

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

May 4, 2018
Date

Committee on Finance.

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

HB18-1291 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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

1 WAS DESIGNED TO GIVE LANDOWNERS AN INCENTIVE TO CONSERVE AND
2 PRESERVE THEIR LAND IN A PREDOMINANTLY NATURAL, SCENIC, OR OPEN
3 CONDITION;

4 (d) CREATING A DIVISION OF CONSERVATION WITHIN THE
5 DEPARTMENT OF REGULATORY AGENCIES WILL KEEP A FIREWALL BETWEEN
6 PROFESSIONAL EVALUATION AND PROFESSIONAL DISCIPLINE, WHILE
7 CREATING A DIVISION TO ENSURE THIS PROGRAM ALLOWS LANDOWNERS
8 TO EXERCISE THEIR PRIVATE PROPERTY RIGHTS WHILE PROTECTING
9 TAXPAYERS FROM THE FRAUD AND ABUSE THAT EXISTED IN THE PROGRAM
10 PRIOR TO 2009;

11 (e) IN RECOGNITION OF THE FRAUD AND ABUSE THAT HAS EXISTED
12 IN THE PROGRAM, IT IS APPROPRIATE TO ALLOW AN EASEMENT TO BE
13 EXTINGUISHED IF THE VALUE OF THE EASEMENT IS REDUCED OR
14 ELIMINATED BY THE STATE IN CONNECTION WITH CLAIMING A TAX CREDIT
15 FOR THE EASEMENT AND THE CREDIT IS DISALLOWED OR ANY AMOUNT
16 ALLOWED IS NOT CLAIMED OR IS REPAID BY A LANDOWNER;

17 (f) ESTABLISHING THE DIVISION OF CONSERVATION TO ADMINISTER
18 THE CONSERVATION EASEMENT TAX CREDIT PROGRAM WILL:

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

23 (II) ALLOW THE CONSERVATION EASEMENT OVERSIGHT
24 COMMISSION TO ADVISE THE DIVISION OF CONSERVATION AND THE
25 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR
26 WHICH A TAX CREDIT IS CLAIMED AND TO REVIEW APPLICATIONS FOR
27 CONSERVATION EASEMENT HOLDER CERTIFICATION; AND

28 (III) ENSURE THAT THE DIVISION OF CONSERVATION AND THE
29 DEPARTMENT OF REVENUE ARE SHARING RELEVANT INFORMATION
30 CONCERNING CONSERVATION EASEMENT APPRAISALS IN ORDER TO ENSURE
31 COMPLIANCE WITH ACCEPTED APPRAISAL PRACTICES AND OTHER
32 PROVISIONS OF LAW.

33 **12-61-1102. Division of conservation - director.** (1) THE
34 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES IS
35 AUTHORIZED BY THIS SECTION TO EMPLOY, SUBJECT TO THE PROVISIONS
36 OF THE STATE PERSONNEL SYSTEM LAWS OF THE STATE, A DIRECTOR OF
37 THE DIVISION OF CONSERVATION, REFERRED TO IN THIS PART 11 AS THE
38 "DIVISION", WHO IN TURN SHALL EMPLOY SUCH DEPUTIES, CLERKS, AND
39 ASSISTANTS AS ARE NECESSARY TO DISCHARGE THE DUTIES IMPOSED BY
40 THIS PART 11. THE DIVISION OF CONSERVATION, WHICH IS A DIVISION IN
41 THE DEPARTMENT OF REGULATORY AGENCIES, AND THE DIRECTOR OF THE

1 DIVISION SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND
2 FUNCTIONS UNDER THE DEPARTMENT OF REGULATORY AGENCIES AS IF
3 THEY WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER.

4 (2) IT IS THE DUTY OF THE DIRECTOR OF THE DIVISION,
5 PERSONALLY OR HIS OR HER DESIGNEE, TO AID IN THE ADMINISTRATION
6 AND ENFORCEMENT OF THIS PART 11 AND TO ADMINISTER, IN
7 CONSULTATION WITH THE CONSERVATION EASEMENT OVERSIGHT
8 COMMISSION, THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS
9 AND ISSUANCE OF TAX CREDIT CERTIFICATES AS PROVIDED IN THIS PART
10 11.

11 **12-61-1103. Conservation easement oversight commission -**
12 **created - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION A
13 CONSERVATION EASEMENT OVERSIGHT COMMISSION. THE COMMISSION
14 SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS
15 UNDER THE DIVISION AS IF TRANSFERRED THERETO BY A **TYPE 2** TRANSFER,
16 AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968",
17 ARTICLE 1 OF TITLE 24. THE COMMISSION CONSISTS OF EIGHT MEMBERS AS
18 FOLLOWS:

19 (a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS
20 COLORADO PROGRAM, APPOINTED BY AND SERVING AS AN ADVISORY,
21 NONVOTING MEMBER AT THE PLEASURE OF THE STATE BOARD OF THE
22 GREAT OUTDOORS COLORADO TRUST FUND ESTABLISHED IN ARTICLE
23 XXVII OF THE STATE CONSTITUTION;

24 (b) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF
25 NATURAL RESOURCES, APPOINTED BY AND SERVING AT THE PLEASURE OF
26 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES;

27 (c) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF
28 AGRICULTURE, APPOINTED BY AND SERVING AT THE PLEASURE OF THE
29 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE;

30 (d) THREE VOTING MEMBERS APPOINTED BY THE GOVERNOR AS
31 FOLLOWS:

32 (I) TWO VOTING REPRESENTATIVES OF CERTIFIED CONSERVATION
33 EASEMENT HOLDERS; AND

34 (II) A VOTING INDIVIDUAL WHO IS COMPETENT AND QUALIFIED TO
35 ANALYZE THE CONSERVATION PURPOSE OF CONSERVATION EASEMENTS;
36 AND

37 (e) TWO VOTING MEMBERS OF THE GENERAL PUBLIC, ONE
38 APPOINTED BY THE PRESIDENT OF THE SENATE TO SERVE AT THE PLEASURE
39 OF THE PRESIDENT AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF
40 REPRESENTATIVES TO SERVE AT THE PLEASURE OF THE SPEAKER.

41 (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE

1 GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE
2 COMMISSION APPOINTED PURSUANT TO SUBSECTIONS (1)(a) THROUGH
3 (1)(c) OF THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS
4 REPRESENTING THE PARTICULAR INTEREST OR AREA OF EXPERTISE THAT
5 THE APPOINTEES IN SUBSECTIONS (1)(d)(I) AND (1)(d)(II) OF THIS SECTION
6 REPRESENT. NOT MORE THAN TWO OF THE GOVERNOR'S APPOINTEES
7 SERVING AT THE SAME TIME SHALL BE FROM THE SAME POLITICAL PARTY.
8 IN MAKING THE INITIAL APPOINTMENTS, THE GOVERNOR SHALL APPOINT
9 ONE MEMBER FOR A TERM OF TWO YEARS. ALL OTHER APPOINTMENTS BY
10 THE GOVERNOR ARE FOR TERMS OF THREE YEARS. NO MEMBER SHALL
11 SERVE MORE THAN TWO CONSECUTIVE TERMS. IN THE EVENT OF A
12 VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE, THE
13 GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM. THE
14 GOVERNOR MAY REMOVE ANY MEMBER FOR MISCONDUCT, NEGLIGENCE OF
15 DUTY, OR INCOMPETENCE.

16 (3) (a) AT THE REQUEST OF THE DIVISION OR THE DEPARTMENT OF
17 REVENUE, THE COMMISSION SHALL ADVISE THE DIVISION AND THE
18 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR
19 WHICH A STATE INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION
20 39-22-522.

21 (b) THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT
22 TAX CREDIT CERTIFICATE APPLICATIONS AND REQUESTS FOR OPTIONAL
23 PRELIMINARY ADVISORY OPINIONS IN ACCORDANCE WITH SECTION
24 12-61-1106.

25 (4) THE COMMISSION SHALL MEET AT LEAST QUARTERLY. THE
26 DIVISION SHALL CONVENE THE MEETINGS OF THE COMMISSION AND
27 PROVIDE STAFF SUPPORT AS REQUESTED BY THE COMMISSION. A MAJORITY
28 OF THE VOTING MEMBERS OF THE COMMISSION CONSTITUTES A QUORUM
29 FOR THE TRANSACTION OF ALL BUSINESS, AND ACTIONS OF THE
30 COMMISSION REQUIRE A VOTE OF A MAJORITY OF THE VOTING MEMBERS
31 PRESENT IN FAVOR OF THE ACTION TAKEN. THE COMMISSION MAY
32 DELEGATE TO THE DIRECTOR OF THE DIVISION THE AUTHORITY TO ACT ON
33 BEHALF OF THE COMMISSION ON OCCASIONS AND IN CIRCUMSTANCES THAT
34 THE COMMISSION DEEMS NECESSARY FOR THE EFFICIENT AND EFFECTIVE
35 ADMINISTRATION AND EXECUTION OF THE COMMISSION'S RESPONSIBILITIES
36 UNDER THIS PART 11.

37 (5) THE COMMISSION SHALL ESTABLISH A CONFLICT-OF-INTEREST
38 POLICY TO ENSURE THAT ANY MEMBER OF THE COMMISSION IS
39 DISQUALIFIED FROM PERFORMING AN ACT THAT CONFLICTS WITH A
40 PRIVATE PECUNIARY INTEREST OF THE MEMBER OR FROM PARTICIPATING
41 IN THE DELIBERATION OR DECISION-MAKING PROCESS FOR CERTIFICATION

1 FOR AN APPLICANT REPRESENTED BY THE MEMBER.

2 (6) THE COMMISSION SHALL ADVISE AND MAKE
3 RECOMMENDATIONS TO THE DIRECTOR OF THE DIVISION REGARDING THE
4 CERTIFICATION OF CONSERVATION EASEMENT HOLDERS IN ACCORDANCE
5 WITH SECTION 12-61-1104.

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

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

12 **12-61-1104. Certification of conservation easement holders -**
13 **rules - definition - repeal.** (1) THE DIVISION SHALL, IN CONSULTATION
14 WITH THE COMMISSION CREATED IN SECTION 12-61-1103, ESTABLISH AND
15 ADMINISTER A CERTIFICATION PROGRAM FOR QUALIFIED ORGANIZATIONS
16 UNDER SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF
17 1986", AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH
18 A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522. THE
19 PURPOSES OF THE PROGRAM ARE TO:

20 (a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING
21 ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE
22 PROFESSIONALISM AND STABILITY; AND

23 (b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS, AS
24 DETERMINED UNDER THE RULES OF THE DIVISION, TO PREVENT THEM FROM
25 BECOMING CERTIFIED BY THE PROGRAM.

26 (2) THE DIVISION SHALL ESTABLISH AND ACCEPT APPLICATIONS
27 FOR CERTIFICATION. THE DIVISION SHALL CONDUCT A REVIEW OF EACH
28 APPLICATION AND CONSIDER THE RECOMMENDATIONS OF THE COMMISSION
29 BEFORE MAKING A FINAL DETERMINATION TO GRANT OR DENY
30 CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING
31 CERTIFICATION, THE DIVISION AND THE COMMISSION MAY CONSIDER:

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

34 (b) THE APPLICANT'S STEWARDSHIP PRACTICES AND CAPACITY,
35 INCLUDING THE ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE
36 PURPOSES OF THE EASEMENT;

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

38 (d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS
39 REGARDING CONFLICTS OF INTEREST AND TRANSACTIONS WITH RELATED
40 PARTIES AS DESCRIBED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL
41 REVENUE CODE OF 1986", AS AMENDED, DONORS, BOARD MEMBERS, AND

1 INSIDERS. FOR PURPOSES OF THIS SUBSECTION (2)(d), "INSIDERS" MEANS
2 BOARD AND STAFF MEMBERS, SUBSTANTIAL CONTRIBUTORS, PARTIES
3 RELATED TO THOSE ABOVE, THOSE WHO HAVE AN ABILITY TO INFLUENCE
4 DECISIONS OF THE ORGANIZATION, AND THOSE WITH ACCESS TO
5 INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC.

6 (e) ANY OTHER INFORMATION DEEMED RELEVANT BY THE DIVISION
7 OR THE COMMISSION; AND

8 (f) THE UNIQUE CIRCUMSTANCES OF THE DIFFERENT ENTITIES TO
9 WHICH THIS CERTIFICATION APPLIES AS SET FORTH IN SUBSECTION (4) OF
10 THIS SECTION.

11 (3) AT THE TIME OF SUBMISSION OF AN APPLICATION, AND EACH
12 YEAR THE ENTITY IS CERTIFIED PURSUANT TO THIS SECTION, THE
13 APPLICANT SHALL PAY THE DIVISION A FEE, AS PRESCRIBED BY THE
14 DIVISION, TO COVER THE COSTS OF THE DIVISION AND THE COMMISSION IN
15 ADMINISTERING THE CERTIFICATION PROGRAM FOR ENTITIES THAT HOLD
16 CONSERVATION EASEMENTS FOR WHICH TAX CREDITS ARE CLAIMED
17 PURSUANT TO SECTION 39-22-522. THE DIVISION SHALL HAVE THE
18 AUTHORITY TO ACCEPT AND EXPEND GIFTS, GRANTS, AND DONATIONS FOR
19 THE PURPOSES OF THIS SECTION. THE STATE TREASURER SHALL CREDIT
20 FEES, GIFTS, GRANTS, AND DONATIONS COLLECTED PURSUANT TO THIS
21 SUBSECTION (3) TO THE CONSERVATION CASH FUND CREATED IN SECTION
22 12-61-1107. ON OR BEFORE EACH JANUARY 1, THE DIVISION SHALL
23 CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF THE FEE
24 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (3).

25 (4) THE CERTIFICATION PROGRAM APPLIES TO:

26 (a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH
27 CONSERVATION VALUES CONSISTING OF RECREATION OR EDUCATION,
28 PROTECTION OF ENVIRONMENTAL SYSTEMS, OR PRESERVATION OF OPEN
29 SPACE;

30 (b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY FOR
31 HISTORIC PRESERVATION; AND

32 (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND
33 COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE
34 STATE THAT HOLDS AN EASEMENT.

35 (5) THE CERTIFICATION PROGRAM SHALL CONTAIN A PROVISION
36 ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION OF AN
37 ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND
38 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE
39 CONSERVATION INDUSTRY.

40 (6) THE COMMISSION SHALL MEET AT LEAST QUARTERLY AND
41 MAKE RECOMMENDATIONS TO THE DIVISION REGARDING THE

1 CERTIFICATION PROGRAM. THE DIVISION IS AUTHORIZED TO DETERMINE
2 WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE NECESSARY
3 QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES ADOPTED
4 BY THE DIVISION. IF THE DIVISION DETERMINES THAT AN APPLICANT DOES
5 NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION OR
6 THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF THIS PART 11, THE
7 RULES PROMULGATED BY THE DIVISION, OR ANY DIVISION ORDER, THE
8 DIVISION MAY DENY THE APPLICANT A CERTIFICATION OR DENY THE
9 RENEWAL OF A CERTIFICATION, AND, IN SUCH INSTANCE, THE DIVISION
10 SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING SETTING
11 FORTH THE BASIS OF THE DIVISION'S DETERMINATION. THE APPLICANT MAY
12 REQUEST A HEARING ON THE DETERMINATION AS PROVIDED IN SECTION
13 24-4-104 (9). THE DIVISION SHALL NOTIFY SUCCESSFUL APPLICANTS IN
14 WRITING. AN APPLICANT THAT IS NOT CERTIFIED MAY REAPPLY FOR
15 CERTIFICATION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE
16 DIVISION.

17 (7) THE DIVISION SHALL PROMULGATE RULES TO EFFECTUATE THE
18 DUTIES OF THE COMMISSION PURSUANT TO ARTICLE 4 OF TITLE 24. SUCH
19 RULES SHALL SPECIFICALLY ADDRESS THE FOLLOWING:

20 (a) ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION
21 OF AN ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND
22 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE
23 CONSERVATION INDUSTRY;

24 (b) A STREAMLINED AND LOWER-COST PROCESS FOR
25 CONSERVATION EASEMENT HOLDERS THAT DO NOT INTEND TO ACCEPT
26 NEW DONATIONS OF CONSERVATION EASEMENTS FOR WHICH TAX CREDITS
27 WOULD BE CLAIMED THAT FOCUSES ON THE HOLDER'S STEWARDSHIP
28 CAPABILITIES;

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

34 (d) THE ADOPTION OF BEST PRACTICES, PROCESSES, AND
35 PROCEDURES USED BY OTHER ENTITIES THAT REGULARLY REVIEW
36 CONSERVATION EASEMENT TRANSACTIONS, INCLUDING A PRACTICE,
37 PROCESS, OR PROCEDURE DEEMING QUALIFIED CONSERVATION EASEMENT
38 APPRAISALS APPROVED BY THESE ENTITIES BASED ON THEIR INDEPENDENT
39 REVIEWS AS CREDIBLE FOR PURPOSES OF THE CONSERVATION EASEMENT
40 TAX CREDIT.

41 (8) A CONSERVATION EASEMENT TAX CREDIT CERTIFICATE

1 APPLICATION MAY BE SUBMITTED PURSUANT TO SECTION 12-61-1106
2 ONLY IF THE ENTITY HAS BEEN CERTIFIED IN ACCORDANCE WITH THIS
3 SECTION AT THE TIME THE DONATION OF THE EASEMENT IS MADE. THE
4 DIVISION SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC
5 CONCERNING THE DATE THAT IT COMMENCES ACCEPTING APPLICATIONS
6 FOR ENTITIES THAT HOLD CONSERVATION EASEMENTS AND THE
7 REQUIREMENTS OF THIS SUBSECTION (8).

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

13 (10) THE DIVISION MAY INVESTIGATE THE ACTIVITIES OF ANY
14 ENTITY THAT IS REQUIRED TO BE CERTIFIED PURSUANT TO THIS SECTION
15 AND TO IMPOSE DISCIPLINE FOR NONCOMPLIANCE, INCLUDING THE
16 SUSPENSION OR REVOCATION OF A CERTIFICATION OR THE IMPOSITION OF
17 FINES. THE DIVISION MAY PROMULGATE RULES IN ACCORDANCE WITH
18 ARTICLE 4 OF TITLE 24 FOR THE CERTIFICATION PROGRAM AND DISCIPLINE
19 AUTHORIZED BY THIS SECTION.

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

24 (12) NOTHING IN THIS SECTION:

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

28 (b) REQUIRES THE CERTIFICATION OF AN ENTITY THAT HOLDS A
29 CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS NOT CLAIMED
30 PURSUANT TO SECTION 39-22-522.

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

35 **12-61-1105. Conservation easement tax credit certificates -**
36 **rules.** (1) THE DIVISION SHALL RECEIVE TAX CREDIT CERTIFICATE
37 APPLICATIONS FROM AND ISSUE CERTIFICATES TO LANDOWNERS FOR
38 INCOME TAX CREDITS FOR CONSERVATION EASEMENTS DONATED ON OR
39 AFTER JANUARY 1, 2011, IN ACCORDANCE WITH SECTION 39-22-522 (2.5)
40 AND THIS PART 11. NOTHING IN THIS SECTION RESTRICTS OR LIMITS THE
41 AUTHORITY OF THE DIVISION TO ENFORCE THIS PART 11. THE DIVISION

1 MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24
2 FOR THE ISSUANCE OF THE CERTIFICATES. IN PROMULGATING RULES, THE
3 DIVISION MAY INCLUDE PROVISIONS GOVERNING:

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

6 (b) THE ADMINISTRATION AND FINANCING OF THE CERTIFICATION
7 PROCESS;

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

11 (d) THE NOTIFICATION TO THE LANDOWNER, THE ENTITY TO WHICH
12 THE EASEMENT WAS GRANTED, AND THE DEPARTMENT OF REVENUE
13 REGARDING THE TAX CREDIT CERTIFICATES ISSUED; AND

14 (e) ANY OTHER MATTERS RELATED TO ADMINISTERING SECTION
15 39-22-522 (2.5) OR THIS PART 11.

16 (2) THE DIVISION SHALL APPLY THE AMOUNT CLAIMED IN A
17 COMPLETED TAX CREDIT CERTIFICATE APPLICATION AGAINST THE ANNUAL
18 TAX CREDIT LIMIT IN THE ORDER THAT COMPLETED APPLICATIONS ARE
19 RECEIVED. THE DIVISION SHALL APPLY CLAIMED TAX CREDIT AMOUNTS
20 THAT EXCEED THE ANNUAL LIMIT IN ANY YEAR AGAINST THE LIMIT FOR
21 THE NEXT AVAILABLE YEAR AND ISSUE TAX CREDIT CERTIFICATES FOR USE
22 IN THE YEAR IN WHICH THE AMOUNT WAS APPLIED TO THE ANNUAL LIMIT.

23 (3) THE DIVISION SHALL NOT ISSUE TAX CREDIT CERTIFICATES
24 THAT IN AGGREGATE EXCEED THE LIMIT SET FORTH IN SECTION 39-22-522
25 (2.5) DURING A PARTICULAR CALENDAR YEAR.

26 **12-61-1106. Conservation easement tax credit certificate**
27 **application process - definitions - rules.** (1) FOR PURPOSES OF THIS
28 SECTION:

29 (a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT
30 CERTIFICATE SUBMITTED PURSUANT TO SECTION 12-61-1105 OR THIS
31 SECTION.

32 (b) "CONSERVATION PURPOSE" MEANS CONSERVATION PURPOSE AS
33 DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE
34 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED
35 IN CONNECTION WITH SUCH SECTION.

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

39 (d) "DEFICIENCY" MEANS NONCOMPLIANCE WITH A REQUIREMENT
40 FOR OBTAINING A TAX CREDIT CERTIFICATE THAT, UNLESS SUCH
41 NONCOMPLIANCE IS REMEDIED, IS GROUNDS FOR THE DENIAL OF A TAX

1 CREDIT CERTIFICATE APPLICATION SUBMITTED PURSUANT TO THIS
2 SECTION.

3 (e) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
4 CONSERVATION OR HIS OR HER DESIGNEE.

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

9 (g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION
10 EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION
11 12-61-1105 AND THIS SECTION.

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

19 (I) IS A CONTRIBUTION OF A QUALIFIED REAL PROPERTY INTEREST
20 TO A QUALIFIED ORGANIZATION TO BE USED EXCLUSIVELY FOR A
21 CONSERVATION PURPOSE;

22 (II) IS SUBSTANTIATED WITH A QUALIFIED APPRAISAL PREPARED BY
23 A QUALIFIED APPRAISER IN ACCORDANCE WITH THE UNIFORM STANDARDS
24 OF PROFESSIONAL APPRAISAL PRACTICE; AND

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

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

28 (3) FOR THE PURPOSE OF REVIEWING APPLICATIONS AND MAKING
29 DETERMINATIONS REGARDING THE ISSUANCE OF TAX CREDIT
30 CERTIFICATES, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT
31 CERTIFICATE TO BE ISSUED:

32 (a) DIVISION STAFF SHALL REVIEW EACH APPLICATION AND ADVISE
33 AND MAKE RECOMMENDATIONS TO THE DIRECTOR AND THE COMMISSION
34 REGARDING THE APPLICATION;

35 (b) THE DIRECTOR HAS AUTHORITY AND RESPONSIBILITY TO
36 DETERMINE THE CREDIBILITY OF THE APPRAISAL. IN DETERMINING
37 CREDIBILITY, THE DIRECTOR SHALL CONSIDER, AT A MINIMUM,
38 COMPLIANCE WITH THE FOLLOWING REQUIREMENTS:

39 (I) THE APPRAISAL FOR A CONSERVATION EASEMENT DONATION
40 FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522
41 IS A QUALIFIED APPRAISAL FROM A QUALIFIED APPRAISER, AS DEFINED IN

1 SECTION 170(f) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
2 AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN
3 CONNECTION WITH SUCH SECTION;

4 (II) THE APPRAISAL CONFORMS WITH THE UNIFORM STANDARDS OF
5 PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL
6 STANDARDS BOARD OF THE APPRAISAL FOUNDATION AND ANY OTHER
7 PROVISION OF LAW;

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

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

13 (c) THE DIRECTOR HAS THE AUTHORITY AND RESPONSIBILITY TO
14 DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF SECTION
15 12-61-1104.

16 (d) THE COMMISSION HAS THE AUTHORITY AND RESPONSIBILITY TO
17 DETERMINE WHETHER A CONSERVATION EASEMENT DONATION FOR WHICH
18 A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522 IS A
19 QUALIFIED CONSERVATION CONTRIBUTION AS DEFINED IN SECTION 170(h)
20 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND
21 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH
22 SECTION.

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

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

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

30 (b) A COPY OF THE RECORDED DEED GRANTING THE
31 CONSERVATION EASEMENT;

32 (c) DOCUMENTATION SUPPORTING THE CONSERVATION PURPOSE
33 OF THE EASEMENT;

34 (d) ANY OTHER INFORMATION OR DOCUMENTATION THE DIRECTOR
35 OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL
36 DETERMINATION REGARDING THE APPLICATION; AND

37 (e) THE FEE REQUIRED PURSUANT TO SUBSECTION (6) OF THIS
38 SECTION.

39 (6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX
40 CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR
41 AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION

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

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

25 (b) THE LANDOWNER HAS SIXTY DAYS AFTER THE MAILING DATE
26 OF THE DIVISION'S LETTER TO ADDRESS THE POTENTIAL DEFICIENCIES
27 IDENTIFIED BY THE DIRECTOR AND THE COMMISSION AND PROVIDE
28 ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE DIRECTOR OR
29 THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL DETERMINATION
30 REGARDING THE APPLICATION.

31 (c) THE DIRECTOR AND THE COMMISSION HAVE NINETY DAYS
32 AFTER THE DATE OF RECEIPT OF ANY ADDITIONAL INFORMATION OR
33 DOCUMENTATION PROVIDED BY THE LANDOWNER TO REVIEW THE
34 INFORMATION AND DOCUMENTATION AND MAKE A FINAL DETERMINATION
35 REGARDING THE APPLICATION.

36 (d) THE DEADLINES PRESCRIBED BY THIS SUBSECTION (7) MAY BE
37 EXTENDED UPON MUTUAL AGREEMENT BETWEEN THE DIRECTOR AND THE
38 COMMISSION AND THE LANDOWNER.

39 (8) THE DIRECTOR OR THE COMMISSION MAY DENY AN
40 APPLICATION IF THE LANDOWNER:

41 (a) HAS NOT DEMONSTRATED TO THE SATISFACTION OF THE

1 DIRECTOR OR THE COMMISSION THAT THE APPLICATION COMPLIES WITH
2 ANY REQUIREMENT OF THIS PART 11;

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

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

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

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

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

34 (b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED
35 ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE
36 DIRECTOR AND THE COMMISSION, THE DIVISION SHALL ISSUE A WRITTEN
37 DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING THOSE
38 DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE
39 DIVISION SHALL DATE THE WRITTEN DENIAL AND SEND IT BY FIRST CLASS
40 MAIL TO THE LANDOWNER AT THE ADDRESS PROVIDED BY THE
41 LANDOWNER ON THE APPLICATION. THE DIRECTOR MAY ACT ON BEHALF OF

1 THE COMMISSION FOR PURPOSES OF ADMINISTERING THE PROCESS FOR
2 ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR
3 ADMINISTERING SUBSECTION (12) OF THIS SECTION.

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

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

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

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

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

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

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

40 (II) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS
41 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

1 (VI) THE AMOUNT OF ANY INCOME TAX CREDITS CLAIMED OR
2 ALLOWED FOR THE EASEMENT AND THE AMOUNT OF ANY SUCH CREDITS
3 THAT WERE TRANSFERRED TO ANOTHER TAXPAYER PURSUANT TO SECTION
4 39-22-522.

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

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

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

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

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

38 (16) NOTWITHSTANDING THE PROVISIONS OF THE "COLORADO
39 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, THE DIVISION,
40 THE DIRECTOR, AND THE COMMISSION SHALL DENY THE RIGHT OF PUBLIC
41 INSPECTION OF ANY DOCUMENTATION OR OTHER RECORD RELATED TO

1 INFORMATION OBTAINED AS PART OF AN INDIVIDUAL LANDOWNER'S
2 APPLICATION FOR A TAX CREDIT CERTIFICATE OR AN OPTIONAL
3 PRELIMINARY ADVISORY OPINION PURSUANT TO THE REQUIREMENTS OF
4 THIS SECTION, INCLUDING DOCUMENTATION OR OTHER RECORDS RELATED
5 TO ADMINISTRATIVE HEARINGS AND SETTLEMENT DISCUSSIONS HELD
6 PURSUANT TO SUBSECTION (12) OF THIS SECTION. THE DIVISION, THE
7 DIRECTOR, AND THE COMMISSION MAY SHARE DOCUMENTATION OR OTHER
8 RECORDS RELATED TO INFORMATION OBTAINED PURSUANT TO THIS
9 SECTION WITH THE DEPARTMENT OF REVENUE.

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

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

22 (2) ON JULY 1, 2018, THE STATE TREASURER SHALL TRANSFER TO
23 THE CONSERVATION CASH FUND ANY MONEYS IN THE DIVISION OF REAL
24 ESTATE CASH FUND CREATED IN THE SECTION 12-61-111.5 THAT ARE
25 ATTRIBUTABLE TO ANY FEES, GIFTS, GRANTS, OR DONATIONS CREDITED TO
26 THE DIVISION OF REAL ESTATE CASH FUND IN ACCORDANCE WITH SECTION
27 12-61-724 (3) OR SECTION 12-61-727 THAT ARE IN THE FUND
28 IMMEDIATELY PRIOR TO THE REPEAL OF SECTIONS 12-61-724 AND
29 12-61-727. THIS SUBSECTION (2) IS REPEALED EFFECTIVE JULY 1, 2019.

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

32 **12-61-111.5. Fee adjustments - cash fund created - repeal.**
33 (2) (b) (II) (A) ~~On June 30, 2017, the state treasurer shall transfer to the~~
34 ~~division of real estate cash fund all unexpended and unencumbered~~
35 ~~money that remained in the HOA information and resource center cash~~
36 ~~fund created in section 12-61-406.5, the conservation easement holder~~
37 ~~certification fund created in section 12-61-724, the conservation easement~~
38 ~~tax credit certificate review fund created in section 12-61-727, and the~~
39 ~~mortgage company and loan originator licensing cash fund created in~~
40 ~~section 12-61-908 immediately prior to the repeal of those funds.~~

41 **SECTION 3.** In Colorado Revised Statutes, 12-61-702, **repeal** (5)

1 as follows:

2 **12-61-702. Definitions.** As used in this part 7, unless the context
3 otherwise requires:

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

6 **SECTION 4.** In Colorado Revised Statutes, 12-61-704, **amend**
7 (1)(k) as follows:

8 **12-61-704. Powers and duties of the board - rules.** (1) In
9 addition to all other powers and duties imposed upon it by law, the board
10 has the following powers and duties:

11 (k) To establish classroom education and experience requirements
12 for an appraiser who prepares an appraisal for a conservation easement
13 for which a tax credit is claimed pursuant to section 39-22-522. ~~C.R.S.~~
14 The requirements must ensure that appraisers have a sufficient amount of
15 training and expertise to accurately prepare appraisals that comply with
16 the uniform standards of professional appraisal practice and any other
17 provision of law related to the appraisal of conservation easements for
18 which a tax credit is claimed. A tax credit certificate for a conservation
19 easement shall not be given in accordance with ~~sections 12-61-726 and~~
20 ~~12-61-727~~ SECTIONS 12-61-1105 AND 12-61-1106 unless the appraiser
21 who prepared the appraisal of the easement met all requirements
22 established in accordance with this ~~paragraph (k)~~ SUBSECTION (1)(k) in
23 effect at the time the ~~appraisal was completed~~ ASSIGNMENT IS
24 PERFORMED.

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

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

1 appraisal required in accordance with ~~the provisions of~~ this subsection
2 (17).

3 **SECTION 6.** In Colorado Revised Statutes, 39-22-522, **amend**
4 (2)(b), (2.5), (2.7), (3)(f) introductory portion, (3.5)(a)(I), (3.5)(a)(II),
5 (3.5)(b), (3.6)(a)(I), (3.6)(b), and (7)(g), and **add** (3.5)(c) as follows:

6 **39-22-522. Credit against tax - conservation easements.**
7 (2) (b) For income tax years commencing on or after January 1, 2014,
8 BUT PRIOR TO JANUARY 1, 2019, AND FOR INCOME TAX YEARS
9 COMMENCING ON OR AFTER JANUARY 1, 2022, and, with regard to any
10 credit over the amount of one hundred thousand dollars, for income tax
11 years commencing on or after January 1, 2003, subject to ~~the provisions~~
12 ~~of~~ subsections (4) and (6) of this section, there shall be allowed a credit
13 with respect to the income taxes imposed by this ~~article~~ ARTICLE 22 to
14 each taxpayer who donates during the taxable year all or part of the value
15 of a perpetual conservation easement in gross created pursuant to article
16 30.5 of title 38 ~~C.R.S.~~, upon real property the taxpayer owns to a
17 governmental entity or a charitable organization described in section
18 38-30.5-104 (2). ~~C.R.S.~~ The credit shall only be allowed for a donation
19 that meets the requirements of section 170 of the federal "Internal
20 Revenue Code of 1986", as amended, and any federal regulations
21 promulgated in accordance with such section. The amount of the credit
22 shall not include the value of any portion of an easement on real property
23 located in another state.

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

1 given calendar year. The division shall not issue credit certificates that
2 exceed twenty-two million dollars in each of the 2011 and 2012 calendar
3 years, thirty-four million dollars for the 2013 calendar year, and forty-five
4 million dollars for each calendar year thereafter. No claim for a credit is
5 allowed for any income tax year commencing on or after January 1, 2011,
6 unless a certificate has been issued by the division. If all other
7 requirements under ~~section 12-61-727, C.R.S.~~, SECTION 12-61-1106 and
8 this section are met, the right to claim the credit is vested in the taxpayer
9 at the time a credit certificate is issued.

10 (2.7) Notwithstanding any other provision, for income tax years
11 commencing on or after January 1, 2014, no claim for a credit shall be
12 allowed unless a tax credit certificate is issued by the division of ~~real~~
13 ~~estate~~ CONSERVATION in accordance with ~~sections 12-61-726 and~~
14 ~~12-61-727, C.R.S.~~, SECTIONS 12-61-1105 AND 12-61-1106 and the
15 taxpayer files the tax credit certificate with the income tax return filed
16 with the department of revenue.

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

23 (f) If the holder of the conservation easement is an organization
24 to which the certification program in ~~section 12-61-724~~ SECTION
25 12-61-1104 applies, a sworn affidavit from the holder of the conservation
26 easement in gross that includes the following:

27 (3.5) (a) For conservation easements donated prior to January 1,
28 2014:

29 (I) The executive director shall have the authority, pursuant to
30 subsection (8) of this section, to require additional information from the
31 taxpayer or transferee regarding the appraisal value of the easement, the
32 amount of the credit, and the validity of the credit. In resolving disputes
33 regarding the validity or the amount of a credit allowed pursuant to
34 subsection (2) of this section, including the value of the conservation
35 easement for which the credit is granted, the executive director shall have
36 the authority, for good cause shown and in consultation with the division
37 of ~~real-estate~~ CONSERVATION and the conservation easement oversight
38 commission created in ~~section 12-61-725 (1), C.R.S.~~, SUBSECTION
39 12-61-1103 (1) to review and accept or reject, in whole or in part, the
40 appraisal value of the easement, the amount of the credit, and the validity
41 of the credit based upon the internal revenue code and federal regulations

1 in effect at the time of the donation. If the executive director reasonably
2 believes that the appraisal represents a gross valuation misstatement,
3 receives notice of such a valuation misstatement from the division of real
4 estate, or receives notice from the division of real estate that an
5 enforcement action has been taken by the board of real estate appraisers
6 against the appraiser, the executive director shall have the authority to
7 require the taxpayer to provide a second appraisal at the expense of the
8 taxpayer. The second appraisal shall be conducted by a certified general
9 appraiser in good standing and not affiliated with the first appraiser that
10 meets qualifications established by the division of real estate. In the event
11 the executive director rejects, in whole or in part, the appraisal value of
12 the easement, the amount of the credit, or the validity of the credit, the
13 procedures described in sections 39-21-103, 39-21-104, 39-21-104.5, and
14 39-21-105 shall apply.

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

30 (b) For conservation easements donated on or after January 1,
31 2014, and subject to the restrictions of ~~section 12-61-727 (4), C.R.S.~~
32 SECTION 12-61-1106 (4), the executive director shall have the authority,
33 pursuant to subsection (8) of this section, to require additional
34 information from the taxpayer or transferee regarding the amount of the
35 credit and the validity of the credit. In resolving disputes regarding the
36 validity or the amount of a credit allowed pursuant to subsection (2) of
37 this section, the executive director shall have the authority, for good cause
38 shown, to review and accept or reject, in whole or in part, the amount of
39 the credit and the validity of the credit based upon the internal revenue
40 code and federal regulations in effect at the time of the donation, except
41 those requirements for which authority is granted to the division of real

1 ~~estate~~ CONSERVATION, the director of the division of ~~real-estate~~
2 CONSERVATION, or the conservation easement oversight commission
3 pursuant to ~~section 12-61-727, C.R.S.~~ SECTION 12-61-1106.

4 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
5 FOR ANY CONSERVATION EASEMENT IN GROSS DONATED FOR ANY TAX
6 YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, FOR WHICH A CREDIT
7 CLAIMED PURSUANT TO THIS SECTION WAS SUBSEQUENTLY DENIED IN
8 WHOLE OR IN PART BECAUSE THE APPRAISED VALUE OF THE EASEMENT
9 WAS DETERMINED BY THE STATE TO BE TOO HIGH, THE TAXPAYER MAY
10 ELECT IN ANY SUBSEQUENT TAX YEAR TO AMEND THE RETURN FOR SUCH
11 TAX YEAR AND NOT CLAIM THE CREDIT. UPON AMENDING A RETURN AND
12 REPAYING TO THE STATE THE AMOUNT, IF ANY, ALLOWED BY THE STATE
13 AND CLAIMED BY THE TAXPAYER FOR SUCH TAX YEAR, THE TAXPAYER
14 SHALL BE ENTITLED TO REPAYMENT FROM THE STATE OF THE FULL
15 AMOUNT OF ANY INTEREST OR PENALTIES PAID BY OR ON BEHALF OF THE
16 TAXPAYER TO THE STATE IN CONNECTION WITH THE DENIAL OF THE
17 ORIGINAL CLAIM FOR THE CREDIT.

18 (3.6) For conservation easements donated on or after January 1,
19 2014, in order for any taxpayer to qualify for the credit provided for in
20 subsection (2) of this section, the taxpayer must submit the following in
21 a form, approved by the executive director, to the department of revenue
22 at the same time as the taxpayer files a return for the taxable year in
23 which the credit is claimed:

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

26 (b) Notwithstanding any other provisions of law, the executive
27 director retains the authority to administer all issues related to the claim
28 or use of a tax credit for the donation of a conservation easement that are
29 not granted to the director of the division of ~~real-estate~~ CONSERVATION or
30 the conservation easement oversight commission under ~~section~~
31 ~~12-61-727, C.R.S.~~ SECTION 12-61-1106.

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

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

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

1 **39-22-522.5. Conservation easement tax credits - dispute**
2 **resolution - legislative declaration.** (8) ~~On or before August 1, 2011,~~
3 ~~the conservation easement oversight commission created in section~~
4 ~~12-61-725 (1), C.R.S., shall review conservation easements for which a~~
5 ~~tax credit is claimed pursuant to sections 39-22-522 (3.5)(a) and~~
6 ~~12-61-725 (3), C.R.S., and for which a notice of deficiency, notice of~~
7 ~~rejection of refund claim, or notice of disallowance issued on or before~~
8 ~~May 1, 2011, but for which a final determination has not been issued~~
9 ~~before May 19, 2011, and for which the commission has not already~~
10 ~~reviewed the credit. For each conservation easement tax credit claim so~~
11 ~~reviewed, the commission shall issue an initial recommendation to the~~
12 ~~executive director on whether each credit claimed by a taxpayer who is~~
13 ~~eligible to waive a hearing and appeal a notice of deficiency, notice of~~
14 ~~rejection of refund claim, or notice of disallowance may be denied or~~
15 ~~accepted. No other information shall be required of the commission on or~~
16 ~~before such date.~~

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

19 **24-1-122. Department of regulatory agencies - creation.**
20 (2) The department of regulatory agencies shall consist of the following
21 divisions:

22 (1) DIVISION OF CONSERVATION, THE HEAD OF WHICH IS THE
23 DIRECTOR OF THE DIVISION. THE DIVISION OF CONSERVATION AND THE
24 DIRECTOR OF THE DIVISION, CREATED BY PART 11 OF ARTICLE 61 OF TITLE
25 12, 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 THE CONSERVATION EASEMENT OVERSIGHT COMMISSION, CREATED BY
29 SECTION 12-61-1103, AND ITS POWERS, DUTIES, AND FUNCTIONS ARE
30 TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF
31 REGULATORY AGENCIES AND ALLOCATED TO THE DIVISION OF
32 CONSERVATION.

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

35 **29-20-110. Conservation easements - public hearing.** (1) ON
36 AND AFTER THE EFFECTIVE DATE OF THIS SECTION, PRIOR TO CREATING,
37 MODIFYING THE TERMS OF, OR TRANSFERRING A CONSERVATION
38 EASEMENT IN GROSS PURSUANT TO ARTICLE 30.5 OF TITLE 38, THE
39 GOVERNING BODY OF A LOCAL GOVERNMENT WITHIN WHICH THE
40 PROPERTY IS LOCATED SHALL HOLD A PUBLIC HEARING REGARDING THE
41 CREATION, MODIFICATION, OR TRANSFER OF THE EASEMENT AS PROVIDED

1 IN THIS SECTION. IF THE PROPERTY IS LOCATED ENTIRELY WITHIN THE
2 UNINCORPORATED PORTION OF ONE OR MORE COUNTIES, THE BOARD OF
3 COUNTY COMMISSIONERS OF THE COUNTY WITH THE GREATEST PORTION
4 OF THE PROPERTY SHALL HOLD THE HEARING. IF THE PROPERTY IS
5 LOCATED IN WHOLE OR IN PART WITHIN ONE OR MORE MUNICIPALITIES, THE
6 GOVERNING BODY OF THE MUNICIPALITY WITH THE GREATEST PORTION OF
7 THE PROPERTY SHALL HOLD THE HEARING.

8 (2) AT LEAST FOURTEEN DAYS' NOTICE OF THE TIME AND PLACE OF
9 A HEARING REQUIRED BY THIS SECTION SHALL BE GIVEN BY AT LEAST ONE
10 PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE
11 LOCAL GOVERNMENT. THE NOTICE SHALL DISCLOSE THE LOCATION,
12 ACREAGE, NAME OF THE GRANTOR, NAME OF THE HOLDER, AND
13 CONSERVATION PURPOSES OF THE CONSERVATION EASEMENT AND SPECIFY
14 THE AMOUNT OF ANY PUBLIC MONEY USED OR TAX CREDITS THAT WILL BE
15 CLAIMED IN CONNECTION WITH THE EASEMENT. THE GRANTOR AND
16 HOLDER OF THE CONSERVATION EASEMENT SHALL BE ALLOWED TO
17 PRESENT INFORMATION ABOUT THE CONSERVATION EASEMENT AND PUBLIC
18 TESTIMONY SHALL BE ALLOWED AT THE HEARING. THE PURPOSE OF THE
19 HEARING IS TO PROVIDE PUBLIC NOTICE REGARDING THE EASEMENT, AND
20 THE GOVERNING BODY OF THE LOCAL GOVERNMENT NEED NOT TAKE ANY
21 SPECIFIC ACTION WITH RESPECT TO THE PROPOSED CREATION,
22 MODIFICATION, OR TRANSFER. IF A LOCAL GOVERNMENT HAS AN EXISTING
23 APPROVAL PROCESS FOR CONSERVATION EASEMENTS, THE HEARING
24 REQUIRED BY THIS SECTION MAY BE CONDUCTED IN CONJUNCTION WITH
25 ANY OTHER HEARING REQUIRED BY PROCESS AS LONG AS THE HEARING
26 OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

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

29 **38-30.5-107. Release - termination.** (1) Conservation easements
30 in gross may, in whole or in part, be released, terminated, extinguished,
31 or abandoned by merger with the underlying fee interest in the servient
32 land or water rights or in any other manner in which easements may be
33 lawfully terminated, released, extinguished, or abandoned. FOR
34 EASEMENTS CREATED ON OR AFTER JANUARY 1, 2019, IF A CONSERVATION
35 EASEMENT IS ORPHANED OR NEGLECTED, THE LANDOWNER MAY PETITION
36 THE DISTRICT COURT OF THE COUNTY IN WHICH THE PROPERTY IS SITUATED
37 TO REQUEST A TRANSFER OF THE EASEMENT TO ANOTHER HOLDER OR FOR
38 AN ORDER THAT THE ABANDONMENT OR NEGLECT OF THE CONSERVATION
39 EASEMENT HAS RESULTED IN CIRCUMSTANCES WHICH MAKE THE
40 CONTINUED USE OF THE PROPERTY FOR CONSERVATION PURPOSES
41 IMPOSSIBLE OR IMPRACTICABLE. THE PETITION TO THE DISTRICT COURT

1 SHALL ALSO BE SERVED ON THE ATTORNEY GENERAL AND THE ATTORNEY
2 GENERAL SHALL BE ENTITLED TO BE HEARD.

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

8 (a) THE STATE HAS REJECTED THE CLAIM FOR THE CREDIT OR THE
9 TAXPAYER HAS ELECTED NOT TO CLAIM THE CREDIT PURSUANT TO SECTION
10 39-22-522 (5)(c);

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

13 (c) THE HOLDER OF THE EASEMENT EITHER PROVIDED NO
14 COMPENSATION FOR THE EASEMENT OR HAS BEEN REIMBURSED IN WHOLE
15 FOR ANY COMPENSATION PROVIDED.

16 (3) THE DIVISION OF CONSERVATION SHALL DEVELOP A WRITTEN
17 FORM TO WARN LANDOWNERS WHO HAVE CONSERVATION EASEMENTS ON
18 THEIR PROPERTY OF THE LEGAL AND OTHER CONSEQUENCES OF
19 RELEASING, TERMINATING, OR EXTINGUISHING A CONSERVATION
20 EASEMENT. THE FORM SHALL INCLUDE A WARNING OF THE POTENTIAL
21 FEDERAL TAX CONSEQUENCES, POTENTIAL LEGAL CLAIMS BY EASEMENT
22 HOLDERS AND OTHER PARTIES FOR BREACH OF CONTRACT, POTENTIAL
23 FINANCIAL EXPENSE, AND SUCH OTHER INFORMATION AS THE DIVISION
24 FINDS APPROPRIATE TO HELP A LANDOWNER MAKE AN INFORMED DECISION
25 AND PROTECT HIS OR HER INTERESTS PRIOR TO RELEASING, TERMINATING,
26 OR EXTINGUISHING AN EASEMENT. PRIOR TO RELEASING, TERMINATING, OR
27 EXTINGUISHING A CONSERVATION EASEMENT, A LANDOWNER SHALL
28 NOTIFY THE DIVISION OF CONSERVATION OF THE LANDOWNER'S INTENT TO
29 RELEASE, TERMINATE, OR EXTINGUISH THE EASEMENT. UPON RECEIVING
30 A NOTIFICATION PURSUANT TO THIS SUBSECTION (3), THE DIVISION OF
31 CONSERVATION SHALL PROVIDE A WRITTEN WARNING TO THE LANDOWNER
32 SETTING FORTH THE POTENTIAL LEGAL CONSEQUENCES OF RELEASING,
33 TERMINATING, OR EXTINGUISHING AN EASEMENT. THE DIVISION OF
34 CONSERVATION CREATED IN SECTION 12-61-1102 SHALL DEVELOP A
35 NOTICE TO BE PROVIDED TO ANY LANDOWNER ATTEMPTING TO RELEASE,
36 TERMINATE, OR EXTINGUISH A CONSERVATION EASEMENT.

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

39 **24-34-104. General assembly review of regulatory agencies**
40 **and functions for repeal, continuation, or reestablishment - legislative**
41 **declaration - repeal.** (14) (a) The following agencies, functions, or both,

1 are scheduled for repeal on July 1, 2018:

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

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

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

8 (IX) THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS
9 BY THE CONSERVATION EASEMENT OVERSIGHT COMMISSION AS PROVIDED
10 FOR IN SECTION 12-61-1104.

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

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

** *** ** *** **