

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0621.01 Gregg Fraser

**HOUSE BILL 11-1300**

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**HOUSE SPONSORSHIP**

**Looper,** Acree, DelGrosso, Priola, Swalm

**SENATE SPONSORSHIP**

**Grantham and Nicholson,** Jahn

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**House Committees**

Finance  
Appropriations

**Senate Committees**

Finance  
Appropriations

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**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.**

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**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  
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".

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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	<b>REGION</b>	<b>JUDICIAL DISTRICTS</b>
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 PURSUANT TO SECTION 170 (h) OF THE INTERNAL REVENUE CODE AND  
7 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH  
8 SECTION. THE COURT MAY SET AN EXPEDITED BRIEFING SCHEDULE AND  
9 GIVE THE MATTER PRIORITY ON THE DOCKET. THE COURT MAY ORDER  
10 PRELIMINARY DISCOVERY, LIMITED TO VALIDITY OF THE EASEMENT  
11 CREDITS AND ANY OTHER CLAIMS OR DEFENSES RAISED AT THIS STAGE OF  
12 THE PROCEEDING.

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

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

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

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

27 (C) CORRESPONDENCE WITH THE TAX MATTERS REPRESENTATIVE

1 OR DONEE OF THE EASEMENT AS WELL AS ANY PARTY TO THE  
2 CONSERVATION EASEMENT TAX CREDIT ACTION;

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

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

9 (F) STATEMENTS OF ADJUSTMENT.

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

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

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

15 (C) THE CONSERVATION EASEMENT DEED AND AMENDMENTS;

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

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

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

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

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

27 (C) ANY OTHER EXPERT REPORT, BASIS, OR OTHER EVIDENCE

1     RELATING TO THE VALUATION AND SUBSTANTIATION OF THE AMOUNT OF  
2     THE UNDERLYING EASEMENT OR CREDIT.

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

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

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

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

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

24            (III) THE THIRD PHASE SHALL ADDRESS ALL OTHER CLAIMS  
25    RELATED TO THE CONSERVATION EASEMENT TAX CREDIT, INCLUDING  
26    THOSE BETWEEN AND AMONG THE TAX MATTERS REPRESENTATIVE,  
27    TRANSFEREES, OTHER PERSONS CLAIMING A TAX CREDIT IN CONNECTION

1 WITH THE DONATION, AND ANY THIRD PARTY JOINED AS A PARTY TO THE  
2 ACTION. THE DEPARTMENT SHALL NOT BE REQUIRED TO PARTICIPATE IN  
3 OR BE A PARTY TO THIS THIRD PHASE. ANY PARTICIPATION IN THESE  
4 PROCEEDINGS BY PARTIES OTHER THAN THE TAX MATTERS  
5 REPRESENTATIVE, TRANSFEREES, OR OTHER PERSONS WHO HAVE CLAIMED  
6 ALL OR PART OF A CONSERVATION EASEMENT TAX CREDIT IS LIMITED TO  
7 THIS THIRD PHASE.

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

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

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

25 (q) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ANY  
26 APPEALS BROUGHT PURSUANT TO THIS SUBSECTION (2) SHALL BE  
27 EXPEDITED TO THE EXTENT PRACTICABLE AND ADMINISTERED IN THE

1 MANNER DEEMED MOST EFFICIENT AND FAIR BY THE COURTS.

2 (3) A TAX MATTERS REPRESENTATIVE WHO DOES NOT MAKE AN  
3 ELECTION TO WAIVE A HEARING PURSUANT TO SUBSECTION (2) OF THIS  
4 SECTION AND APPEAL DIRECTLY TO A DISTRICT COURT MAY SEND A  
5 WRITTEN REQUEST FOR HEARING AND FINAL DETERMINATION BY CERTIFIED  
6 MAIL ■ TO THE EXECUTIVE DIRECTOR ON OR BEFORE OCTOBER 1, 2011.

7 IF A TAX MATTERS REPRESENTATIVE FILES A REQUEST PURSUANT TO THIS  
8 SUBSECTION (3), THE EXECUTIVE DIRECTOR SHALL ISSUE A FINAL  
9 DETERMINATION ON OR BEFORE JULY 1, 2014, UNLESS THE EXECUTIVE  
10 DIRECTOR AND THE TAX MATTERS REPRESENTATIVE MUTUALLY AGREE IN  
11 WRITING TO EXTEND SUCH DATE TO A SPECIFIED DATE. THE EXECUTIVE  
12 DIRECTOR SHALL SEND A COPY OF THE FINAL DETERMINATION TO THE TAX  
13 MATTERS REPRESENTATIVE BY CERTIFIED MAIL ■ ON OR BEFORE JULY 1,  
14 2014. IF THE UNITED STATES POST OFFICE RETURNS THE FINAL  
15 DETERMINATION AS UNDELIVERABLE BY CERTIFIED MAIL, THE  
16 DEPARTMENT SHALL THEN MAIL THE FINAL DETERMINATION IN  
17 ACCORDANCE WITH SECTION 39-21-105.5. THIS SUBSECTION (3) SHALL  
18 APPLY ONLY TO THOSE TAX MATTERS REPRESENTATIVES FOR WHICH A  
19 NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE OF  
20 REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE DEPARTMENT OF  
21 REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION  
22 HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION  
23 (3).

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

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

1 EFFECTIVE DATE OF THIS SUBSECTION (4).

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

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

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

1 TRANSFER.

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

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

20 (e) IF A TAX MATTERS REPRESENTATIVE HAS NOT PROVIDED ANY  
21 DOCUMENT RELATED TO THE CREDIT THAT WAS REQUIRED TO BE PROVIDED  
22 AS PART OF THE TAXPAYER'S RETURN, INCLUDING THE RETURN ITSELF, OR,  
23 IF REQUESTED BY THE DEPARTMENT, A COPY OF THE COMPLETE APPRAISAL  
24 OBTAINED AT THE TIME OF DONATION, THE DEPARTMENT MAY SEND A  
25 WRITTEN REQUEST TO THE TAXPAYER FOR SUCH DOCUMENT. FAILURE TO  
26 PROVIDE THE REQUESTED DOCUMENTS WITHIN SIXTY DAYS OF ANY SUCH  
27 REQUEST SHALL CONSTITUTE GROUNDS FOR THE ISSUANCE OF A FINAL



1     DETERMINATION DENYING THE CREDIT.

2           (6) FOR ANY TAX MATTERS REPRESENTATIVE FOR WHICH THE  
3 EXECUTIVE DIRECTOR ISSUED A FINAL DETERMINATION ON OR AFTER MAY  
4 1, 2011, THE TAX MATTERS REPRESENTATIVE MAY APPEAL THE FINAL  
5 DETERMINATION OF THE EXECUTIVE DIRECTOR PURSUANT TO THE  
6 PROVISIONS OF SECTION 39-21-105. THE PROCEDURE GOVERNING SUCH  
7 APPEAL SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION  
8 (2) OF THIS SECTION; EXCEPT THAT PARAGRAPHS (a), (c), AND (d) OF SAID  
9 SUBSECTION (2) SHALL NOT APPLY. IF A TAX MATTERS REPRESENTATIVE  
10 FAILS TO FILE A TIMELY APPEAL PURSUANT TO THIS SUBSECTION (6), ANY  
11 PERSON WHO HAS CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO CLAIM  
12 A TAX CREDIT IN RELATION TO THE TAX MATTERS REPRESENTATIVE'S  
13 DONATION MAY PETITION THE DEPARTMENT TO CHANGE THE TAX MATTERS  
14 REPRESENTATIVE'S DESIGNATION WITHIN TEN DAYS AFTER THE FINAL DATE  
15 FOR FILING AN APPEAL. IF THE DEPARTMENT OF REVENUE GRANTS THE  
16 PETITION, THE NEW TAX MATTERS REPRESENTATIVE MAY FILE AN APPEAL  
17 PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (6) WITHIN THIRTY  
18 DAYS OF THE DEPARTMENT'S ORDER REGARDING THE PETITION.

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

26           (8) ON OR BEFORE AUGUST 1, 2011, THE CONSERVATION  
27 EASEMENT OVERSIGHT COMMISSION CREATED IN SECTION 12-61-721 (1),

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

15 (9) THE EXECUTIVE DIRECTOR SHALL SEND A NOTICE TO EACH TAX  
16 MATTERS REPRESENTATIVE ELIGIBLE TO WAIVE A HEARING AND APPEAL A  
17 NOTICE OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR  
18 NOTICE OF DISALLOWANCE TO A DISTRICT COURT PURSUANT TO  
19 SUBSECTION (2) OF THIS SECTION TO NOTIFY THE TAX MATTERS  
20 REPRESENTATIVE OF THE PROVISIONS OF THIS SECTION. THE NOTICE SHALL  
21 BE SENT BY CERTIFIED MAIL TO THE TAX MATTERS REPRESENTATIVE'S  
22 LAST-KNOWN ADDRESS ON OR BEFORE JULY 1, 2011. IF THE UNITED  
23 STATES POST OFFICE RETURNS THE NOTICE AS UNDELIVERABLE BY  
24 CERTIFIED MAIL, THE DEPARTMENT SHALL THEN MAIL THE NOTICE IN  
25 ACCORDANCE WITH SECTION 39-21-105.5. THE NOTICE SHALL NOT BE  
26 INCLUDED WITH ANY OTHER MAILING AND SHALL INCLUDE THE WORDS  
27 "IMPORTANT TAX DOCUMENT ENCLOSED" ON THE EXTERIOR OF THE

1 MAILING. THE EXECUTIVE DIRECTOR SHALL FURTHER PROVIDE NOTICE OF  
2 THE PROVISIONS OF THIS SECTION ON THE DEPARTMENT OF REVENUE'S WEB  
3 SITE AND BY SUCH OTHER MEANS AS THE EXECUTIVE DIRECTOR DEEMS  
4 APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL MAINTAIN ADEQUATE  
5 RECORDS TO VERIFY COMPLIANCE WITH THE PROVISIONS OF THIS  
6 SUBSECTION (9).

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

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

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

26 (11) IF A TAX MATTERS REPRESENTATIVE PROCEEDS WITH THE  
27 HEARING PROCESS BEFORE THE EXECUTIVE DIRECTOR RATHER THAN

1 APPEAL TO A DISTRICT COURT PURSUANT TO SUBSECTION (2) OF THIS  
2 SECTION AND EITHER THE TAX MATTERS REPRESENTATIVE OR ONE OR  
3 MORE TRANSFEREES PAYS AN AMOUNT ON OR BEFORE JUNE 30, 2012, THAT  
4 SATISFIES A DEFICIENCY IN AN AMOUNT AGREED TO BY THE DEPARTMENT  
5 OF REVENUE FOR THE TAX OWED BY THE TAX MATTERS REPRESENTATIVE  
6 OR THE TRANSFEREE, ALL ADDITIONAL AMOUNTS OF PENALTIES AND  
7 INTEREST OWED SHALL BE WAIVED.

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

12 (a) THE NUMBER OF TAX CREDITS CLAIMED PURSUANT TO SECTION  
13 39-22-522 FOR WHICH THE EXECUTIVE DIRECTOR MAILED A NOTICE OF  
14 DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF  
15 DISALLOWANCE PURSUANT TO SECTION 39-21-103;

16 (b) THE NUMBER OF SUCH CASES SENT TO THE CONSERVATION  
17 EASEMENT OVERSIGHT COMMISSION FOR REVIEW PURSUANT TO SECTION  
18 12-61-721, C.R.S.;

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

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

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

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

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

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

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

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

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

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

19 (c) THE NUMBER OF CASES FINALLY RESOLVED;

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

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

24 (14) PRIOR TO THE ISSUANCE OF A FINAL DETERMINATION OR THE  
25 CONCLUSION OF AN APPEAL OF A NOTICE OF DEFICIENCY, NOTICE OF  
26 DISALLOWANCE, OR NOTICE OF REJECTION OF REFUND CLAIM FOR A TAX  
27 CREDIT CLAIMED BY A TAX MATTERS REPRESENTATIVE OR A TRANSFEREE

1 PURSUANT TO SECTION 39-22-522, THE EXECUTIVE DIRECTOR SHALL CEASE  
2 ALL ACTIONS TO COLLECT ANY AMOUNT OF THE DISPUTED TAXES,  
3 INTEREST, OR OTHER CHARGES ASSERTED TO BE OWED. THE EXECUTIVE  
4 DIRECTOR SHALL PROVIDE NOTICE OF THE PROVISIONS OF THIS SUBSECTION  
5 (14) IN ACCORDANCE WITH SUBSECTION (9) OF THIS SECTION.

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

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

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

1 EXECUTIVE DIRECTOR, AND THE DATE ANY SUCH ADVICE WAS PROVIDED.

2 (6.5) COMMISSION MEMBERS SHALL BE IMMUNE FROM LIABILITY IN  
3 ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL  
4 IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

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

7 **39-21-113. Reports and returns - repeal.**

8 (17.5) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE  
9 EXECUTIVE DIRECTOR MAY PROVIDE SUCH DETAILED INFORMATION  
10 PERTINENT TO A CLAIM FOR A CREDIT FOR THE DONATION OF A  
11 CONSERVATION EASEMENT PURSUANT TO SECTION 39-22-522 TO  
12 TAXPAYERS, INCLUDING DONORS AND TRANSFEREES, WITH CASES  
13 INVOLVING COMMON OR RELATED ISSUES OF FACT OR LAW. THE  
14 EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DULY AUTHORIZED  
15 AGENTS MAY ALSO PROVIDE SUCH INFORMATION TO THE PARTIES TO A  
16 CONSOLIDATED ADMINISTRATIVE HEARING PURSUANT TO 39-22-522.5 (5)  
17 (a) AS NECESSARY AND APPROPRIATE FOR THE EFFICIENT AND FAIR  
18 RESOLUTION OF DISPUTES.

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

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

26 **39-22-522. Credit against tax - conservation easements.**

27 (2.5) Notwithstanding any other provision of this section, for income tax

1 years commencing during the 2011, 2012, and 2013 calendar years, a  
2 taxpayer conveying a conservation easement in 2011, 2012, or 2013 and  
3 claiming a credit pursuant to this section shall, in addition to any other  
4 requirements of this section, submit a claim for the credit to the division  
5 of real estate in the department of regulatory agencies. The division shall  
6 issue a certificate for the claims received in the order submitted. After  
7 certificates have been issued for credits that exceed an aggregate of  
8 ~~twenty-six~~ TWENTY-TWO million dollars for all taxpayers for income tax  
9 years commencing in each of the 2011 AND 2012 ~~and 2013~~ calendar years  
10 AND THIRTY-FOUR MILLION DOLLARS FOR EACH INCOME TAX YEAR  
11 COMMENCING IN THE 2013 CALENDAR YEAR, any claims that exceed the  
12 amount allowed for a specified calendar year shall be placed on a wait list  
13 in the order submitted and a certificate shall be issued for use of the credit  
14 in 2012 or 2013. The division shall not issue credit certificates that  
15 exceed ~~twenty-six~~ TWENTY-TWO million dollars for each income tax year  
16 commencing in the 2011 AND 2012 ~~and 2013~~ calendar years AND  
17 THIRTY-FOUR MILLION DOLLARS FOR EACH INCOME TAX YEAR  
18 COMMENCING IN THE 2013 CALENDAR YEAR. No claim for a credit shall  
19 be allowed for any income tax year commencing during the 2011, 2012,  
20 or 2013 calendar years unless a certificate has been issued by the division.  
21 The right to claim the credit shall be vested in the taxpayer at the time a  
22 credit certificate is issued. The division may promulgate rules in  
23 accordance with article 4 of title 24, C.R.S., for the issuance of certificates  
24 in accordance with this subsection (2.5).

25 **SECTION 5. Appropriation.** In addition to any other  
26 appropriation, there is hereby appropriated, out of any moneys in the  
27 general fund not otherwise appropriated, to the department of revenue, for



1 allocation to the central department operations division, for the fiscal year  
2 beginning July 1, 2010, the sum of one thousand nine hundred  
3 seventy-four dollars (\$1,974), or so much thereof as may be necessary, for  
4 the implementation of this act.

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

12 (2) 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 judicial department, trial courts, trial court programs,  
15 for personal services and operating expenditures, for the fiscal year  
16 beginning July 1, 2011, the sum of five hundred ninety thousand four  
17 hundred seventy-one dollars (\$590,471) and 6.0 FTE, or so much thereof  
18 as may be necessary, for the implementation of this act.

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

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

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

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

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

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