

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

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

Senate Committees

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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.

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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.

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:*

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

5 **39-22-522.5. Conservation easement tax credits - dispute**  
6 **resolution - legislative declaration.** (1) THE GENERAL ASSEMBLY  
7 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

8 (a) COLORADO'S CONSERVATION EASEMENT PROGRAM IS AN  
9 IMPORTANT PRESERVATION TOOL USED TO BALANCE ECONOMIC NEEDS  
10 WITH NATURAL RESOURCES SUCH AS LAND AND WATER PRESERVATION.  
11 COLORADO'S CONSERVATION EASEMENT TAX CREDIT, FEDERAL TAX  
12 REDUCTION, AND CONTRIBUTIONS FROM THE GREAT OUTDOORS COLORADO  
13 TRUST FUND 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.

4 (g) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE TAX  
5 MATTERS REPRESENTATIVE SHALL CONTINUE TO BE RESPONSIBLE FOR  
6 REPRESENTING AND BINDING THE TRANSFEREES WITH RESPECT TO ALL  
7 ISSUES AFFECTING THE CREDIT IN ACCORDANCE WITH SECTION 39-22-522  
8 (7) (i);

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

13 (i) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE  
14 TAXPAYERS WITH INCENTIVES TO WAIVE AN ADMINISTRATIVE HEARING  
15 AND PROCEED DIRECTLY TO A DE NOVO APPEAL TO THE DISTRICT COURT IN  
16 ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS SECTION. THE  
17 INCENTIVES INCLUDE WAIVER OF THE BOND REQUIREMENT AND WAIVER OF  
18 ACCRUAL OF INTEREST AND PENALTIES DURING THE TIME THE MATTER IS  
19 ON APPEAL TO THE DISTRICT COURT. THESE INCENTIVES SHALL NOT APPLY  
20 TO TAXPAYERS WHO CHOOSE NOT TO WAIVE THE ADMINISTRATIVE  
21 HEARING.

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

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

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

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

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

1 CONSOLIDATING APPEALS, WITH EACH REGION CONSISTING OF THE  
2 FOLLOWING JUDICIAL DISTRICTS:

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

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

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

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

1 STATEMENT OF THE LEGAL ISSUES, A DETAILED ITEMIZATION OF THE TOTAL  
2 AMOUNT IN CONTROVERSY, AND ANY PROPOSAL REGARDING THE JOINDER  
3 OR CONSOLIDATION OF RELATED PARTIES AND APPEALS.

4 (f) ANY TRANSFEREE OF THE TAX CREDIT OR ANY OTHER PERSON  
5 WHO HAS CLAIMED A TAX CREDIT RELATED TO THE TAX MATTERS  
6 REPRESENTATIVE'S CLAIMED CONSERVATION EASEMENT TAX CREDIT MAY  
7 FILE A REQUEST TO BE JOINED AS A PARTY PURSUANT TO THE COLORADO  
8 RULES OF CIVIL PROCEDURE.

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

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

27 (i) FOLLOWING THE COURT'S ORDER IDENTIFYING THE PARTIES AND



1 CONSOLIDATING CASES AND PARTIES, THE COURT MAY HOLD A HEARING  
2 TO DETERMINE THE VALIDITY OF THE CONSERVATION EASEMENT CREDIT  
3 CLAIMED PURSUANT TO SECTION 39-22-522. THE COURT SHALL  
4 DETERMINE WHETHER THE DONATION IS ELIGIBLE TO QUALIFY AS A  
5 QUALIFIED CONSERVATION CONTRIBUTION PURSUANT TO THE SECTION 170  
6 (h) OF THE INTERNAL REVENUE CODE AND ANY FEDERAL REGULATIONS  
7 PROMULGATED IN CONNECTION WITH SUCH SECTION. THE COURT MAY SET  
8 AN EXPEDITED BRIEFING SCHEDULE AND GIVE THE MATTER PRIORITY ON  
9 THE DOCKET. THE COURT MAY ORDER PRELIMINARY DISCOVERY, LIMITED  
10 TO VALIDITY OF THE EASEMENT CREDITS.

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 PREPARED 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, OR 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 SUPPORTING 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, OR 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 SUPPORTING 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 (j) OF  
10 THIS SUBSECTION (2) OF VALIDITY OF THE CREDIT AS CLAIMED, THE COURT  
11 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. ANY PARTICIPATION IN THESE PROCEEDINGS BY PARTIES OTHER

1 THAN THE TAX MATTERS REPRESENTATIVE, TRANSFEREES, OR OTHER  
2 PERSONS WHO HAVE CLAIMED ALL OR PART OF A CONSERVATION  
3 EASEMENT TAX CREDIT IS LIMITED TO THIS THIRD PHASE.

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

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

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

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

25 (3) A TAX MATTERS REPRESENTATIVE WHO DOES NOT MAKE AN  
26 ELECTION TO WAIVE A HEARING PURSUANT TO SUBSECTION (2) OF THIS  
27 SECTION AND APPEAL DIRECTLY TO A DISTRICT COURT MAY SEND A

1 WRITTEN REQUEST FOR HEARING AND FINAL DETERMINATION BY CERTIFIED  
2 MAIL WITH SIGNATURE CONFIRMATION OF DELIVERY TO THE EXECUTIVE  
3 DIRECTOR ON OR BEFORE OCTOBER 1, 2011. IF A TAX MATTERS  
4 REPRESENTATIVE FILES A REQUEST PURSUANT TO THIS SUBSECTION (3),  
5 THE EXECUTIVE DIRECTOR SHALL ISSUE A FINAL DETERMINATION ON OR  
6 BEFORE JULY 1, 2014, UNLESS THE EXECUTIVE DIRECTOR AND THE TAX  
7 MATTERS REPRESENTATIVE MUTUALLY AGREE IN WRITING TO EXTEND  
8 SUCH DATE TO A SPECIFIED DATE. THE EXECUTIVE DIRECTOR SHALL SEND  
9 A COPY OF THE FINAL DETERMINATION TO THE TAX MATTERS  
10 REPRESENTATIVE BY CERTIFIED MAIL WITH SIGNATURE CONFIRMATION OF  
11 DELIVERY. THIS SUBSECTION (3) SHALL APPLY ONLY TO THOSE TAX  
12 MATTERS REPRESENTATIVES FOR WHICH A NOTICE OF DEFICIENCY, NOTICE  
13 OF DISALLOWANCE, OR NOTICE OF REJECTION OF REFUND CLAIM HAS BEEN  
14 MAILED BY THE DEPARTMENT OF REVENUE AS OF MAY 1, 2011, BUT FOR  
15 WHICH A FINAL DETERMINATION HAS NOT BEEN ISSUED BEFORE THE  
16 EFFECTIVE DATE OF THIS SUBSECTION (3).

17 (4) THE EXECUTIVE DIRECTOR SHALL ISSUE A FINAL  
18 DETERMINATION ON OR BEFORE JULY 1, 2016, FOR ANY TAX MATTERS  
19 REPRESENTATIVE WHO DOES NOT MAKE AN ELECTION TO WAIVE A  
20 HEARING PURSUANT TO SUBSECTION (2) OF THIS SECTION OR FILE A  
21 WRITTEN REQUEST FOR FINAL HEARING AND FINAL DETERMINATION WITH  
22 THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (3) OF THIS SECTION.  
23 THE EXECUTIVE DIRECTOR SHALL SEND A COPY OF THE FINAL  
24 DETERMINATION TO THE TAX MATTERS REPRESENTATIVE BY CERTIFIED  
25 MAIL WITH SIGNATURE CONFIRMATION OF DELIVERY. THIS SUBSECTION (4)  
26 SHALL APPLY ONLY TO THOSE TAX MATTERS REPRESENTATIVES FOR WHICH  
27 A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE OF

1 REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE DEPARTMENT OF  
2 REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION  
3 HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION  
4 (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 (d) 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, 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 MAY INCLUDE THE OPPORTUNITY TO BE ADMITTED AS A  
15 PARTY 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 (6) FOR ANY TAX MATTERS REPRESENTATIVE FOR WHICH THE  
24 EXECUTIVE DIRECTOR ISSUED A FINAL DETERMINATION ON OR AFTER MAY  
25 1, 2011, THE TAX MATTERS REPRESENTATIVE MAY APPEAL THE FINAL  
26 DETERMINATION OF THE EXECUTIVE DIRECTOR PURSUANT TO THE  
27 PROVISIONS OF SECTION 39-21-105. THE PROCEDURE GOVERNING SUCH

1 APPEAL SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION  
2 (2) OF THIS SECTION; EXCEPT THAT PARAGRAPHS (a), (c) AND (d) OF SAID  
3 SUBSECTION (2) SHALL NOT APPLY. IF A TAX MATTERS REPRESENTATIVE  
4 FAILS TO FILE A TIMELY APPEAL PURSUANT TO THIS SUBSECTION (6), ANY  
5 PERSON WHO HAS CLAIMED A CREDIT OR WHO MAY BE ELIGIBLE TO CLAIM  
6 A TAX CREDIT IN RELATION TO THE TAX MATTERS REPRESENTATIVE'S  
7 DONATION MAY DO SO WITHIN TEN DAYS AFTER THE FINAL DATE FOR  
8 FILING AN APPEAL. IF THE DEPARTMENT OF REVENUE GRANTS THE  
9 PETITION, THE NEW TAX MATTERS REPRESENTATIVE MAY FILE AN APPEAL  
10 PURSUANT TO SECTION 39-21-105 WITHIN THIRTY DAYS OF THE  
11 DEPARTMENT'S ORDER REGARDING THE PETITION.

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

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



1 FOR EACH CONSERVATION EASEMENT TAX CREDIT CLAIM SO REVIEWED,  
2 THE COMMISSION SHALL ISSUE AN INITIAL RECOMMENDATION TO THE  
3 EXECUTIVE DIRECTOR ON WHETHER EACH CREDIT CLAIMED BY A  
4 TAXPAYER WHO IS ELIGIBLE TO WAIVE A HEARING AND APPEAL A NOTICE  
5 OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF  
6 DISALLOWANCE MAY BE DENIED OR ACCEPTED. NO OTHER INFORMATION  
7 SHALL BE REQUIRED OF THE COMMISSION ON OR BEFORE SUCH DATE.

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

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

1 A PERSON WHO CLAIMED OR MAY CLAIM A DISPUTED CREDIT PURSUANT TO  
2 SECTION 39-22-522 CANNOT BE IDENTIFIED OR LOCATED, THE EXECUTIVE  
3 DIRECTOR SHALL PROVIDE NOTICE TO SUCH PERSONS AS FOLLOWS:

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

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

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

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

1 (a) THE NUMBER OF TAX CREDITS CLAIMED PURSUANT TO SECTION  
2 39-22-522 FOR WHICH THE EXECUTIVE DIRECTOR MAILED A NOTICE OF  
3 DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF  
4 DISALLOWANCE PURSUANT TO SECTION 39-21-103;

5 (b) THE NUMBER OF SUCH CASES SENT TO THE CONSERVATION  
6 EASEMENT OVERSIGHT COMMISSION FOR REVIEW PURSUANT TO SECTION  
7 12-61-721, C.R.S.;

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

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

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

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

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

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

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

27 (13) ON OR BEFORE MARCH 15, 2012, AND ON A QUARTERLY BASIS

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

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

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

8 (c) THE NUMBER OF CASES FINALLY RESOLVED;

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

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

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

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

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

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

9               (6.5) COMMISSION MEMBERS SHALL BE IMMUNE FROM LIABILITY  
10       IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO  
11       GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

12               **SECTION 3. Safety clause.** The general assembly hereby finds,  
13       determines, and declares that this act is necessary for the immediate  
14       preservation of the public peace, health, and safety.