

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

May 9, 2011  
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB11-1208 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. 39-22-522 (3.5), Colorado Revised Statutes, is  
4 amended BY THE ADDITION OF THE FOLLOWING NEW  
5 PARAGRAPHS to read:

6 **39-22-522. Credit against tax - conservation easements.**  
7 (3.5)(c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR  
8 ANY CONSERVATION EASEMENT IN GROSS DONATED PRIOR TO JANUARY 1,  
9 2008, FOR WHICH A CREDIT IS CLAIMED, THE CREDIT SHALL BE ALLOWED  
10 AND THE EXECUTIVE DIRECTOR SHALL NEITHER CONTEST NOR REQUIRE  
11 ADDITIONAL INFORMATION REGARDING THE APPRAISAL VALUE OF THE  
12 EASEMENT, THE AMOUNT OF THE CREDIT, OR THE VALIDITY OF THE CREDIT  
13 ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION UNLESS:

14 (I) PRIOR TO APRIL 1, 2014, THE EXECUTIVE DIRECTOR HAS  
15 PRODUCED SUFFICIENT VALID EVIDENCE TO SUPPORT CLEAR AND  
16 CONVINCING PROOF OF A REJECTION BASED UPON OVERVALUATION OF THE  
17 EASEMENT, WHICH EVIDENCE AND SUFFICIENCY HAS BEEN CONFIRMED IN  
18 WRITING BY THE ATTORNEY GENERAL AND, PRIOR TO SUCH DATE, A  
19 FORMAL REJECTION TOGETHER WITH THE WRITTEN CONFIRMATION OF THE  
20 ATTORNEY GENERAL HAS BEEN MAILED TO THE DONOR AT THE DONOR'S  
21 LAST-KNOWN ADDRESS; OR

22 (II) THE VALUATION IS SUPPORTED SOLELY BY AN APPRAISAL FROM  
23 AN APPRAISER CONVICTED OF FRAUD OR ANOTHER CRIMINAL ACT OF

1 MISREPRESENTATION PRIOR TO APRIL 1, 2014, IN CONNECTION WITH THE  
2 PREPARATION OF THE APPRAISAL.

3 (d) IN THE EVENT THAT THE ATTORNEY GENERAL CONFIRMS THE  
4 EVIDENCE TO SUPPORT A REJECTION BASED UPON OVERVALUATION OF AN  
5 EASEMENT TO BE CLEAR AND CONVINCING IN ACCORDANCE WITH THE  
6 PROVISIONS OF SUBPARAGRAPH (I) OF PARAGRAPH (c) OF THIS SUBSECTION  
7 (3.5) AND THE DONOR ELECTS TO PROTEST THE DISALLOWANCE OF THE  
8 TAX CREDIT AND PREVAILS IN THE SUBSEQUENT HEARING OR LITIGATION,  
9 THE STATE SHALL REIMBURSE THE DONOR OF THE CONSERVATION  
10 EASEMENT WITHIN THIRTY DAYS AFTER THE FINAL ORDER FOR ALL COSTS  
11 AND ATTORNEY FEES INCURRED BY THE DONOR REASONABLY RELATED TO  
12 THE ALLOWANCE OF SAID TAX CREDIT.

13 (e) ADDITIONAL INTEREST AND PENALTIES SHALL CEASE TO  
14 ACCRUE ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (e) FOR  
15 ANY DISPUTED CONSERVATION EASEMENT TAX CREDIT SUBJECT TO THIS  
16 SUBSECTION (3.5) UNTIL SUCH TIME AS THE EXECUTIVE DIRECTOR ISSUES  
17 A FINAL DETERMINATION PURSUANT TO SECTION 39-21-103 OR, IF SUCH  
18 DETERMINATION IS APPEALED PURSUANT TO SECTION 39-21-105, UNTIL  
19 JUDGMENT HAS BEEN ENTERED AGAINST THE TAXPAYER IN THE APPEAL.

20 (f) PRIOR TO THE ISSUANCE OF A FINAL DETERMINATION PURSUANT  
21 TO SECTION 39-21-103 OR THE CONCLUSION OF AN APPEAL OF A NOTICE OF  
22 DEFICIENCY PURSUANT TO SECTION 39-21-105 FOR A DISPUTED  
23 CONSERVATION EASEMENT TAX CREDIT SUBJECT TO THIS SUBSECTION  
24 (3.5), THE EXECUTIVE DIRECTOR SHALL CEASE ALL ACTIONS TO COLLECT  
25 ANY AMOUNT OF THE DISPUTED TAXES, INTEREST, OR OTHER CHARGES  
26 ASSERTED TO BE OWED.

27 **SECTION 2. Safety clause.** The general assembly hereby finds,  
28 determines, and declares that this act is necessary for the immediate  
29 preservation of the public peace, health, and safety."

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