DESIGNATION WITHIN TEN DAYS AFTER THE FINAL DATE
18 FOR FILING AN APPEAL. THE EXECUTIVE DIRECTOR SHALL PROMULGATE
19 RULES ON OR BEFORE SEPTEMBER 1, 2011, SPECIFYING THE PROCEDURES
20 FOR A CHANGE TO THE TAX MATTERS REPRESENTATIVE'S DESIGNATION
21 WHEN THE EXECUTIVE DIRECTOR DETERMINES THAT THE TAX MATTERS
22 REPRESENTATIVE IS UNAVAILABLE OR UNWILLING TO ACT AS THE TAX
23 MATTERS REPRESENTATIVE. IF THE DEPARTMENT OF REVENUE GRANTS
24 THE PETITION, THE NEW TAX MATTERS REPRESENTATIVE MAY FILE AN
25 APPEAL PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (6) WITHIN
26 THIRTY DAYS OF THE DEPARTMENT'S ORDER REGARDING THE PETITION.

27 (7) IF THE EXECUTIVE DIRECTOR FAILS TO ISSUE A FINAL

1 DETERMINATION ON OR BEFORE THE DATES SPECIFIED OR AGREED TO IN
2 SUBSECTION (3) OR (4) OF THIS SECTION, THE AUTHORITY OF THE
3 EXECUTIVE DIRECTOR TO DISPUTE THE CLAIM OF THE CREDIT SHALL BE
4 WAIVED, THE FULL AMOUNT OF THE CREDIT IN DISPUTE SHALL BE
5 ALLOWED, AND NO INTEREST OR PENALTIES SHALL BE IMPOSED UPON SUCH
6 AMOUNT.

7 (8) ON OR BEFORE AUGUST 1, 2011, THE CONSERVATION
8 EASEMENT OVERSIGHT COMMISSION CREATED IN SECTION 12-61-721 (1),
9 C.R.S., SHALL REVIEW CONSERVATION EASEMENTS FOR WHICH A TAX
10 CREDIT IS CLAIMED PURSUANT TO SECTIONS 39-22-522 (3.5) (a) AND
11 12-61-721 (3), C.R.S., AND FOR WHICH A NOTICE OF DEFICIENCY, NOTICE
12 OF REJECTION OF REFUND CLAIM, OR NOTICE OF DISALLOWANCE ISSUED ON
13 OR BEFORE MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION HAS
14 NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (8)
15 AND FOR WHICH THE COMMISSION HAS NOT ALREADY REVIEWED THE
16 CREDIT. FOR EACH CONSERVATION EASEMENT TAX CREDIT CLAIM SO
17 REVIEWED, THE COMMISSION SHALL ISSUE AN INITIAL RECOMMENDATION
18 TO THE EXECUTIVE DIRECTOR ON WHETHER EACH CREDIT CLAIMED BY A
19 TAXPAYER WHO IS ELIGIBLE TO WAIVE A HEARING AND APPEAL A NOTICE
20 OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF
21 DISALLOWANCE MAY BE DENIED OR ACCEPTED. NO OTHER INFORMATION
22 SHALL BE REQUIRED OF THE COMMISSION ON OR BEFORE SUCH DATE.

23 (9) THE EXECUTIVE DIRECTOR SHALL SEND A NOTICE TO EACH TAX
24 MATTERS REPRESENTATIVE ELIGIBLE TO WAIVE A HEARING AND APPEAL A
25 NOTICE OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR
26 NOTICE OF DISALLOWANCE TO A DISTRICT COURT PURSUANT TO
27 SUBSECTION (2) OF THIS SECTION TO NOTIFY THE TAX MATTERS

1 REPRESENTATIVE OF THE PROVISIONS OF THIS SECTION. THE NOTICE SHALL
2 BE SENT BY CERTIFIED MAIL TO THE TAX MATTERS REPRESENTATIVE'S
3 LAST-KNOWN ADDRESS ON OR BEFORE JULY 1, 2011. IF THE UNITED
4 STATES POST OFFICE RETURNS THE NOTICE AS UNDELIVERABLE BY
5 CERTIFIED MAIL, THE DEPARTMENT SHALL THEN MAIL THE NOTICE IN
6 ACCORDANCE WITH SECTION 39-21-105.5. THE NOTICE SHALL NOT BE
7 INCLUDED WITH ANY OTHER MAILING AND SHALL INCLUDE THE WORDS
8 "IMPORTANT TAX DOCUMENT ENCLOSED" ON THE EXTERIOR OF THE
9 MAILING. THE EXECUTIVE DIRECTOR SHALL FURTHER PROVIDE NOTICE OF
10 THE PROVISIONS OF THIS SECTION ON THE DEPARTMENT OF REVENUE'S WEB
11 SITE AND BY SUCH OTHER MEANS AS THE EXECUTIVE DIRECTOR DEEMS
12 APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL MAINTAIN ADEQUATE
13 RECORDS TO VERIFY COMPLIANCE WITH THE PROVISIONS OF THIS
14 SUBSECTION (9).

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

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

25 (b) THE DISTRICT COURT SHALL THEN ORDER A NOTICE TO BE
26 PUBLISHED BY THE DEPARTMENT OF REVENUE IN SOME LOCAL NEWSPAPER
27 OF GENERAL CIRCULATION NAMED BY THE JUDGE AND ON THE

1 DEPARTMENT'S WEB SITE. THE NOTICE SHALL IDENTIFY THE PROPERTY
2 THAT IS SUBJECT TO THE CONSERVATION EASEMENT AND THE DATE OF THE
3 DONATION, AND SHALL EXPLAIN THE RIGHT OF THE PERSON TO REQUEST
4 JOINDER IN THE ACTION ON THE DISPUTED CREDIT BEFORE THE COURT, THE
5 TIME AND PLACE AT WHICH SUCH REQUEST MUST BE FILED, AND THE TITLE
6 AND ADDRESS OF THE COURT AT WHICH THE REQUEST MUST BE FILED.

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

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

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

24 (b) THE NUMBER OF SUCH CASES SENT TO THE CONSERVATION
25 EASEMENT OVERSIGHT COMMISSION FOR REVIEW PURSUANT TO SECTION
26 12-61-721, C.R.S.;

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

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

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

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

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

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

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

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

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

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

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

27 (c) THE NUMBER OF CASES FINALLY RESOLVED;

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

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

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

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

17 **12-61-721. Conservation easement oversight commission -**
18 **created - repeal.** (3) (a) The commission shall advise the division and
19 the department of revenue regarding conservation easements for which a
20 state income tax credit is claimed pursuant to section 39-22-522, C.R.S.
21 At the request of the division or the department, the commission shall
22 review conservation easement transactions, applications, and other
23 documents and advise the division and the department regarding
24 conservation values CONSISTENT WITH SECTION 170 (h) OF THE FEDERAL
25 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, the capacity of
26 conservation easement holders, and the integrity and accuracy of
27 conservation easement transactions related to the tax credits.

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

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

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

15 **39-21-113. Reports and returns - repeal.**

16 (17.5) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
17 EXECUTIVE DIRECTOR MAY PROVIDE SUCH DETAILED INFORMATION
18 PERTINENT TO A CLAIM FOR A CREDIT FOR THE DONATION OF A
19 CONSERVATION EASEMENT PURSUANT TO SECTION 39-22-522 TO
20 TAXPAYERS, INCLUDING DONORS AND TRANSFEREES, WITH CASES
21 INVOLVING COMMON OR RELATED ISSUES OF FACT OR LAW. THE
22 EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DULY AUTHORIZED
23 AGENTS MAY ALSO PROVIDE SUCH INFORMATION TO THE PARTIES TO A
24 CONSOLIDATED ADMINISTRATIVE HEARING PURSUANT TO 39-22-522.5 (5)
25 (a) AS NECESSARY AND APPROPRIATE FOR THE EFFICIENT AND FAIR
26 RESOLUTION OF DISPUTES.

27 (b) PERSONS WHO RECEIVE TAXPAYER INFORMATION PURSUANT TO

1 PARAGRAPH (a) OF THIS SUBSECTION (17.5) SHALL BE SUBJECT TO THE
2 PROVISIONS OF THIS SECTION, INCLUDING THE LIMITATIONS IN SUBSECTION
3 (4) OF THIS SECTION AND THE PENALTIES IN SUBSECTION (6) OF THIS
4 SECTION REGARDING DISCLOSURE OF TAXPAYER INFORMATION.

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

7 39-22-522. Credit against tax - conservation easements.
8 (2.5) Notwithstanding any other provision of this section, for income tax
9 years commencing during the 2011, 2012, and 2013 calendar years, a
10 taxpayer conveying a conservation easement in 2011, 2012, or 2013 and
11 claiming a credit pursuant to this section shall, in addition to any other
12 requirements of this section, submit a claim for the credit to the division
13 of real estate in the department of regulatory agencies. The division shall
14 issue a certificate for the claims received in the order submitted. After
15 certificates have been issued for credits that exceed an aggregate of
16 twenty-six TWENTY-TWO million dollars for all taxpayers for income tax
17 years commencing in each of the 2011 AND 2012 and 2013 calendar years
18 AND THIRTY-FOUR MILLION DOLLARS FOR EACH INCOME TAX YEAR
19 COMMENCING IN THE 2013 CALENDAR YEAR, any claims that exceed the
20 amount allowed for a specified calendar year shall be placed on a wait list
21 in the order submitted and a certificate shall be issued for use of the credit
22 in 2012 or 2013. The division shall not issue credit certificates that
23 exceed twenty-six TWENTY-TWO million dollars for each income tax year
24 commencing in the 2011 AND 2012 and 2013 calendar years AND
25 THIRTY-FOUR MILLION DOLLARS FOR EACH INCOME TAX YEAR
26 COMMENCING IN THE 2013 CALENDAR YEAR. No claim for a credit shall
27 be allowed for any income tax year commencing during the 2011, 2012,

1 or 2013 calendar years unless a certificate has been issued by the division.
2 The right to claim the credit shall be vested in the taxpayer at the time a
3 credit certificate is issued. The division may promulgate rules in
4 accordance with article 4 of title 24, C.R.S., for the issuance of certificates
5 in accordance with this subsection (2.5).

6 **SECTION 5. Appropriation.** 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 department of revenue, for
9 allocation to the central department operations division, for the fiscal year
10 beginning July 1, 2010, the sum of _____ one thousand nine hundred
11 seventy-four dollars (\$1,974), or so much thereof as may be necessary, for
12 the implementation of this act.

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

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

27 (3) In addition to any other appropriation, there is hereby

1 appropriated, out of any moneys in the conservation easement holder
2 certification fund created in section 12-61-720 (3), Colorado Revised
3 Statutes, not otherwise appropriated, to the department of regulatory
4 agencies, for the fiscal year beginning July 1, 2011, the sum of twelve
5 thousand one hundred twelve dollars (\$12,112) cash funds, or so much
6 thereof as may be necessary, for the implementation of this act. Of this
7 sum, two thousand three hundred fifty-two dollars (\$2,352) shall be
8 allocated to the executive director's office and administrative services
9 division for legal services and nine thousand seven hundred sixty dollars
10 (\$9,760) shall be allocated to the division of real estate.

11 (4) In addition to any other appropriation, there is hereby
12 appropriated to the department of law, for the fiscal year beginning July
13 1, 2011, sum of two thousand three hundred fifty-two dollars (\$2,352), or
14 so much thereof as may be necessary, for the provision of legal services
15 to the department of regulatory agencies related to the implementation of
16 this act. Said sum shall be from reappropriated funds received from the
17 department of regulatory agencies out of the appropriation made in
18 subsection (3) of this section.

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

25 (6) In addition to any other appropriation, there is hereby
26 appropriated to the department of law, for the fiscal year beginning July
27 1, 2011, sum of one million three hundred forty-nine thousand five

1 hundred eighty-one dollars (\$1,349,581) and 9.1 FTE, or so much thereof
2 as may be necessary, for the provision of legal services to the department
3 of revenue related to the implementation of this act. Said sum shall be
4 from reappropriated funds received from the department of revenue out
5 of the appropriation made in subsection (5) of this section.

6 **SECTION 7. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.