

**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**

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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 AND 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.

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

4 **39-22-522. Credit against tax - conservation easements.**

5 (2.5) Notwithstanding any other provision of this section, for income tax  
6 years commencing during the 2011, 2012, and 2013 calendar years, a  
7 taxpayer conveying a conservation easement in 2011, 2012, or 2013 and  
8 claiming a credit pursuant to this section shall, in addition to any other  
9 requirements of this section, submit a claim for the credit to the division  
10 of real estate in the department of regulatory agencies. The division shall  
11 issue a certificate for the claims received in the order submitted. After  
12 certificates have been issued for credits that exceed an aggregate of  
13 ~~twenty-six~~ TWENTY-TWO million dollars for all taxpayers for income tax

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

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

20 **39-22-522.5. Conservation easement tax credits - dispute**  
21 **resolution - legislative declaration.** (1) THE GENERAL ASSEMBLY  
22 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

23 (a) COLORADO'S CONSERVATION EASEMENT PROGRAM IS AN  
24 IMPORTANT PRESERVATION TOOL USED TO BALANCE ECONOMIC NEEDS  
25 WITH NATURAL RESOURCES SUCH AS LAND AND WATER PRESERVATION.  
26 COLORADO'S CONSERVATION EASEMENT TAX CREDIT, FEDERAL TAX  
27 DEDUCTION, AND CONTRIBUTIONS FROM THE GREAT OUTDOORS

1 COLORADO TRUST FUND HAVE ALLOWED MANY FARMERS AND RANCHERS  
2 THE OPPORTUNITY TO DONATE THEIR DEVELOPMENT RIGHTS TO PRESERVE  
3 A LEGACY OF OPEN SPACES IN COLORADO FOR WILDLIFE, AGRICULTURE,  
4 AND RANCHING.

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

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

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

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

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

1 PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE EXPEDITED TO  
2 THE EXTENT PRACTICABLE AND ADMINISTERED IN THE MANNER DEEMED  
3 MOST EFFICIENT AND FAIR BY THE EXECUTIVE DIRECTOR OR THE DISTRICT  
4 COURT.

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

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

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

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

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

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

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

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

1 THE STATE MAY BE DIVIDED INTO THREE REGIONS FOR PURPOSES OF  
2 CONSOLIDATING APPEALS, WITH EACH REGION CONSISTING OF THE  
3 FOLLOWING JUDICIAL DISTRICTS:

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

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

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

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



1 ANSWER OF THE EXECUTIVE DIRECTOR SHALL CONTAIN A BRIEF, PLAIN  
2 STATEMENT OF THE LEGAL ISSUES, A DETAILED ITEMIZATION OF THE TOTAL  
3 AMOUNT IN CONTROVERSY, AND ANY PROPOSAL REGARDING THE JOINDER  
4 OR CONSOLIDATION OF RELATED PARTIES AND APPEALS.

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

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

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

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

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

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

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

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

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

1 CONSERVATION EASEMENT TAX CREDIT ACTION;

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

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

8 (F) STATEMENTS OF ADJUSTMENT.

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

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

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

14 (C) THE CONSERVATION EASEMENT DEED AND AMENDMENTS;

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

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

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

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

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

26 (C) ANY OTHER EXPERT REPORT, BASIS, OR OTHER EVIDENCE  
27 SUPPORTING THE VALUATION AND SUBSTANTIATION OF THE AMOUNT OF

1 THE UNDERLYING EASEMENT OR CREDIT.

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

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

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

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

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

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

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

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

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

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

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

26 (3) A TAX MATTERS REPRESENTATIVE WHO DOES NOT MAKE AN  
27 ELECTION TO WAIVE A HEARING PURSUANT TO SUBSECTION (2) OF THIS

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

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

1 A NOTICE OF DEFICIENCY, NOTICE OF DISALLOWANCE, OR NOTICE OF  
2 REJECTION OF REFUND CLAIM HAS BEEN MAILED BY THE DEPARTMENT OF  
3 REVENUE AS OF MAY 1, 2011, BUT FOR WHICH A FINAL DETERMINATION  
4 HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION  
5 (4).

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

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

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

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

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

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

24 (6) FOR ANY TAX MATTERS REPRESENTATIVE FOR WHICH THE  
25 EXECUTIVE DIRECTOR ISSUED A FINAL DETERMINATION ON OR AFTER MAY  
26 1, 2011, THE TAX MATTERS REPRESENTATIVE MAY APPEAL THE FINAL  
27 DETERMINATION OF THE EXECUTIVE DIRECTOR PURSUANT TO THE



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

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

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

1 BEEN ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (8) AND  
2 FOR WHICH THE COMMISSION HAS NOT ALREADY REVIEWED THE CREDIT.  
3 FOR EACH CONSERVATION EASEMENT TAX CREDIT CLAIM SO REVIEWED,  
4 THE COMMISSION SHALL ISSUE AN INITIAL RECOMMENDATION TO THE  
5 EXECUTIVE DIRECTOR ON WHETHER EACH CREDIT CLAIMED BY A  
6 TAXPAYER WHO IS ELIGIBLE TO WAIVE A HEARING AND APPEAL A NOTICE  
7 OF DEFICIENCY, NOTICE OF REJECTION OF REFUND CLAIM, OR NOTICE OF  
8 DISALLOWANCE MAY BE DENIED OR ACCEPTED. NO OTHER INFORMATION  
9 SHALL BE REQUIRED OF THE COMMISSION ON OR BEFORE SUCH DATE.

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

27 (10) IF THE EXECUTIVE DIRECTOR MAKES A DETERMINATION THAT

1 THE TAX MATTERS REPRESENTATIVE HAS TRANSFERRED A DISPUTED  
2 CREDIT TO ANOTHER PERSON WHO HAS NOT CLAIMED THE CREDIT OR THAT  
3 A PERSON WHO CLAIMED OR MAY CLAIM A DISPUTED CREDIT PURSUANT TO  
4 SECTION 39-22-522 CANNOT BE IDENTIFIED OR LOCATED, THE EXECUTIVE  
5 DIRECTOR SHALL PROVIDE NOTICE TO SUCH PERSONS AS FOLLOWS:

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

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

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

26 (12) ON OR BEFORE JULY 1, 2011, AND ON A QUARTERLY BASIS  
27 THEREAFTER, THE EXECUTIVE DIRECTOR SHALL PROVIDE A REPORT TO THE

1 JOINT BUDGET COMMITTEE AND THE FINANCE COMMITTEES OF THE  
2 GENERAL ASSEMBLY DESCRIBING:

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

7 (b) THE NUMBER OF SUCH CASES SENT TO THE CONSERVATION  
8 EASEMENT OVERSIGHT COMMISSION FOR REVIEW PURSUANT TO SECTION  
9 12-61-721, C.R.S.;

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

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

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

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

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

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

27 (i) THE AMOUNT OF MONEYS EXPENDED BY THE DEPARTMENT OF

1 REVENUE IN ADMINISTERING THE RESOLUTION OF CASES.

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

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

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

10 (c) THE NUMBER OF CASES FINALLY RESOLVED;

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

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

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

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

1 conservation easement transactions related to the tax credits.

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

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

14 **SECTION 4. Appropriation.** In addition to any other  
15 appropriation, there is hereby appropriated, out of any moneys in the  
16 general fund not otherwise appropriated, to the department of revenue, for  
17 allocation to the central department operations division, for the fiscal year  
18 beginning July 1, 2010, the sum of three thousand three hundred fifty-four  
19 dollars (\$3,354), or so much thereof as may be necessary, for the  
20 implementation of this act.

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

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

8           (3) In addition to any other appropriation, there is hereby  
9 appropriated, out of any moneys in the conservation easement holder  
10 certification fund created in section 12-61-720 (3), Colorado Revised  
11 Statutes, not otherwise appropriated, to the department of regulatory  
12 agencies, for the fiscal year beginning July 1, 2011, the sum of twelve  
13 thousand one hundred twelve dollars (\$12,112) cash funds, or so much  
14 thereof as may be necessary, for the implementation of this act. Of this  
15 sum, two thousand three hundred fifty-two dollars (\$2,352) shall be  
16 allocated to the executive director's office and administrative services  
17 division for legal services and nine thousand seven hundred sixty dollars  
18 (\$9,760) shall be allocated to the division of real estate.

19           (4) In addition to any other appropriation, there is hereby  
20 appropriated to the department of law, for the fiscal year beginning July  
21 1, 2011, sum of two thousand three hundred fifty-two dollars (\$2,352), or  
22 so much thereof as may be necessary, for the provision of legal services  
23 to the department of regulatory agencies related to the implementation of  
24 this act. Said sum shall be from reappropriated funds received from the  
25 department of regulatory agencies out of the appropriation made in  
26 subsection (3) of this section.

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

1 appropriated, out of any moneys in the general fund not otherwise  
2 appropriated, to the department of revenue, for the fiscal year beginning  
3 July 1, 2011, the sum of two million seven hundred forty-three thousand  
4 two hundred twelve dollars (\$2,743,212) and 3.6 FTE or so much thereof  
5 as may be necessary, for the implementation of this act.

6 (6) In addition to any other appropriation, there is hereby  
7 appropriated to the department of law, for the fiscal year beginning July  
8 1, 2011, sum of one million three hundred forty-nine thousand five  
9 hundred eighty-one dollars (\$1,349,581) and 9.1 FTE, or so much thereof  
10 as may be necessary, for the provision of legal services to the department  
11 of revenue related to the implementation of this act. Said sum shall be  
12 from reappropriated funds received from the department of revenue out  
13 of the appropriation made in subsection (5) of this section.

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