

HB1291\_L.012

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

HB18-1291 be amended as follows:

1 Strike the State, Veterans, & Military Affairs Committee report dated  
2 May 2, 2018.

3 Amend reengrossed bill, strike everything below the enacting clause and  
4 substitute:

5 "SECTION 1. In Colorado Revised Statutes, add part 11 to  
6 article 61 of title 12 as follows:

7 PART 11  
8 CONSERVATION EASEMENTS

9 12-61-1101. Legislative declaration. (1) THE GENERAL  
10 ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

11 (a) COLORADO'S CONSERVATION EASEMENT PROGRAM IS AN  
12 IMPORTANT PRESERVATION TOOL USED TO BALANCE ECONOMIC NEEDS  
13 WITH NATURAL RESOURCES SUCH AS LAND AND WATER PRESERVATION.  
14 COLORADO'S CONSERVATION EASEMENT TAX CREDIT AND THE FEDERAL  
15 TAX DEDUCTION HAVE ALLOWED MANY FARMERS AND RANCHERS THE  
16 OPPORTUNITY TO DONATE THEIR DEVELOPMENT RIGHTS TO PRESERVE A  
17 LEGACY OF OPEN SPACES IN COLORADO FOR WILDLIFE, AGRICULTURE, AND  
18 RANCHING.

19 (b) CITIZENS THROUGHOUT COLORADO BELIEVE GOOD, SOUND  
20 CONSERVATION PRACTICES ARE IMPORTANT TO COLORADO'S QUALITY OF  
21 LIFE, AGRICULTURE, AND NATURAL HERITAGE;

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

26 (d) CREATING A DIVISION OF CONSERVATION WITHIN THE  
27 DEPARTMENT OF REGULATORY AGENCIES WILL KEEP A FIREWALL BETWEEN  
28 PROFESSIONAL EVALUATION AND PROFESSIONAL DISCIPLINE, WHILE  
29 CREATING A DIVISION TO ENSURE THIS PROGRAM ALLOWS LANDOWNERS  
30 TO EXERCISE THEIR PRIVATE PROPERTY RIGHTS WHILE PROTECTING  
31 TAXPAYERS FROM THE FRAUD AND ABUSE THAT EXISTED IN THE PROGRAM  
32 PRIOR TO 2009;

33 (e) IN RECOGNITION OF THE FRAUD AND ABUSE THAT HAS EXISTED  
34 IN THE PROGRAM, IT IS APPROPRIATE TO ALLOW AN EASEMENT TO BE  
35 EXTINGUISHED IF THE VALUE OF THE EASEMENT IS REDUCED OR  
36 ELIMINATED BY THE STATE IN CONNECTION WITH CLAIMING A TAX CREDIT  
37 FOR THE EASEMENT AND THE CREDIT IS DISALLOWED OR ANY AMOUNT  
38 ALLOWED IS NOT CLAIMED OR IS REPAYED BY A LANDOWNER;

39 (f) ESTABLISHING THE DIVISION OF CONSERVATION TO ADMINISTER

1 THE CONSERVATION EASEMENT TAX CREDIT PROGRAM WILL:

2 (I) ALLOW THE DIVISION TO CONTINUE TO CERTIFY CONSERVATION  
3 EASEMENT HOLDERS TO IDENTIFY FRAUDULENT OR UNQUALIFIED  
4 ORGANIZATIONS AND PREVENT THEM FROM HOLDING CONSERVATION  
5 EASEMENTS FOR WHICH TAX CREDITS ARE CLAIMED IN THE STATE;

6 (II) ALLOW THE CONSERVATION EASEMENT OVERSIGHT  
7 COMMISSION TO ADVISE THE DIVISION OF CONSERVATION AND THE  
8 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR  
9 WHICH A TAX CREDIT IS CLAIMED AND TO REVIEW APPLICATIONS FOR  
10 CONSERVATION EASEMENT HOLDER CERTIFICATION; AND

11 (III) ENSURE THAT THE DIVISION OF CONSERVATION AND THE  
12 DEPARTMENT OF REVENUE ARE SHARING RELEVANT INFORMATION  
13 CONCERNING CONSERVATION EASEMENT APPRAISALS IN ORDER TO ENSURE  
14 COMPLIANCE WITH ACCEPTED APPRAISAL PRACTICES AND OTHER  
15 PROVISIONS OF LAW.

16 **12-61-1102. Division of conservation - director.** (1) THE  
17 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES IS  
18 AUTHORIZED BY THIS SECTION TO EMPLOY, SUBJECT TO THE PROVISIONS  
19 OF THE STATE PERSONNEL SYSTEM LAWS OF THE STATE, A DIRECTOR OF  
20 THE DIVISION OF CONSERVATION, REFERRED TO IN THIS PART 11 AS THE  
21 "DIVISION", WHO IN TURN SHALL EMPLOY SUCH DEPUTIES, CLERKS, AND  
22 ASSISTANTS AS ARE NECESSARY TO DISCHARGE THE DUTIES IMPOSED BY  
23 THIS PART 11. THE DIVISION OF CONSERVATION, WHICH IS A DIVISION IN  
24 THE DEPARTMENT OF REGULATORY AGENCIES, AND THE DIRECTOR OF THE  
25 DIVISION SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND  
26 FUNCTIONS UNDER THE DEPARTMENT OF REGULATORY AGENCIES AS IF  
27 THEY WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER.

28 (2) IT IS THE DUTY OF THE DIRECTOR OF THE DIVISION,  
29 PERSONALLY OR HIS OR HER DESIGNEE, TO AID IN THE ADMINISTRATION  
30 AND ENFORCEMENT OF THIS PART 11 AND TO ADMINISTER, IN  
31 CONSULTATION WITH THE CONSERVATION EASEMENT OVERSIGHT  
32 COMMISSION, THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS  
33 AND ISSUANCE OF TAX CREDIT CERTIFICATES AS PROVIDED IN THIS PART  
34 11.

35 **12-61-1103. Conservation easement oversight commission -**  
36 **created - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION A  
37 CONSERVATION EASEMENT OVERSIGHT COMMISSION. THE COMMISSION  
38 SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS  
39 UNDER THE DIVISION AS IF TRANSFERRED THERETO BY A **TYPE 2** TRANSFER,  
40 AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968",  
41 ARTICLE 1 OF TITLE 24. THE COMMISSION CONSISTS OF EIGHT MEMBERS AS  
42 FOLLOWS:

43 (a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS

1 COLORADO PROGRAM, APPOINTED BY AND SERVING AS AN ADVISORY,  
2 NONVOTING MEMBER AT THE PLEASURE OF THE STATE BOARD OF THE  
3 GREAT OUTDOORS COLORADO TRUST FUND ESTABLISHED IN ARTICLE  
4 XXVII OF THE STATE CONSTITUTION;

5 (b) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF  
6 NATURAL RESOURCES, APPOINTED BY AND SERVING AT THE PLEASURE OF  
7 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES;

8 (c) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF  
9 AGRICULTURE, APPOINTED BY AND SERVING AT THE PLEASURE OF THE  
10 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE;

11 (d) THREE VOTING MEMBERS APPOINTED BY THE GOVERNOR AS  
12 FOLLOWS:

13 (I) TWO VOTING REPRESENTATIVES OF CERTIFIED CONSERVATION  
14 EASEMENT HOLDERS; AND

15 (II) A VOTING INDIVIDUAL WHO IS COMPETENT AND QUALIFIED TO  
16 ANALYZE THE CONSERVATION PURPOSE OF CONSERVATION EASEMENTS;  
17 AND

18 (e) TWO VOTING MEMBERS OF THE GENERAL PUBLIC, ONE  
19 APPOINTED BY THE PRESIDENT OF THE SENATE TO SERVE AT THE PLEASURE  
20 OF THE PRESIDENT AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF  
21 REPRESENTATIVES TO SERVE AT THE PLEASURE OF THE SPEAKER.

22 (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE  
23 GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE  
24 COMMISSION APPOINTED PURSUANT TO SUBSECTIONS (1)(a) THROUGH  
25 (1)(c) OF THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS  
26 REPRESENTING THE PARTICULAR INTEREST OR AREA OF EXPERTISE THAT  
27 THE APPOINTEES IN SUBSECTIONS (1)(d)(I) AND (1)(d)(II) OF THIS SECTION  
28 REPRESENT. NOT MORE THAN TWO OF THE GOVERNOR'S APPOINTEES  
29 SERVING AT THE SAME TIME SHALL BE FROM THE SAME POLITICAL PARTY.  
30 IN MAKING THE INITIAL APPOINTMENTS, THE GOVERNOR SHALL APPOINT  
31 ONE MEMBER FOR A TERM OF TWO YEARS. ALL OTHER APPOINTMENTS BY  
32 THE GOVERNOR ARE FOR TERMS OF THREE YEARS. NO MEMBER SHALL  
33 SERVE MORE THAN TWO CONSECUTIVE TERMS. IN THE EVENT OF A  
34 VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE, THE  
35 GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM. THE  
36 GOVERNOR MAY REMOVE ANY MEMBER FOR MISCONDUCT, NEGLIGENCE OF  
37 DUTY, OR INCOMPETENCE.

38 (3) (a) AT THE REQUEST OF THE DIVISION OR THE DEPARTMENT OF  
39 REVENUE, THE COMMISSION SHALL ADVISE THE DIVISION AND THE  
40 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR  
41 WHICH A STATE INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION  
42 39-22-522.

43 (b) THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT

1 TAX CREDIT CERTIFICATE APPLICATIONS AND REQUESTS FOR OPTIONAL  
2 PRELIMINARY ADVISORY OPINIONS IN ACCORDANCE WITH SECTION  
3 12-61-1106.

4 (4) THE COMMISSION SHALL MEET AT LEAST QUARTERLY. THE  
5 DIVISION SHALL CONVENE THE MEETINGS OF THE COMMISSION AND  
6 PROVIDE STAFF SUPPORT AS REQUESTED BY THE COMMISSION. A MAJORITY  
7 OF THE VOTING MEMBERS OF THE COMMISSION CONSTITUTES A QUORUM  
8 FOR THE TRANSACTION OF ALL BUSINESS, AND ACTIONS OF THE  
9 COMMISSION REQUIRE A VOTE OF A MAJORITY OF THE VOTING MEMBERS  
10 PRESENT IN FAVOR OF THE ACTION TAKEN. THE COMMISSION MAY  
11 DELEGATE TO THE DIRECTOR OF THE DIVISION THE AUTHORITY TO ACT ON  
12 BEHALF OF THE COMMISSION ON OCCASIONS AND IN CIRCUMSTANCES THAT  
13 THE COMMISSION DEEMS NECESSARY FOR THE EFFICIENT AND EFFECTIVE  
14 ADMINISTRATION AND EXECUTION OF THE COMMISSION'S RESPONSIBILITIES  
15 UNDER THIS PART 11.

16 (5) THE COMMISSION SHALL ESTABLISH A CONFLICT-OF-INTEREST  
17 POLICY TO ENSURE THAT ANY MEMBER OF THE COMMISSION IS  
18 DISQUALIFIED FROM PERFORMING AN ACT THAT CONFLICTS WITH A  
19 PRIVATE PECUNIARY INTEREST OF THE MEMBER OR FROM PARTICIPATING  
20 IN THE DELIBERATION OR DECISION-MAKING PROCESS FOR CERTIFICATION  
21 FOR AN APPLICANT REPRESENTED BY THE MEMBER.

22 (6) THE COMMISSION SHALL ADVISE AND MAKE  
23 RECOMMENDATIONS TO THE DIRECTOR OF THE DIVISION REGARDING THE  
24 CERTIFICATION OF CONSERVATION EASEMENT HOLDERS IN ACCORDANCE  
25 WITH SECTION 12-61-1104.

26 (7) COMMISSION MEMBERS ARE IMMUNE FROM LIABILITY IN  
27 ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL  
28 IMMUNITY ACT", ARTICLE 10 OF TITLE 24.

29 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.  
30 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES  
31 SHALL REVIEW THE COMMISSION AS PROVIDED IN SECTION 24-34-104.

32 **12-61-1104. Certification of conservation easement holders -**  
33 **rules - definition - repeal.** (1) THE DIVISION SHALL, IN CONSULTATION  
34 WITH THE COMMISSION CREATED IN SECTION 12-61-1103, ESTABLISH AND  
35 ADMINISTER A CERTIFICATION PROGRAM FOR QUALIFIED ORGANIZATIONS  
36 UNDER SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF  
37 1986", AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH  
38 A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522. THE  
39 PURPOSES OF THE PROGRAM ARE TO:

40 (a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING  
41 ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE  
42 PROFESSIONALISM AND STABILITY; AND

43 (b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS, AS

1 DETERMINED UNDER THE RULES OF THE DIVISION, TO PREVENT THEM FROM  
2 BECOMING CERTIFIED BY THE PROGRAM.

3 (2) THE DIVISION SHALL ESTABLISH AND ACCEPT APPLICATIONS  
4 FOR CERTIFICATION. THE DIVISION SHALL CONDUCT A REVIEW OF EACH  
5 APPLICATION AND CONSIDER THE RECOMMENDATIONS OF THE COMMISSION  
6 BEFORE MAKING A FINAL DETERMINATION TO GRANT OR DENY  
7 CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING  
8 CERTIFICATION, THE DIVISION AND THE COMMISSION MAY CONSIDER:

9 (a) THE APPLICANT'S PROCESS FOR REVIEWING, SELECTING, AND  
10 APPROVING A POTENTIAL CONSERVATION EASEMENT;

11 (b) THE APPLICANT'S STEWARDSHIP PRACTICES AND CAPACITY,  
12 INCLUDING THE ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE  
13 PURPOSES OF THE EASEMENT;

14 (c) AN AUDIT OF THE APPLICANT'S FINANCIAL RECORDS;

15 (d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS  
16 REGARDING CONFLICTS OF INTEREST AND TRANSACTIONS WITH RELATED  
17 PARTIES AS DESCRIBED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL  
18 REVENUE CODE OF 1986", AS AMENDED, DONORS, BOARD MEMBERS, AND  
19 INSIDERS. FOR PURPOSES OF THIS SUBSECTION (2)(d), "INSIDERS" MEANS  
20 BOARD AND STAFF MEMBERS, SUBSTANTIAL CONTRIBUTORS, PARTIES  
21 RELATED TO THOSE ABOVE, THOSE WHO HAVE AN ABILITY TO INFLUENCE  
22 DECISIONS OF THE ORGANIZATION, AND THOSE WITH ACCESS TO  
23 INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC.

24 (e) ANY OTHER INFORMATION DEEMED RELEVANT BY THE DIVISION  
25 OR THE COMMISSION; AND

26 (f) THE UNIQUE CIRCUMSTANCES OF THE DIFFERENT ENTITIES TO  
27 WHICH THIS CERTIFICATION APPLIES AS SET FORTH IN SUBSECTION (4) OF  
28 THIS SECTION.

29 (3) AT THE TIME OF SUBMISSION OF AN APPLICATION, AND EACH  
30 YEAR THE ENTITY IS CERTIFIED PURSUANT TO THIS SECTION, THE  
31 APPLICANT SHALL PAY THE DIVISION A FEE, AS PRESCRIBED BY THE  
32 DIVISION, TO COVER THE COSTS OF THE DIVISION AND THE COMMISSION IN  
33 ADMINISTERING THE CERTIFICATION PROGRAM FOR ENTITIES THAT HOLD  
34 CONSERVATION EASEMENTS FOR WHICH TAX CREDITS ARE CLAIMED  
35 PURSUANT TO SECTION 39-22-522. THE DIVISION SHALL HAVE THE  
36 AUTHORITY TO ACCEPT AND EXPEND GIFTS, GRANTS, AND DONATIONS FOR  
37 THE PURPOSES OF THIS SECTION. THE STATE TREASURER SHALL CREDIT  
38 FEES, GIFTS, GRANTS, AND DONATIONS COLLECTED PURSUANT TO THIS  
39 SUBSECTION (3) TO THE CONSERVATION CASH FUND CREATED IN SECTION  
40 12-61-1107. ON OR BEFORE EACH JANUARY 1, THE DIVISION SHALL  
41 CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF THE FEE  
42 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (3).

43 (4) THE CERTIFICATION PROGRAM APPLIES TO:

1 (a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH  
2 CONSERVATION VALUES CONSISTING OF RECREATION OR EDUCATION,  
3 PROTECTION OF ENVIRONMENTAL SYSTEMS, OR PRESERVATION OF OPEN  
4 SPACE;  
5 (b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY FOR  
6 HISTORIC PRESERVATION; AND  
7 (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND  
8 COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE  
9 STATE THAT HOLDS AN EASEMENT.  
10 (5) THE CERTIFICATION PROGRAM SHALL CONTAIN A PROVISION  
11 ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION OF AN  
12 ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND  
13 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE  
14 CONSERVATION INDUSTRY.  
15 (6) THE COMMISSION SHALL MEET AT LEAST QUARTERLY AND  
16 MAKE RECOMMENDATIONS TO THE DIVISION REGARDING THE  
17 CERTIFICATION PROGRAM. THE DIVISION IS AUTHORIZED TO DETERMINE  
18 WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE NECESSARY  
19 QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES ADOPTED  
20 BY THE DIVISION. IF THE DIVISION DETERMINES THAT AN APPLICANT DOES  
21 NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION OR  
22 THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF THIS PART 11, THE  
23 RULES PROMULGATED BY THE DIVISION, OR ANY DIVISION ORDER, THE  
24 DIVISION MAY DENY THE APPLICANT A CERTIFICATION OR DENY THE  
25 RENEWAL OF A CERTIFICATION, AND, IN SUCH INSTANCE, THE DIVISION  
26 SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING SETTING  
27 FORTH THE BASIS OF THE DIVISION'S DETERMINATION. THE APPLICANT MAY  
28 REQUEST A HEARING ON THE DETERMINATION AS PROVIDED IN SECTION  
29 24-4-104 (9). THE DIVISION SHALL NOTIFY SUCCESSFUL APPLICANTS IN  
30 WRITING. AN APPLICANT THAT IS NOT CERTIFIED MAY REAPPLY FOR  
31 CERTIFICATION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE  
32 DIVISION.  
33 (7) THE DIVISION SHALL PROMULGATE RULES TO EFFECTUATE THE  
34 DUTIES OF THE COMMISSION PURSUANT TO ARTICLE 4 OF TITLE 24. SUCH  
35 RULES SHALL SPECIFICALLY ADDRESS THE FOLLOWING:  
36 (a) ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION  
37 OF AN ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND  
38 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE  
39 CONSERVATION INDUSTRY;  
40 (b) A STREAMLINED AND LOWER-COST PROCESS FOR  
41 CONSERVATION EASEMENT HOLDERS THAT DO NOT INTEND TO ACCEPT  
42 NEW DONATIONS OF CONSERVATION EASEMENTS FOR WHICH TAX CREDITS  
43 WOULD BE CLAIMED THAT FOCUSES ON THE HOLDER'S STEWARDSHIP

1 CAPABILITIES;

2 (c) THE FEES CHARGED PURSUANT TO SUBSECTION (3) OF THIS  
3 SECTION OR SECTION 12-61-1106 (6), SPECIFICALLY ENSURING THAT THE  
4 FEES ARE ADEQUATE TO PAY FOR ADMINISTRATIVE COSTS BUT NOT SO  
5 HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF CONSERVATION  
6 EASEMENTS IN THE STATE; AND

7 (d) THE ADOPTION OF BEST PRACTICES, PROCESSES, AND  
8 PROCEDURES USED BY OTHER ENTITIES THAT REGULARLY REVIEW  
9 CONSERVATION EASEMENT TRANSACTIONS, INCLUDING A PRACTICE,  
10 PROCESS, OR PROCEDURE DEEMING QUALIFIED CONSERVATION EASEMENT  
11 APPRAISALS APPROVED BY THESE ENTITIES BASED ON THEIR INDEPENDENT  
12 REVIEWS AS CREDIBLE FOR PURPOSES OF THE CONSERVATION EASEMENT  
13 TAX CREDIT.

14 (8) A CONSERVATION EASEMENT TAX CREDIT CERTIFICATE  
15 APPLICATION MAY BE SUBMITTED PURSUANT TO SECTION 12-61-1106  
16 ONLY IF THE ENTITY HAS BEEN CERTIFIED IN ACCORDANCE WITH THIS  
17 SECTION AT THE TIME THE DONATION OF THE EASEMENT IS MADE. THE  
18 DIVISION SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC  
19 CONCERNING THE DATE THAT IT COMMENCES ACCEPTING APPLICATIONS  
20 FOR ENTITIES THAT HOLD CONSERVATION EASEMENTS AND THE  
21 REQUIREMENTS OF THIS SUBSECTION (8).

22 (9) THE DIVISION SHALL MAINTAIN AND UPDATE AN ONLINE LIST,  
23 ACCESSIBLE TO THE PUBLIC, OF THE ORGANIZATIONS THAT HAVE APPLIED  
24 FOR CERTIFICATION AND WHETHER EACH HAS BEEN CERTIFIED, REJECTED  
25 FOR CERTIFICATION, OR HAD ITS CERTIFICATION REVOKED OR SUSPENDED  
26 IN ACCORDANCE WITH THIS SECTION.

27 (10) THE DIVISION MAY INVESTIGATE THE ACTIVITIES OF ANY  
28 ENTITY THAT IS REQUIRED TO BE CERTIFIED PURSUANT TO THIS SECTION  
29 AND TO IMPOSE DISCIPLINE FOR NONCOMPLIANCE, INCLUDING THE  
30 SUSPENSION OR REVOCATION OF A CERTIFICATION OR THE IMPOSITION OF  
31 FINES. THE DIVISION MAY PROMULGATE RULES IN ACCORDANCE WITH  
32 ARTICLE 4 OF TITLE 24 FOR THE CERTIFICATION PROGRAM AND DISCIPLINE  
33 AUTHORIZED BY THIS SECTION.

34 (11) THE DIVISION MAY SUBPOENA PERSONS AND DOCUMENTS,  
35 WHICH SUBPOENAS MAY BE ENFORCED BY A COURT OF COMPETENT  
36 JURISDICTION IF NOT OBEYED, FOR PURPOSES OF CONDUCTING  
37 INVESTIGATIONS PURSUANT TO SUBSECTION (10) OF THIS SECTION.

38 (12) NOTHING IN THIS SECTION:

39 (a) AFFECTS ANY TAX CREDIT THAT WAS CLAIMED PURSUANT TO  
40 SECTION 39-22-522 BEFORE CERTIFICATION WAS REQUIRED BY THIS  
41 SECTION; OR

42 (b) REQUIRES THE CERTIFICATION OF AN ENTITY THAT HOLDS A  
43 CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS NOT CLAIMED

1 PURSUANT TO SECTION 39-22-522.

2 (13) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.  
3 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES  
4 SHALL REVIEW THE CERTIFICATION REQUIREMENT AS PROVIDED FOR IN  
5 SECTION 24-34-104.

6 **12-61-1105. Conservation easement tax credit certificates -**  
7 **rules.** (1) THE DIVISION SHALL RECEIVE TAX CREDIT CERTIFICATE  
8 APPLICATIONS FROM AND ISSUE CERTIFICATES TO LANDOWNERS FOR  
9 INCOME TAX CREDITS FOR CONSERVATION EASEMENTS DONATED ON OR  
10 AFTER JANUARY 1, 2011, IN ACCORDANCE WITH SECTION 39-22-522 (2.5)  
11 AND THIS PART 11. NOTHING IN THIS SECTION RESTRICTS OR LIMITS THE  
12 AUTHORITY OF THE DIVISION TO ENFORCE THIS PART 11. THE DIVISION  
13 MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24  
14 FOR THE ISSUANCE OF THE CERTIFICATES. IN PROMULGATING RULES, THE  
15 DIVISION MAY INCLUDE PROVISIONS GOVERNING:

16 (a) THE REVIEW OF THE TAX CREDIT CERTIFICATE APPLICATION  
17 PURSUANT TO THIS PART 11;

18 (b) THE ADMINISTRATION AND FINANCING OF THE CERTIFICATION  
19 PROCESS;

20 (c) THE NOTIFICATION TO THE PUBLIC REGARDING THE AGGREGATE  
21 AMOUNT OF TAX CREDIT CERTIFICATES THAT HAVE BEEN ISSUED AND THAT  
22 ARE ON THE WAIT LIST PURSUANT TO SECTION 39-25-522 (2.5);

23 (d) THE NOTIFICATION TO THE LANDOWNER, THE ENTITY TO WHICH  
24 THE EASEMENT WAS GRANTED, AND THE DEPARTMENT OF REVENUE  
25 REGARDING THE TAX CREDIT CERTIFICATES ISSUED; AND

26 (e) ANY OTHER MATTERS RELATED TO ADMINISTERING SECTION  
27 39-22-522 (2.5) OR THIS PART 11.

28 (2) THE DIVISION SHALL APPLY THE AMOUNT CLAIMED IN A  
29 COMPLETED TAX CREDIT CERTIFICATE APPLICATION AGAINST THE ANNUAL  
30 TAX CREDIT LIMIT IN THE ORDER THAT COMPLETED APPLICATIONS ARE  
31 RECEIVED. THE DIVISION SHALL APPLY CLAIMED TAX CREDIT AMOUNTS  
32 THAT EXCEED THE ANNUAL LIMIT IN ANY YEAR AGAINST THE LIMIT FOR  
33 THE NEXT AVAILABLE YEAR AND ISSUE TAX CREDIT CERTIFICATES FOR USE  
34 IN THE YEAR IN WHICH THE AMOUNT WAS APPLIED TO THE ANNUAL LIMIT.

35 (3) THE DIVISION SHALL NOT ISSUE TAX CREDIT CERTIFICATES  
36 THAT IN AGGREGATE EXCEED THE LIMIT SET FORTH IN SECTION 39-22-522  
37 (2.5) DURING A PARTICULAR CALENDAR YEAR.

38 **12-61-1106. Conservation easement tax credit certificate**  
39 **application process - definitions - rules.** (1) FOR PURPOSES OF THIS  
40 SECTION:

41 (a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT  
42 CERTIFICATE SUBMITTED PURSUANT TO SECTION 12-61-1105 OR THIS  
43 SECTION.



1 (b) "CONSERVATION PURPOSE" MEANS CONSERVATION PURPOSE AS  
2 DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE  
3 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED  
4 IN CONNECTION WITH SUCH SECTION.

5 (c) "CREDIBILITY" MEANS THE RESULTS ARE WORTHY OF BELIEF  
6 AND ARE SUPPORTED BY RELEVANT EVIDENCE AND LOGIC TO THE DEGREE  
7 NECESSARY FOR THE INTENDED USE.

8 (d) "DEFICIENCY" MEANS NONCOMPLIANCE WITH A REQUIREMENT  
9 FOR OBTAINING A TAX CREDIT CERTIFICATE THAT, UNLESS SUCH  
10 NONCOMPLIANCE IS REMEDIED, IS GROUNDS FOR THE DENIAL OF A TAX  
11 CREDIT CERTIFICATE APPLICATION SUBMITTED PURSUANT TO THIS  
12 SECTION.

13 (e) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF  
14 CONSERVATION OR HIS OR HER DESIGNEE.

15 (f) "LANDOWNER" MEANS THE RECORD OWNER OF THE SURFACE OF  
16 THE LAND AND, IF APPLICABLE, OWNER OF THE WATER OR WATER RIGHTS  
17 BENEFICIALLY USED THEREON WHO CREATES A CONSERVATION EASEMENT  
18 IN GROSS PURSUANT TO SECTION 38-30.5-104.

19 (g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION  
20 EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION  
21 12-61-1105 AND THIS SECTION.

22 (2) (a) THE DIVISION SHALL ESTABLISH AND ADMINISTER A  
23 PROCESS BY WHICH A LANDOWNER SEEKING TO CLAIM AN INCOME TAX  
24 CREDIT FOR ANY CONSERVATION EASEMENT DONATION MADE ON OR AFTER  
25 JANUARY 1, 2014, MUST APPLY FOR A TAX CREDIT CERTIFICATE AS  
26 REQUIRED BY SECTION 39-22-522 (2.5) AND (2.7). THE PURPOSE OF THE  
27 APPLICATION PROCESS IS TO DETERMINE WHETHER A CONSERVATION  
28 EASEMENT DONATION FOR WHICH A TAX CREDIT WILL BE CLAIMED:

29 (I) IS A CONTRIBUTION OF A QUALIFIED REAL PROPERTY INTEREST  
30 TO A QUALIFIED ORGANIZATION TO BE USED EXCLUSIVELY FOR A  
31 CONSERVATION PURPOSE;

32 (II) IS SUBSTANTIATED WITH A QUALIFIED APPRAISAL PREPARED BY  
33 A QUALIFIED APPRAISER IN ACCORDANCE WITH THE UNIFORM STANDARDS  
34 OF PROFESSIONAL APPRAISAL PRACTICE; AND

35 (III) COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

36 (b) THE LANDOWNER HAS THE BURDEN OF PROOF REGARDING  
37 COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS.

38 (3) FOR THE PURPOSE OF REVIEWING APPLICATIONS AND MAKING  
39 DETERMINATIONS REGARDING THE ISSUANCE OF TAX CREDIT  
40 CERTIFICATES, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT  
41 CERTIFICATE TO BE ISSUED:

42 (a) DIVISION STAFF SHALL REVIEW EACH APPLICATION AND ADVISE  
43 AND MAKE RECOMMENDATIONS TO THE DIRECTOR AND THE COMMISSION

1 REGARDING THE APPLICATION;

2 (b) THE DIRECTOR HAS AUTHORITY AND RESPONSIBILITY TO  
3 DETERMINE THE CREDIBILITY OF THE APPRAISAL. IN DETERMINING  
4 CREDIBILITY, THE DIRECTOR SHALL CONSIDER, AT A MINIMUM,  
5 COMPLIANCE WITH THE FOLLOWING REQUIREMENTS:

6 (I) THE APPRAISAL FOR A CONSERVATION EASEMENT DONATION  
7 FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522  
8 IS A QUALIFIED APPRAISAL FROM A QUALIFIED APPRAISER, AS DEFINED IN  
9 SECTION 170 (f) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS  
10 AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN  
11 CONNECTION WITH SUCH SECTION;

12 (II) THE APPRAISAL CONFORMS WITH THE UNIFORM STANDARDS OF  
13 PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL  
14 STANDARDS BOARD OF THE APPRAISAL FOUNDATION AND ANY OTHER  
15 PROVISION OF LAW;

16 (III) THE APPRAISER HOLDS A VALID LICENSE AS A CERTIFIED  
17 GENERAL APPRAISER IN ACCORDANCE WITH PART 7 OF THIS TITLE 12; AND

18 (IV) THE APPRAISER MEETS ANY EDUCATION AND EXPERIENCE  
19 REQUIREMENTS ESTABLISHED BY THE BOARD OF REAL ESTATE APPRAISERS  
20 IN ACCORDANCE WITH SECTION 12-61-704 (1)(k).

21 (c) THE DIRECTOR HAS THE AUTHORITY AND RESPONSIBILITY TO  
22 DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF SECTION  
23 12-61-1104.

24 (d) THE COMMISSION HAS THE AUTHORITY AND RESPONSIBILITY TO  
25 DETERMINE WHETHER A CONSERVATION EASEMENT DONATION FOR WHICH  
26 A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522 IS A  
27 QUALIFIED CONSERVATION CONTRIBUTION AS DEFINED IN SECTION 170 (h)  
28 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND  
29 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH  
30 SECTION.

31 (4) THE DEPARTMENT OF REVENUE IS NOT AUTHORIZED TO  
32 DISALLOW A CONSERVATION EASEMENT TAX CREDIT BASED ON ANY  
33 REQUIREMENTS THAT ARE UNDER THE JURISDICTION OF THE DIVISION, THE  
34 DIRECTOR, OR THE COMMISSION PURSUANT TO THIS SECTION.

35 (5) A COMPLETE TAX CREDIT CERTIFICATE APPLICATION MUST BE  
36 MADE BY THE LANDOWNER TO THE DIVISION AND MUST INCLUDE:

37 (a) A COPY OF THE FINAL CONSERVATION EASEMENT APPRAISAL;

38 (b) A COPY OF THE RECORDED DEED GRANTING THE  
39 CONSERVATION EASEMENT;

40 (c) DOCUMENTATION SUPPORTING THE CONSERVATION PURPOSE  
41 OF THE EASEMENT;

42 (d) ANY OTHER INFORMATION OR DOCUMENTATION THE DIRECTOR  
43 OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL

1 DETERMINATION REGARDING THE APPLICATION; AND

2 (e) THE FEE REQUIRED PURSUANT TO SUBSECTION (6) OF THIS  
3 SECTION.

4 (6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX  
5 CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR  
6 AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION  
7 (14) OF THIS SECTION SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY  
8 THE DIVISION. THE APPLICATION FEE FOR AN OPTIONAL PRELIMINARY  
9 ADVISORY OPINION MAY BE A DIFFERENT DOLLAR AMOUNT THAN THE  
10 APPLICATION FEE FOR A TAX CREDIT CERTIFICATE. THE FEES MUST BE  
11 ADEQUATE TO PAY FOR THE ADMINISTRATIVE COSTS OF THE DIVISION AND  
12 THE COMMISSION IN ADMINISTERING THE REQUIREMENTS OF THIS SECTION,  
13 BUT NOT SO HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF  
14 CONSERVATION EASEMENTS IN THE STATE. THE STATE TREASURER SHALL  
15 CREDIT THE FEES COLLECTED PURSUANT TO THIS SUBSECTION (6) TO THE  
16 CONSERVATION CASH FUND CREATED IN SECTION 12-61-1107. ON OR  
17 BEFORE JANUARY 1, 2014, AND ON OR BEFORE EACH JANUARY 1  
18 THEREAFTER, THE DIVISION SHALL CERTIFY TO THE GENERAL ASSEMBLY  
19 THE AMOUNT OF ANY FEES PRESCRIBED BY THE DIVISION PURSUANT TO  
20 THIS SUBSECTION (6).

21 (7) (a) IF, DURING THE REVIEW OF AN APPLICATION FOR A TAX  
22 CREDIT CERTIFICATE, THE DIRECTOR OR THE COMMISSION IDENTIFIES ANY  
23 POTENTIAL DEFICIENCIES, THE DIRECTOR OR COMMISSION SHALL  
24 DOCUMENT THE POTENTIAL DEFICIENCIES IN A LETTER SENT TO THE  
25 LANDOWNER BY FIRST CLASS MAIL. THE DIVISION SHALL SEND LETTERS  
26 DOCUMENTING POTENTIAL DEFICIENCIES TO LANDOWNERS IN A TIMELY  
27 MANNER SO THAT THE NUMBER OF DAYS BETWEEN THE DATE A  
28 COMPLETED APPLICATION IS RECEIVED BY THE DIVISION AND THE MAILING  
29 DATE OF THE DIVISION'S LETTER TO THE LANDOWNER DOES NOT EXCEED  
30 ONE HUNDRED TWENTY DAYS.

31 (b) THE LANDOWNER HAS SIXTY DAYS AFTER THE MAILING DATE  
32 OF THE DIVISION'S LETTER TO ADDRESS THE POTENTIAL DEFICIENCIES  
33 IDENTIFIED BY THE DIRECTOR AND THE COMMISSION AND PROVIDE  
34 ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE DIRECTOR OR  
35 THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL DETERMINATION  
36 REGARDING THE APPLICATION.

37 (c) THE DIRECTOR AND THE COMMISSION HAVE NINETY DAYS  
38 AFTER THE DATE OF RECEIPT OF ANY ADDITIONAL INFORMATION OR  
39 DOCUMENTATION PROVIDED BY THE LANDOWNER TO REVIEW THE  
40 INFORMATION AND DOCUMENTATION AND MAKE A FINAL DETERMINATION  
41 REGARDING THE APPLICATION.

42 (d) THE DEADLINES PRESCRIBED BY THIS SUBSECTION (7) MAY BE  
43 EXTENDED UPON MUTUAL AGREEMENT BETWEEN THE DIRECTOR AND THE

1 COMMISSION AND THE LANDOWNER.

2 (8) THE DIRECTOR OR THE COMMISSION MAY DENY AN  
3 APPLICATION IF THE LANDOWNER:

4 (a) HAS NOT DEMONSTRATED TO THE SATISFACTION OF THE  
5 DIRECTOR OR THE COMMISSION THAT THE APPLICATION COMPLIES WITH  
6 ANY REQUIREMENT OF THIS PART 11;

7 (b) DOES NOT PROVIDE THE INFORMATION AND DOCUMENTATION  
8 REQUIRED PURSUANT TO THIS PART 11; OR

9 (c) FAILS TO TIMELY RESPOND TO ANY WRITTEN REQUEST OR  
10 NOTICE FROM THE DIVISION, THE DIRECTOR, OR THE COMMISSION.

11 (9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL  
12 SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE  
13 DIRECTOR, AFTER CONSULTATION WITH THE COMMISSION, MAY REQUEST  
14 THAT THE LANDOWNER, AT THE LANDOWNER'S EXPENSE, OBTAIN EITHER  
15 A SECOND APPRAISAL OR A REVIEW OF THE APPRAISAL SUBMITTED WITH  
16 THE APPLICATION FROM AN APPRAISER WHO MEETS THE REQUIREMENTS OF  
17 PART 7 OF THIS TITLE 12 AND IS IN GOOD STANDING WITH THE BOARD  
18 BEFORE MAKING A FINAL DETERMINATION REGARDING THE APPLICATION.

19 (10) IF THE DIRECTOR AND THE COMMISSION DO NOT IDENTIFY ANY  
20 POTENTIAL DEFICIENCIES WITH AN APPLICATION, THE DIRECTOR AND THE  
21 COMMISSION SHALL APPROVE THE APPLICATION, AND THE DIVISION SHALL  
22 ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO  
23 SECTION 12-61-1105 IN A TIMELY MANNER SO THAT THE NUMBER OF DAYS  
24 BETWEEN THE DATE A COMPLETED APPLICATION IS RECEIVED BY THE  
25 DIVISION AND THE DATE THE TAX CREDIT CERTIFICATE IS ISSUED DOES NOT  
26 EXCEED ONE HUNDRED TWENTY DAYS. ONCE A TAX CREDIT CERTIFICATE  
27 IS ISSUED, THE LANDOWNER MAY CLAIM AND USE THE TAX CREDIT SUBJECT  
28 TO ANY OTHER APPLICABLE PROCEDURES AND REQUIREMENTS UNDER  
29 TITLE 39.

30 (11) (a) IF ALL POTENTIAL DEFICIENCIES THAT HAVE BEEN  
31 IDENTIFIED ARE SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE  
32 DIRECTOR AND THE COMMISSION, THE DIRECTOR AND THE COMMISSION  
33 SHALL APPROVE THE APPLICATION, AND THE DIVISION SHALL ISSUE A TAX  
34 CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION  
35 12-61-1105. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER  
36 MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE  
37 PROCEDURES AND REQUIREMENTS UNDER TITLE 39.

38 (b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED  
39 ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE  
40 DIRECTOR AND THE COMMISSION, THE DIVISION SHALL ISSUE A WRITTEN  
41 DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING THOSE  
42 DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE  
43 DIVISION SHALL DATE THE WRITTEN DENIAL AND SEND IT BY FIRST CLASS

1 MAIL TO THE LANDOWNER AT THE ADDRESS PROVIDED BY THE  
2 LANDOWNER ON THE APPLICATION. THE DIRECTOR MAY ACT ON BEHALF OF  
3 THE COMMISSION FOR PURPOSES OF ADMINISTERING THE PROCESS FOR  
4 ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR  
5 ADMINISTERING SUBSECTION (12) OF THIS SECTION.

6 (12) (a) THE LANDOWNER MAY APPEAL TO THE DIRECTOR EITHER  
7 THE DIRECTOR'S OR THE COMMISSION'S DENIAL OF AN APPLICATION, IN  
8 WRITING, WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE DENIAL. THIS  
9 WRITTEN APPEAL CONSTITUTES A REQUEST FOR AN ADMINISTRATIVE  
10 HEARING.

11 (b) IF THE LANDOWNER FAILS TO APPEAL THE DENIAL OF AN  
12 APPLICATION WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE DENIAL,  
13 THE DENIAL BECOMES FINAL, AND THE DIVISION SHALL NOT ISSUE A TAX  
14 CREDIT CERTIFICATE TO THE LANDOWNER.

15 (c) ADMINISTRATIVE HEARINGS MUST BE CONDUCTED IN  
16 ACCORDANCE WITH SECTION 24-4-105. AT THE DISCRETION OF THE  
17 DIRECTOR, HEARINGS MAY BE CONDUCTED BY AN AUTHORIZED  
18 REPRESENTATIVE OF THE DIRECTOR OR THE COMMISSION OR AN  
19 ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF ADMINISTRATIVE  
20 COURTS IN THE DEPARTMENT OF PERSONNEL. ALL HEARINGS MUST BE  
21 HELD IN THE COUNTY WHERE THE DIVISION IS LOCATED UNLESS THE  
22 DIRECTOR DESIGNATES OTHERWISE. THE DECISION OF THE DIRECTOR OR  
23 THE COMMISSION IS SUBJECT TO JUDICIAL REVIEW BY THE COURT OF  
24 APPEALS AND IS SUBJECT TO THE PROVISIONS OF SECTION 24-4-106.

25 (d) IN CONDUCTING SETTLEMENT DISCUSSIONS WITH A  
26 LANDOWNER, THE DIRECTOR AND THE COMMISSION MAY COMPROMISE ON  
27 ANY OF THE DEFICIENCIES IDENTIFIED IN THE APPLICATION AND  
28 SUPPORTING DOCUMENTATION, INCLUDING THE DOLLAR AMOUNT OF THE  
29 TAX CREDIT CERTIFICATE TO BE ISSUED. THE DIRECTOR SHALL PLACE ON  
30 FILE IN THE DIVISION A RECORD OF ANY COMPROMISE AND THE REASONS  
31 FOR THE COMPROMISE.

32 (e) THE DIRECTOR MAY PROMULGATE RULES PURSUANT TO  
33 ARTICLE 4 OF TITLE 24 TO EFFECTUATE THE PURPOSES OF THIS SUBSECTION  
34 (12).

35 (13) (a) COMMENCING WITH THE 2014 CALENDAR YEAR, AND FOR  
36 EACH CALENDAR YEAR THEREAFTER, THE DIVISION SHALL CREATE A  
37 REPORT, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC, CONTAINING  
38 THE FOLLOWING AGGREGATE INFORMATION:

39 (I) THE TOTAL NUMBER OF TAX CREDIT CERTIFICATE APPLICATIONS  
40 RECEIVED, APPROVED, AND DENIED IN ACCORDANCE WITH THIS SECTION,  
41 ALONG WITH AVERAGE PROCESSING TIMES;

42 (II) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS  
43 SECTION:

1 (A) THE TOTAL ACREAGE UNDER EASEMENT SUMMARIZED BY THE  
2 ALLOWABLE CONSERVATION PURPOSES AS DEFINED IN SECTION 170 (h) OF  
3 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND  
4 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH  
5 SECTION;

6 (B) THE TOTAL APPRAISED VALUE OF THE EASEMENTS;

7 (C) THE TOTAL DONATED VALUE OF THE EASEMENTS; AND

8 (D) THE TOTAL DOLLAR AMOUNT OF TAX CREDIT CERTIFICATES  
9 ISSUED.

10 (b) THE DIVISION MAY INCLUDE ADDITIONAL EASEMENT-SPECIFIC  
11 INFORMATION IN THE PUBLIC REPORT THAT, NOTWITHSTANDING THE  
12 PROVISIONS OF THIS PART 11 OR ANY OTHER LAW TO THE CONTRARY,  
13 WOULD OTHERWISE BE PUBLICLY AVAILABLE.

14 (c) THE COMMISSIONER IS AUTHORIZED TO SHARE PUBLICLY  
15 AVAILABLE INFORMATION REGARDING CONSERVATION EASEMENTS WITH  
16 A THIRD-PARTY VENDOR FOR THE PURPOSE OF DEVELOPING AND  
17 MAINTAINING A REGISTRY OF CONSERVATION EASEMENTS IN THE STATE  
18 WITH A CORRESPONDING MAP DISPLAYING THE BOUNDARIES OF EACH  
19 EASEMENT IN THE STATE RELATIVE TO COUNTY BOUNDARIES AND OTHER  
20 RELEVANT MAPPING INFORMATION. PRIOR TO SHARING THE INFORMATION,  
21 THE COMMISSIONER SHALL CONSULT WITH THE COMMISSION REGARDING  
22 THE APPROPRIATE TYPES OF INFORMATION AND THE METHODS USED FOR  
23 COLLECTING THE INFORMATION. THE DEPARTMENT OF REGULATORY  
24 AGENCIES SHALL ANNUALLY REPORT ON THE INFORMATION CONTAINED IN  
25 THE REGISTRY AS A PART OF ITS PRESENTATION TO ITS COMMITTEE OF  
26 REFERENCE AT A HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF  
27 THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND  
28 TRANSPARENT (SMART) GOVERNMENT ACT". THE INFORMATION TO BE  
29 SHARED SHALL INCLUDE THE FOLLOWING:

30 (I) ANY DEEDS, CONTRACTS, OR OTHER INSTRUMENTS CREATING,  
31 ASSIGNING, TRANSFERRING, CONVEYING, TERMINATING, OR OTHERWISE  
32 AFFECTING THE EASEMENT, INCLUDING THE RECEPTION NUMBERS ON ALL  
33 INSTRUMENTS;

34 (II) THE LOCATION AND ACREAGE OF EACH EASEMENT,  
35 DELINEATED BY COUNTY;

36 (III) THE NAMES AND ADDRESSES OF ANY GRANTORS OF THE  
37 EASEMENT AND THE NAMES AND ADDRESSES OF ANY HOLDERS OF THE  
38 EASEMENT SINCE ITS CREATION;

39 (IV) WHETHER THE HOLDER OF THE EASEMENT IS A CERTIFIED  
40 ORGANIZATION PURSUANT TO SECTION 12-61-724;

41 (V) THE CONSERVATION PURPOSES OF THE EASEMENT; AND

42 (VI) THE AMOUNT OF ANY INCOME TAX CREDITS CLAIMED OR  
43 ALLOWED FOR THE EASEMENT AND THE AMOUNT OF ANY SUCH CREDITS

1 THAT WERE TRANSFERRED TO ANOTHER TAXPAYER PURSUANT TO SECTION  
2 39-22-522.

3 (14) (a) IN ADDITION TO THE TAX CREDIT CERTIFICATE  
4 APPLICATION PROCESS SET FORTH IN THIS SECTION, A LANDOWNER MAY  
5 SUBMIT A PROPOSED CONSERVATION EASEMENT DONATION TO THE  
6 DIVISION TO OBTAIN AN OPTIONAL PRELIMINARY ADVISORY OPINION  
7 REGARDING THE TRANSACTION. THE OPINION MAY ADDRESS THE  
8 PROPOSED DEED OF CONSERVATION EASEMENT, APPRAISAL,  
9 CONSERVATION PURPOSE, OR OTHER RELEVANT ASPECT OF THE  
10 TRANSACTION.

11 (b) THE DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL  
12 REVIEW THE INFORMATION AND DOCUMENTATION PROVIDED IN A MANNER  
13 CONSISTENT WITH THE SCOPE OF THEIR AUTHORITY AND RESPONSIBILITIES  
14 FOR REVIEWING TAX CREDIT CERTIFICATE APPLICATIONS AS OUTLINED IN  
15 SUBSECTION (3) OF THIS SECTION AND ISSUE EITHER A FAVORABLE OPINION  
16 OR A NONFAVORABLE OPINION.

17 (c) THE DIRECTOR OR THE COMMISSION MAY REQUEST THAT THE  
18 LANDOWNER SUBMIT ADDITIONAL INFORMATION OR DOCUMENTATION  
19 THAT THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO  
20 COMPLETE THE REVIEW AND ISSUE AN OPINION.

21 (d) A NONFAVORABLE OPINION SHALL SET FORTH ANY POTENTIAL  
22 DEFICIENCIES IDENTIFIED BY THE DIRECTOR OR THE COMMISSION AND  
23 THAT FALL WITHIN THE SCOPE OF THE DIRECTOR'S AND THE COMMISSION'S  
24 REVIEW OF THE CONSERVATION EASEMENT TRANSACTION. THE  
25 PRELIMINARY OPINION IS ADVISORY ONLY AND IS NOT BINDING FOR ANY  
26 PURPOSE UPON THE DIVISION, THE DIRECTOR, THE COMMISSION, OR THE  
27 DEPARTMENT OF REVENUE.

28 (15) THE DIVISION MAY PROMULGATE RULES TO EFFECTUATE THE  
29 PURPOSE, IMPLEMENTATION, AND ADMINISTRATION OF THIS SECTION  
30 PURSUANT TO ARTICLE 4 OF TITLE 24. THE AUTHORITY TO PROMULGATE  
31 RULES INCLUDES THE AUTHORITY TO DEFINE FURTHER IN RULE THE  
32 ADMINISTRATIVE PROCESSES AND REQUIREMENTS, INCLUDING  
33 APPLICATION PROCESSING AND REVIEW TIME FRAMES, FOR OBTAINING AND  
34 ISSUING AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO  
35 SUBSECTION (14) OF THIS SECTION.

36 (16) NOTWITHSTANDING THE PROVISIONS OF THE "COLORADO  
37 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, THE DIVISION,  
38 THE DIRECTOR, AND THE COMMISSION SHALL DENY THE RIGHT OF PUBLIC  
39 INSPECTION OF ANY DOCUMENTATION OR OTHER RECORD RELATED TO  
40 INFORMATION OBTAINED AS PART OF AN INDIVIDUAL LANDOWNER'S  
41 APPLICATION FOR A TAX CREDIT CERTIFICATE OR AN OPTIONAL  
42 PRELIMINARY ADVISORY OPINION PURSUANT TO THE REQUIREMENTS OF  
43 THIS SECTION, INCLUDING DOCUMENTATION OR OTHER RECORDS RELATED

1 TO ADMINISTRATIVE HEARINGS AND SETTLEMENT DISCUSSIONS HELD  
2 PURSUANT TO SUBSECTION (12) OF THIS SECTION. THE DIVISION, THE  
3 DIRECTOR, AND THE COMMISSION MAY SHARE DOCUMENTATION OR OTHER  
4 RECORDS RELATED TO INFORMATION OBTAINED PURSUANT TO THIS  
5 SECTION WITH THE DEPARTMENT OF REVENUE.

6 (17) NOTHING IN THIS SECTION AFFECTS ANY TAX CREDIT THAT IS  
7 CLAIMED OR USED PURSUANT TO SECTION 39-22-522 FOR CONSERVATION  
8 EASEMENT DONATIONS OCCURRING PRIOR TO JANUARY 1, 2014.

9 **12-61-1107. Conservation cash fund - repeal.** (1) THERE IS  
10 HEREBY CREATED IN THE STATE TREASURY THE CONSERVATION CASH  
11 FUND, WHICH CONSISTS OF ANY MONEYS TRANSFERRED PURSUANT TO  
12 SECTION 12-61-1104 AND 12-61-1106 AND ANY GIFTS, GRANTS, AND  
13 DONATIONS PROVIDED TO CARRY OUT THE PURPOSES OF THIS PART 11. ALL  
14 MONEY IN THE FUND SHALL BE USED AS PROVIDED IN THIS PART 11.  
15 INTEREST EARNED ON THE FUND SHALL REMAIN IN THE FUND AND SHALL  
16 NOT BE DEPOSITED IN OR TRANSFERRED TO THE GENERAL FUND OR ANY  
17 OTHER FUND.

18 (2) ON JULY 1, 2018, THE STATE TREASURER SHALL TRANSFER TO  
19 THE CONSERVATION CASH FUND ANY MONEYS IN THE DIVISION OF REAL  
20 ESTATE CASH FUND CREATED IN THE SECTION 12-61-111.5 THAT ARE  
21 ATTRIBUTABLE TO ANY FEES, GIFTS, GRANTS, OR DONATIONS CREDITED TO  
22 THE DIVISION OF REAL ESTATE CASH FUND IN ACCORDANCE WITH SECTION  
23 12-61-724 (3) OR SECTION 12-61-727 THAT ARE IN THE FUND  
24 IMMEDIATELY PRIOR TO THE REPEAL OF SECTIONS 12-61-724 AND  
25 12-61-727. THIS SUBSECTION (2) IS REPEALED EFFECTIVE JULY 1, 2019.

26 **SECTION 2.** In Colorado Revised Statutes, 12-61-111.5, **repeal**  
27 (2)(b)(II)(A) as follows:

28 **12-61-111.5. Fee adjustments - cash fund created - repeal.**

29 (2) (b) (II) (A) ~~On June 30, 2017, the state treasurer shall transfer to the~~  
30 ~~division of real estate cash fund all unexpended and unencumbered~~  
31 ~~money that remained in the HOA information and resource center cash~~  
32 ~~fund created in section 12-61-406.5, the conservation easement holder~~  
33 ~~certification fund created in section 12-61-724, the conservation easement~~  
34 ~~tax credit certificate review fund created in section 12-61-727, and the~~  
35 ~~mortgage company and loan originator licensing cash fund created in~~  
36 ~~section 12-61-908 immediately prior to the repeal of those funds.~~

37 **SECTION 3.** In Colorado Revised Statutes, 12-61-702, **repeal** (5)  
38 as follows:

39 **12-61-702. Definitions.** As used in this part 7, unless the context  
40 otherwise requires:

41 (5) ~~"Commission" means the conservation easement oversight~~  
42 ~~commission created in section 12-61-725 (1).~~

43 **SECTION 4.** In Colorado Revised Statutes, 12-61-704, **amend**



1 (1)(k) as follows:

2 **12-61-704. Powers and duties of the board - rules.** (1) In  
3 addition to all other powers and duties imposed upon it by law, the board  
4 has the following powers and duties:

5 (k) To establish classroom education and experience requirements  
6 for an appraiser who prepares an appraisal for a conservation easement  
7 for which a tax credit is claimed pursuant to section 39-22-522, ~~C.R.S.~~  
8 The requirements must ensure that appraisers have a sufficient amount of  
9 training and expertise to accurately prepare appraisals that comply with  
10 the uniform standards of professional appraisal practice and any other  
11 provision of law related to the appraisal of conservation easements for  
12 which a tax credit is claimed. A tax credit certificate for a conservation  
13 easement shall not be given in accordance with ~~sections 12-61-726 and~~  
14 ~~12-61-727~~ SECTIONS 12-61-1105 AND 12-61-1106 unless the appraiser  
15 who prepared the appraisal of the easement met all requirements  
16 established in accordance with this ~~paragraph (k)~~ SUBSECTION (1)(k) in  
17 effect at the time the appraisal was completed ASSIGNMENT IS  
18 PERFORMED.

19 **SECTION 5.** In Colorado Revised Statutes, 39-21-113, amend  
20 (17) as follows:

21 **39-21-113. Reports and returns - rule.** (17) Notwithstanding  
22 any other provision of this section, the executive director may require that  
23 such detailed information regarding a claim for a credit for the donation  
24 of a conservation easement in gross pursuant to section 39-22-522 and  
25 any appraisal submitted in support of the credit claimed be given to the  
26 division of ~~real estate~~ CONSERVATION in the department of regulatory  
27 agencies and the conservation easement oversight commission created  
28 pursuant to ~~section 12-61-725 (1), C.R.S.,~~ SECTION 12-61-1103 as the  
29 executive director determines is necessary in the performance of the  
30 department's functions relating to the credit. The executive director may  
31 provide copies of any appraisal and may file a complaint regarding any  
32 appraisal as authorized pursuant to section 39-22-522 (3.3).  
33 Notwithstanding ~~the provisions of~~ part 2 of article 72 of title 24, ~~C.R.S.,~~  
34 in order to protect the confidential financial information of a taxpayer, the  
35 executive director shall deny the right to inspect any information or  
36 appraisal required in accordance with ~~the provisions of~~ this subsection  
37 (17).

38 **SECTION 6.** In Colorado Revised Statutes, 39-22-522, amend  
39 (2)(b), (2.5), (2.7), (3)(f) introductory portion, (3.5)(a)(I), (3.5)(a)(II),  
40 (3.5)(b), (3.6)(a)(I), (3.6)(b), and (7)(g), and add (3.5)(c) as follows:

41 **39-22-522. Credit against tax - conservation easements.**  
42 (2) (b) For income tax years commencing on or after January 1, 2014,  
43 BUT PRIOR TO JANUARY 1, 2019, AND FOR INCOME TAX YEARS

1 COMMENCING ON OR AFTER JANUARY 1, 2022, and, with regard to any  
2 credit over the amount of one hundred thousand dollars, for income tax  
3 years commencing on or after January 1, 2003, subject to ~~the provisions~~  
4 ~~of~~ subsections (4) and (6) of this section, there shall be allowed a credit  
5 with respect to the income taxes imposed by this ~~article~~ ARTICLE 22 to  
6 each taxpayer who donates during the taxable year all or part of the value  
7 of a perpetual conservation easement in gross created pursuant to article  
8 30.5 of title 38 ~~C.R.S.~~, upon real property the taxpayer owns to a  
9 governmental entity or a charitable organization described in section  
10 38-30.5-104 (2). ~~C.R.S.~~ The credit shall only be allowed for a donation  
11 that meets the requirements of section 170 of the federal "Internal  
12 Revenue Code of 1986", as amended, and any federal regulations  
13 promulgated in accordance with such section. The amount of the credit  
14 shall not include the value of any portion of an easement on real property  
15 located in another state.

16 (2.5) Notwithstanding any other provision of this section and the  
17 requirements of ~~section 12-61-727, C.R.S.~~ SECTION 12-61-1106, for  
18 income tax years commencing on or after January 1, 2011, a taxpayer  
19 conveying a conservation easement and claiming a credit pursuant to this  
20 section shall, in addition to any other requirements of this section and the  
21 requirements of ~~section 12-61-727, C.R.S.~~ SECTION 12-61-1106, submit  
22 a claim for the credit to the division of ~~real estate~~ CONSERVATION in the  
23 department of regulatory agencies. The division shall issue a certificate  
24 for the claims received in the order submitted. After certificates have  
25 been issued for credits that exceed an aggregate of twenty-two million  
26 dollars for all taxpayers for the 2011 and 2012 calendar years, thirty-four  
27 million dollars for the 2013 calendar year, and forty-five million dollars  
28 for each calendar year thereafter, any claims that exceed the amount  
29 allowed for a specified calendar year shall be placed on a wait list in the  
30 order submitted and a certificate shall be issued for use of the credit in the  
31 next year for which the division has not issued credit certificates in excess  
32 of the amounts specified in this subsection (2.5); except that no more than  
33 fifteen million dollars in claims shall be placed on the wait list in any  
34 given calendar year. The division shall not issue credit certificates that  
35 exceed twenty-two million dollars in each of the 2011 and 2012 calendar  
36 years, thirty-four million dollars for the 2013 calendar year, and forty-five  
37 million dollars for each calendar year thereafter. No claim for a credit is  
38 allowed for any income tax year commencing on or after January 1, 2011,  
39 unless a certificate has been issued by the division. If all other  
40 requirements under ~~section 12-61-727, C.R.S.~~ SECTION 12-61-1106 and  
41 this section are met, the right to claim the credit is vested in the taxpayer  
42 at the time a credit certificate is issued.

43 (2.7) Notwithstanding any other provision, for income tax years

1 commencing on or after January 1, 2014, no claim for a credit shall be  
2 allowed unless a tax credit certificate is issued by the division of real  
3 estate CONSERVATION in accordance with ~~sections 12-61-726 and~~  
4 ~~12-61-727, C.R.S.,~~ SECTIONS 12-61-1105 AND 12-61-1106 and the  
5 taxpayer files the tax credit certificate with the income tax return filed  
6 with the department of revenue.

7 (3) For conservation easements donated prior to January 1, 2014,  
8 in order for any taxpayer to qualify for the credit provided for in  
9 subsection (2) of this section, the taxpayer shall submit the following in  
10 a form approved by the executive director to the department of revenue  
11 at the same time as the taxpayer files a return for the taxable year in  
12 which the credit is claimed:

13 (f) If the holder of the conservation easement is an organization  
14 to which the certification program in ~~section 12-61-724~~ SECTION  
15 12-61-1104 applies, a sworn affidavit from the holder of the conservation  
16 easement in gross that includes the following:

17 (3.5) (a) For conservation easements donated prior to January 1,  
18 2014:

19 (I) The executive director shall have the authority, pursuant to  
20 subsection (8) of this section, to require additional information from the  
21 taxpayer or transferee regarding the appraisal value of the easement, the  
22 amount of the credit, and the validity of the credit. In resolving disputes  
23 regarding the validity or the amount of a credit allowed pursuant to  
24 subsection (2) of this section, including the value of the conservation  
25 easement for which the credit is granted, the executive director shall have  
26 the authority, for good cause shown and in consultation with the division  
27 of ~~real estate~~ CONSERVATION and the conservation easement oversight  
28 commission created in ~~section 12-61-725 (1), C.R.S.,~~ SUBSECTION  
29 12-61-1103 (1) to review and accept or reject, in whole or in part, the  
30 appraisal value of the easement, the amount of the credit, and the validity  
31 of the credit based upon the internal revenue code and federal regulations  
32 in effect at the time of the donation. If the executive director reasonably  
33 believes that the appraisal represents a gross valuation misstatement,  
34 receives notice of such a valuation misstatement from the division of real  
35 estate, or receives notice from the division of real estate that an  
36 enforcement action has been taken by the board of real estate appraisers  
37 against the appraiser, the executive director shall have the authority to  
38 require the taxpayer to provide a second appraisal at the expense of the  
39 taxpayer. The second appraisal shall be conducted by a certified general  
40 appraiser in good standing and not affiliated with the first appraiser that  
41 meets qualifications established by the division of real estate. In the event  
42 the executive director rejects, in whole or in part, the appraisal value of  
43 the easement, the amount of the credit, or the validity of the credit, the

1 procedures described in sections 39-21-103, 39-21-104, 39-21-104.5, and  
2 39-21-105 shall apply.

3 (II) In consultation with the division of ~~real estate~~ CONSERVATION  
4 and the conservation easement oversight commission created in ~~section~~  
5 ~~12-61-725 (1), C.R.S.~~ SECTION 12-61-1103 (1), the executive director  
6 shall develop and implement a separate process for the review by the  
7 department of revenue of gross conservation easements. The review  
8 process shall be consistent with the statutory obligations of the division  
9 and the commission and shall address gross conservation easements for  
10 which the department of revenue has been informed that an audit is being  
11 performed by the internal revenue service. The executive director shall  
12 share information used in the review of gross conservation easements  
13 with the division. Notwithstanding part 2 of article 72 of title 24, ~~C.R.S.~~,  
14 in order to protect the confidential financial information of a taxpayer, the  
15 division and the commission shall deny the right to inspect any  
16 information provided by the executive director in accordance with this  
17 ~~subparagraph~~ (II) SUBSECTION (3.5)(a)(II).

18 (b) For conservation easements donated on or after January 1,  
19 2014, and subject to the restrictions of ~~section 12-61-727 (4), C.R.S.~~  
20 SECTION 12-61-1106 (4), the executive director shall have the authority,  
21 pursuant to subsection (8) of this section, to require additional  
22 information from the taxpayer or transferee regarding the amount of the  
23 credit and the validity of the credit. In resolving disputes regarding the  
24 validity or the amount of a credit allowed pursuant to subsection (2) of  
25 this section, the executive director shall have the authority, for good cause  
26 shown, to review and accept or reject, in whole or in part, the amount of  
27 the credit and the validity of the credit based upon the internal revenue  
28 code and federal regulations in effect at the time of the donation, except  
29 those requirements for which authority is granted to the division of ~~real~~  
30 ~~estate~~ CONSERVATION, the director of the division of ~~real estate~~  
31 CONSERVATION, or the conservation easement oversight commission  
32 pursuant to ~~section 12-61-727, C.R.S.~~ SECTION 12-61-1106.

33 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
34 FOR ANY CONSERVATION EASEMENT IN GROSS DONATED FOR ANY TAX  
35 YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, FOR WHICH A CREDIT  
36 CLAIMED PURSUANT TO THIS SECTION WAS SUBSEQUENTLY DENIED IN  
37 WHOLE OR IN PART BECAUSE THE APPRAISED VALUE OF THE EASEMENT  
38 WAS DETERMINED BY THE STATE TO BE TOO HIGH, THE TAXPAYER MAY  
39 ELECT IN ANY SUBSEQUENT TAX YEAR TO AMEND THE RETURN FOR SUCH  
40 TAX YEAR AND NOT CLAIM THE CREDIT. UPON AMENDING A RETURN AND  
41 REPAYING TO THE STATE THE AMOUNT, IF ANY, ALLOWED BY THE STATE  
42 AND CLAIMED BY THE TAXPAYER FOR SUCH TAX YEAR, THE TAXPAYER  
43 SHALL BE ENTITLED TO REPAYMENT FROM THE STATE OF THE FULL

1 AMOUNT OF ANY INTEREST OR PENALTIES PAID BY OR ON BEHALF OF THE  
2 TAXPAYER TO THE STATE IN CONNECTION WITH THE DENIAL OF THE  
3 ORIGINAL CLAIM FOR THE CREDIT.

4 (3.6) For conservation easements donated on or after January 1,  
5 2014, in order for any taxpayer to qualify for the credit provided for in  
6 subsection (2) of this section, the taxpayer must submit the following in  
7 a form, approved by the executive director, to the department of revenue  
8 at the same time as the taxpayer files a return for the taxable year in  
9 which the credit is claimed:

10 (a) (I) A tax credit certificate issued under ~~section 12-61-727,~~  
11 ~~C.R.S.~~ SECTION 12-61-1106; and

12 (b) Notwithstanding any other provisions of law, the executive  
13 director retains the authority to administer all issues related to the claim  
14 or use of a tax credit for the donation of a conservation easement that are  
15 not granted to the director of the division of ~~real estate~~ CONSERVATION or  
16 the conservation easement oversight commission under ~~section~~  
17 ~~12-61-727, C.R.S.~~ SECTION 12-61-1106.

18 (7) For income tax years commencing on or after January 1, 2000,  
19 a taxpayer may transfer all or a portion of a tax credit granted pursuant to  
20 subsection (2) of this section to another taxpayer for such other taxpayer,  
21 as transferee, to apply as a credit against the taxes imposed by this article  
22 subject to the following limitations:

23 (g) A transferee of a tax credit shall purchase the credit prior to  
24 the due date imposed by this article, ~~not~~ including any extensions, for  
25 filing the transferee's income tax return;

26 **SECTION 7.** In Colorado Revised Statutes, 39-22-522.5, **repeal**  
27 (8) as follows:

28 **39-22-522.5. Conservation easement tax credits - dispute**  
29 **resolution - legislative declaration.** (8) ~~On or before August 1, 2011,~~  
30 ~~the conservation easement oversight commission created in section~~  
31 ~~12-61-725 (1), C.R.S., shall review conservation easements for which a~~  
32 ~~tax credit is claimed pursuant to sections 39-22-522 (3.5)(a) and~~  
33 ~~12-61-725 (3), C.R.S., and for which a notice of deficiency, notice of~~  
34 ~~rejection of refund claim, or notice of disallowance issued on or before~~  
35 ~~May 1, 2011, but for which a final determination has not been issued~~  
36 ~~before May 19, 2011, and for which the commission has not already~~  
37 ~~reviewed the credit. For each conservation easement tax credit claim so~~  
38 ~~reviewed, the commission shall issue an initial recommendation to the~~  
39 ~~executive director on whether each credit claimed by a taxpayer who is~~  
40 ~~eligible to waive a hearing and appeal a notice of deficiency, notice of~~  
41 ~~rejection of refund claim, or notice of disallowance may be denied or~~  
42 ~~accepted. No other information shall be required of the commission on or~~  
43 ~~before such date.~~

1           **SECTION 8.** In Colorado Revised Statutes, 24-1-122, **add** (2)(1)  
2 as follows:

3           **24-1-122. Department of regulatory agencies - creation.**  
4 (2) The department of regulatory agencies shall consist of the following  
5 divisions:

6           (1) DIVISION OF CONSERVATION, THE HEAD OF WHICH IS THE  
7 DIRECTOR OF THE DIVISION. THE DIVISION OF CONSERVATION AND THE  
8 DIRECTOR OF THE DIVISION, CREATED BY PART 11 OF ARTICLE 61 OF TITLE  
9 12, SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND  
10 FUNCTIONS UNDER THE DEPARTMENT OF REGULATORY AGENCIES AS IF  
11 THEY WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER.  
12 THE CONSERVATION EASEMENT OVERSIGHT COMMISSION, CREATED BY  
13 SECTION 12-61-1103, AND ITS POWERS, DUTIES, AND FUNCTIONS ARE  
14 TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF  
15 REGULATORY AGENCIES AND ALLOCATED TO THE DIVISION OF  
16 CONSERVATION.

17           **SECTION 9.** In Colorado Revised Statutes, **add** 29-20-110 as  
18 follows:

19           **29-20-110. Conservation easements - public hearing.** (1) ON  
20 AND AFTER THE EFFECTIVE DATE OF THIS SECTION, PRIOR TO CREATING,  
21 MODIFYING THE TERMS OF, OR TRANSFERRING A CONSERVATION  
22 EASEMENT IN GROSS PURSUANT TO ARTICLE 30.5 OF TITLE 38, THE  
23 GOVERNING BODY OF A LOCAL GOVERNMENT WITHIN WHICH THE  
24 PROPERTY IS LOCATED SHALL HOLD A PUBLIC HEARING REGARDING THE  
25 CREATION, MODIFICATION, OR TRANSFER OF THE EASEMENT AS PROVIDED  
26 IN THIS SECTION. IF THE PROPERTY IS LOCATED ENTIRELY WITHIN THE  
27 UNINCORPORATED PORTION OF ONE OR MORE COUNTIES, THE BOARD OF  
28 COUNTY COMMISSIONERS OF THE COUNTY WITH THE GREATEST PORTION  
29 OF THE PROPERTY SHALL HOLD THE HEARING. IF THE PROPERTY IS  
30 LOCATED IN WHOLE OR IN PART WITHIN ONE OR MORE MUNICIPALITIES, THE  
31 GOVERNING BODY OF THE MUNICIPALITY WITH THE GREATEST PORTION OF  
32 THE PROPERTY SHALL HOLD THE HEARING.

33           (2) AT LEAST FOURTEEN DAYS' NOTICE OF THE TIME AND PLACE OF  
34 A HEARING REQUIRED BY THIS SECTION SHALL BE GIVEN BY AT LEAST ONE  
35 PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE  
36 LOCAL GOVERNMENT. THE NOTICE SHALL DISCLOSE THE LOCATION,  
37 ACREAGE, NAME OF THE GRANTOR, NAME OF THE HOLDER, AND  
38 CONSERVATION PURPOSES OF THE CONSERVATION EASEMENT AND SPECIFY  
39 THE AMOUNT OF ANY PUBLIC MONEY USED OR TAX CREDITS THAT WILL BE  
40 CLAIMED IN CONNECTION WITH THE EASEMENT. THE GRANTOR AND  
41 HOLDER OF THE CONSERVATION EASEMENT SHALL BE ALLOWED TO  
42 PRESENT INFORMATION ABOUT THE CONSERVATION EASEMENT AND PUBLIC  
43 TESTIMONY SHALL BE ALLOWED AT THE HEARING. THE PURPOSE OF THE

1 HEARING IS TO PROVIDE PUBLIC NOTICE REGARDING THE EASEMENT, AND  
2 THE GOVERNING BODY OF THE LOCAL GOVERNMENT NEED NOT TAKE ANY  
3 SPECIFIC ACTION WITH RESPECT TO THE PROPOSED CREATION,  
4 MODIFICATION, OR TRANSFER. IF A LOCAL GOVERNMENT HAS AN EXISTING  
5 APPROVAL PROCESS FOR CONSERVATION EASEMENTS, THE HEARING  
6 REQUIRED BY THIS SECTION MAY BE CONDUCTED IN CONJUNCTION WITH  
7 ANY OTHER HEARING REQUIRED BY PROCESS AS LONG AS THE HEARING  
8 OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

9 **SECTION 10.** In Colorado Revised Statutes, **amend 38-30.5-107**  
10 as follows:

11 **38-30.5-107. Release - termination.** (1) Conservation easements  
12 in gross may, in whole or in part, be released, terminated, extinguished,  
13 or abandoned by merger with the underlying fee interest in the servient  
14 land or water rights or in any other manner in which easements may be  
15 lawfully terminated, released, extinguished, or abandoned. FOR  
16 EASEMENTS CREATED ON OR AFTER JANUARY 1, 2019, IF A CONSERVATION  
17 EASEMENT IS ORPHANED OR NEGLECTED, THE LANDOWNER MAY PETITION  
18 THE DISTRICT COURT OF THE COUNTY IN WHICH THE PROPERTY IS SITUATED  
19 TO REQUEST A TRANSFER OF THE EASEMENT TO ANOTHER HOLDER OR FOR  
20 AN ORDER THAT THE ABANDONMENT OR NEGLECT OF THE CONSERVATION  
21 EASEMENT HAS RESULTED IN CIRCUMSTANCES WHICH MAKE THE  
22 CONTINUED USE OF THE PROPERTY FOR CONSERVATION PURPOSES  
23 IMPOSSIBLE OR IMPRACTICABLE. THE PETITION TO THE DISTRICT COURT  
24 SHALL ALSO BE SERVED ON THE ATTORNEY GENERAL AND THE ATTORNEY  
25 GENERAL SHALL BE ENTITLED TO BE HEARD.

26 (2) IN ADDITION TO THE METHODS SET FORTH IN SUBSECTION (1)  
27 OF THIS SECTION, A COURT EXERCISING ITS EQUITABLE JURISDICTION MAY  
28 TERMINATE A CONSERVATION EASEMENT IN GROSS CREATED FOR THE  
29 PURPOSE OF CLAIMING A STATE INCOME TAX CREDIT PURSUANT TO  
30 SECTION 39-22-522, IF:

31 (a) THE STATE HAS REJECTED THE CLAIM FOR THE CREDIT OR THE  
32 TAXPAYER HAS ELECTED NOT TO CLAIM THE CREDIT PURSUANT TO SECTION  
33 39-22-522 (5)(c);

34 (b) THE EASEMENT HAS BEEN APPRAISED TO HAVE NO VALUE OR  
35 NO MORE THAN A NOMINAL DOLLAR VALUE; AND

36 (c) THE HOLDER OF THE EASEMENT EITHER PROVIDED NO  
37 COMPENSATION FOR THE EASEMENT OR HAS BEEN REIMBURSED IN WHOLE  
38 FOR ANY COMPENSATION PROVIDED.

39 (3) THE DIVISION OF CONSERVATION SHALL DEVELOP A WRITTEN  
40 FORM TO WARN LANDOWNERS WHO HAVE CONSERVATION EASEMENTS ON  
41 THEIR PROPERTY OF THE LEGAL AND OTHER CONSEQUENCES OF  
42 RELEASING, TERMINATING, OR EXTINGUISHING A CONSERVATION  
43 EASEMENT. THE FORM SHALL INCLUDE A WARNING OF THE POTENTIAL

1 FEDERAL TAX CONSEQUENCES, POTENTIAL LEGAL CLAIMS BY EASEMENT  
2 HOLDERS AND OTHER PARTIES FOR BREACH OF CONTRACT, POTENTIAL  
3 FINANCIAL EXPENSE, AND SUCH OTHER INFORMATION AS THE DIVISION  
4 FINDS APPROPRIATE TO HELP A LANDOWNER MAKE AN INFORMED DECISION  
5 AND PROTECT HIS OR HER INTERESTS PRIOR TO RELEASING, TERMINATING,  
6 OR EXTINGUISHING AN EASEMENT. PRIOR TO RELEASING, TERMINATING, OR  
7 EXTINGUISHING A CONSERVATION EASEMENT, A LANDOWNER SHALL  
8 NOTIFY THE DIVISION OF CONSERVATION OF THE LANDOWNER'S INTENT TO  
9 RELEASE, TERMINATE, OR EXTINGUISH THE EASEMENT. UPON RECEIVING  
10 A NOTIFICATION PURSUANT TO THIS SUBSECTION (3), THE DIVISION OF  
11 CONSERVATION SHALL PROVIDE A WRITTEN WARNING TO THE LANDOWNER  
12 SETTING FORTH THE POTENTIAL LEGAL CONSEQUENCES OF RELEASING,  
13 TERMINATING, OR EXTINGUISHING AN EASEMENT. THE DIVISION OF  
14 CONSERVATION CREATED IN SECTION 12-61-1102 SHALL DEVELOP A  
15 NOTICE TO BE PROVIDED TO ANY LANDOWNER ATTEMPTING TO RELEASE,  
16 TERMINATE, OR EXTINGUISH A CONSERVATION EASEMENT.

17 **SECTION 11.** In Colorado Revised Statutes, 24-34-104, **repeal**  
18 (14)(a)(II); and **add** (26)(a)(VIII) and (26)(a)(IX) as follows:

19 **24-34-104. General assembly review of regulatory agencies**  
20 **and functions for repeal, continuation, or reestablishment - legislative**  
21 **declaration - repeal.** (14) (a) The following agencies, functions, or both,  
22 are scheduled for repeal on July 1, 2018:

23 (II) ~~The conservation easement oversight commission created in~~  
24 ~~section 12-61-725, C.R.S.;~~

25 (26) (a) The following agencies, functions, or both, are scheduled  
26 for repeal on September 1, 2025:

27 (VIII) THE CONSERVATION EASEMENT OVERSIGHT COMMISSION  
28 CREATED IN SECTION 12-61-1103; AND

29 (IX) THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS  
30 BY THE CONSERVATION EASEMENT OVERSIGHT COMMISSION AS PROVIDED  
31 FOR IN SECTION 12-61-1104.

32 **SECTION 12.** In Colorado Revised Statutes, **repeal** 12-61-724,  
33 12-61-725, 12-61-726, and 12-61-727.

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

\*\* \*\* \*\* \*\* \*\*