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:

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

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

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

PART 11
CONSERVATION EASEMENTS

12-61-1101. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) Colorado's conservation easement program is an important preservation tool used to balance economic needs with natural resources such as land and water preservation. Colorado's conservation easement tax credit and the federal tax deduction have allowed many farmers and ranchers the opportunity to donate their development rights to preserve a legacy of open spaces in Colorado for wildlife, agriculture, and ranching.

(b) Citizens throughout Colorado believe good, sound conservation practices are important to Colorado's quality of life, agriculture, and natural heritage;

(c) Colorado's conservation easement tax credit program
WAS DESIGNED TO GIVE LANDOWNERS AN INCENTIVE TO CONSERVE AND
PREJCERVE THEIR LAND IN A PREDOMINANTLY NATURAL, SCENIC, OR OPEN
CONDITION;

(d) Creating a division of conservation within the
department of regulatory agencies will keep a firewall between
professional evaluation and professional discipline, while
creating a division to ensure this program allows landowners
to exercise their private property rights while protecting
taxpayers from the fraud and abuse that existed in the program
prior to 2009;

(e) In recognition of the fraud and abuse that has existed
in the program, it is appropriate to allow an easement to be
extinguished if the value of the easement is reduced or
eliminated by the state in connection with claiming a tax credit
for the easement and the credit is disallowed or any amount
allowed is not claimed or is repaid by a landowner;

(f) Establishing the division of conservation to administer
the conservation easement tax credit program will:

(I) Allow the division to continue to certify conservation
easement holders to identify fraudulent or unqualified
organizations and prevent them from holding conservation
easements for which tax credits are claimed in the state;

(II) Allow the conservation easement oversight
commission to advise the division of conservation and the
department of revenue regarding conservation easements for
which a tax credit is claimed and to review applications for
conservation easement holder certification; and

(III) Ensure that the division of conservation and the
department of revenue are sharing relevant information
concerning conservation easement appraisals in order to ensure
compliance with accepted appraisal practices and other
provisions of law.

12-61-1102. Division of conservation - director. (1) The
executive director of the department of regulatory agencies is
authorized by this section to employ, subject to the provisions
of the state personnel system laws of the state, a director of
the division of conservation, referred to in this part 11 as the
"division", who in turn shall employ such deputies, clerks, and
assistants as are necessary to discharge the duties imposed by
this part 11. The division of conservation, which is a division in
the department of regulatory agencies, and the director of the

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

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

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

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

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

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

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

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

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

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

(2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE
GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE COMMISSION APPOINTED PURSUANT TO SUBSECTIONS (1)(a) THROUGH (1)(c) OF THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS REPRESENTING THE PARTICULAR INTEREST OR AREA OF EXPERTISE THAT THE APPOINTEES IN SUBSECTIONS (1)(d)(I) AND (1)(d)(II) OF THIS SECTION REPRESENT. NOT MORE THAN TWO OF THE GOVERNOR’S APPOINTEES SERVING AT THE SAME TIME SHALL BE FROM THE SAME POLITICAL PARTY.

IN MAKING THE INITIAL APPOINTMENTS, THE GOVERNOR SHALL APPOINT ONE MEMBER FOR A TERM OF TWO YEARS. ALL OTHER APPOINTMENTS BY THE GOVERNOR ARE FOR TERMS OF THREE YEARS. NO MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS. IN THE EVENT OF A VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE, THE GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM. THE GOVERNOR MAY REMOVE ANY MEMBER FOR MISCONDUCT, NEGLECT OF DUTY, OR INCOMPETENCE.


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


(5) THE COMMISSION SHALL ESTABLISH A CONFLICT-OF-INTEREST POLICY TO ENSURE THAT ANY MEMBER OF THE COMMISSION IS DISQUALIFIED FROM PERFORMING AN ACT THAT CONFLICTS WITH A PRIVATE PECUNIARY INTEREST OF THE MEMBER OR FROM PARTICIPATING IN THE DELIBRATION OR DECISION-MAKING PROCESS FOR CERTIFICATION.
1 FOR AN APPLICANT REPRESENTED BY THE MEMBER.
2
3 (6) THE COMMISSION SHALL ADVISE AND MAKE
4 RECOMMENDATIONS TO THE DIRECTOR OF THE DIVISION REGARDING THE
5 CERTIFICATION OF CONSERVATION EASEMENT HOLDERS IN ACCORDANCE
6 WITH SECTION 12-61-1104.
7
8 (7) COMMISSION MEMBERS ARE IMMUNE FROM LIABILITY IN
9 ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL
10 IMMUNITY ACT", ARTICLE 10 OF TITLE 24.
11
12 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.
13 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES
14 SHALL REVIEW THE COMMISSION AS PROVIDED IN SECTION 24-34-104.
15
16 12-61-1104. Certification of conservation easement holders -
17 rules - definition - repeal. (1) THE DIVISION SHALL, IN CONSULTATION
18 WITH THE COMMISSION CREATED IN SECTION 12-61-1103, ESTABLISH AND
19 ADMINISTER A CERTIFICATION PROGRAM FOR QUALIFIED ORGANIZATIONS
20 UNDER SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF
21 1986", AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH
22 A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522. THE
23 PURPOSES OF THE PROGRAM ARE TO:
24
25 (a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING
26 ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE
27 PROFESSIONALISM AND STABILITY; AND
28
29 (b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS, AS
30 DETERMINED UNDER THE RULES OF THE DIVISION, TO PREVENT THEM FROM
31 BECOMING CERTIFIED BY THE PROGRAM.
32
33 (2) THE DIVISION SHALL ESTABLISH AND ACCEPT APPLICATIONS
34 FOR CERTIFICATION. THE DIVISION SHALL CONDUCT A REVIEW OF EACH
35 APPLICATION AND CONSIDER THE RECOMMENDATIONS OF THE COMMISSION
36 BEFORE MAKING A FINAL DETERMINATION TO GRANT OR DENY
37 CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING
38 CERTIFICATION, THE DIVISION AND THE COMMISSION MAY CONSIDER:
39
40 (a) THE APPLICANT'S PROCESS FOR REVIEWING, SELECTING, AND
41 APPROVING A POTENTIAL CONSERVATION EASEMENT;
42
43 (b) THE APPLICANT'S STEWARDSHIP PRACTICES AND CAPACITY,
44 INCLUDING THE ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE
45 PURPOSES OF THE EASEMENT;
46
47 (c) AN AUDIT OF THE APPLICANT'S FINANCIAL RECORDS;
48
49 (d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS
50 REGARDING CONFLICTS OF INTEREST AND TRANSACTIONS WITH RELATED
51 PARTIES AS DESCRIBED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL
52 REVENUE CODE OF 1986", AS AMENDED, DONORS, BOARD MEMBERS, AND
INSIDERS. FOR PURPOSES OF THIS SUBSECTION (2)(d), "INSIDERS" MEANS BOARD AND STAFF MEMBERS, SUBSTANTIAL CONTRIBUTORS, PARTIES RELATED TO THOSE ABOVE, THOSE WHO HAVE AN ABILITY TO INFLUENCE DECISIONS OF THE ORGANIZATION, AND THOSE WITH ACCESS TO INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC.

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

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


(4) THE CERTIFICATION PROGRAM APPLIES TO:

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

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

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

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

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

(7) THE DIVISION SHALL PROMULGATE RULES TO EFFECTUATE THE
DUTIES OF THE COMMISSION PURSUANT TO ARTICLE 4 OF TITLE 24. SUCH
RULES SHALL SPECIFICALLY ADDRESS THE FOLLOWING:
(a) ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION
OF AN ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND
CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE
CONSERVATION INDUSTRY;
(b) A STREAMLINED AND LOWER-COST PROCESS FOR
CONSERVATION EASEMENT HOLDERS THAT DO NOT INTEND TO ACCEPT
NEW DONATIONS OF CONSERVATION EASEMENTS FOR WHICH TAX CREDITS
WOULD BE CLAIMED THAT FOCUSES ON THE HOLDER'S STEWARDSHIP
CAPABILITIES;
(c) THE FEES CHARGED PURSUANT TO SUBSECTION (3) OF THIS
SECTION OR SECTION 12-61-1106 (6), SPECIFICALLY ENSURING THAT THE
FEES ARE ADEQUATE TO PAY FOR ADMINISTRATIVE COSTS BUT NOT SO
HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF CONSERVATION
EASEMENTS IN THE STATE; AND
(d) THE ADOPTION OF BEST PRACTICES, PROCESSES, AND
PROCEDURES USED BY OTHER ENTITIES THAT REGULARLY REVIEW
CONSERVATION EASEMENT TRANSACTIONS, INCLUDING A PRACTICE,
PROCESS, OR PROCEDURE DEEMING QUALIFIED CONSERVATION EASEMENT
APPRaisals APPROVED BY THESE ENTITIES BASED ON THEIR INDEPENDENT
REVIEWS AS CREDIBLE FOR PURPOSES OF THE CONSERVATION EASEMENT
TAX CREDIT.

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

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

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

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

(12) NOTHING IN THIS SECTION:
(a) AFFECTS ANY TAX CREDIT THAT WAS CLAIMED PURSUANT TO
SECTION 39-22-522 BEFORE CERTIFICATION WAS REQUIRED BY THIS
SECTION; OR
(b) REQUIRES THE CERTIFICATION OF AN ENTITY THAT HOLDS A
CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS NOT CLAIMED
PURSUANT TO SECTION 39-22-522.

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

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

(a) THE REVIEW OF THE TAX CREDIT CERTIFICATE APPLICATION PURSUANT TO THIS PART 11;
(b) THE ADMINISTRATION AND FINANCING OF THE CERTIFICATION PROCESS;
(c) THE NOTIFICATION TO THE PUBLIC REGARDING THE AGGREGATE AMOUNT OF TAX CREDIT CERTIFICATES THAT HAVE BEEN ISSUED AND THAT ARE ON THE WAIT LIST PURSUANT TO SECTION 39-25-522 (2.5);
(d) THE NOTIFICATION TO THE LANDOWNER, THE ENTITY TO WHICH THE EASEMENT WAS GRANTED, AND THE DEPARTMENT OF REVENUE REGARDING THE TAX CREDIT CERTIFICATES ISSUED; AND
(e) ANY OTHER MATTERS RELATED TO ADMINISTERING SECTION 39-22-522 (2.5) OR THIS PART 11.

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

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

12-61-1106. Conservation easement tax credit certificate application process - definitions - rules. (1) For purposes of this section:
(a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT CERTIFICATE SUBMITTED PURSUANT TO SECTION 12-61-1105 OR THIS SECTION.
(b) "CONSERVATION PURPOSE" MEANS CONSERVATION PURPOSE AS DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH SECTION.
(c) "CREDIBILITY" MEANS THE RESULTS ARE WORTHY OF BELIEF AND ARE SUPPORTED BY RELEVANT EVIDENCE AND LOGIC TO THE DEGREE NECESSARY FOR THE INTENDED USE.
(d) "DEFICIENCY" MEANS NONCOMPLIANCE WITH A REQUIREMENT FOR OBTAINING A TAX CREDIT CERTIFICATE THAT, UNLESS SUCH NONCOMPLIANCE IS REMEDIED, IS GROUNDS FOR THE DENIAL OF A TAX

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CREDIT CERTIFICATE APPLICATION SUBMITTED PURSUANT TO THIS SECTION.

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

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

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

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

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

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

(III) COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) (a) If, during the review of an application for a tax
credit certificate, the director or the commission identifies any
potential deficiencies, the director or commission shall
document the potential deficiencies in a letter sent to the
landowner by first class mail. The division shall send letters
documenting potential deficiencies to landowners in a timely
manner so that the number of days between the date a
completed application is received by the division and the mailing
date of the division's letter to the landowner does not exceed
one hundred twenty days.

(b) The landowner has sixty days after the mailing date
of the division's letter to address the potential deficiencies
identified by the director and the commission and provide
additional information or documentation that the director or
the commission deems necessary to make a final determination
regarding the application.

(c) The director and the commission have ninety days
after the date of receipt of any additional information or
documentation provided by the landowner to review the
information and documentation and make a final determination
regarding the application.

(d) The deadlines prescribed by this subsection (7) may be
extended upon mutual agreement between the director and the
commission and the landowner.

(8) The director or the commission may deny an
application if the landowner:

(a) Has not demonstrated to the satisfaction of the
DIRECTOR OR THE COMMISSION THAT THE APPLICATION COMPLIES WITH ANY REQUIREMENT OF THIS PART 11;
(b) DOES NOT PROVIDE THE INFORMATION AND DOCUMENTATION REQUIRED PURSUANT TO THIS PART 11; OR
(c) FAILS TO TIMELY RESPOND TO ANY WRITTEN REQUEST OR NOTICE FROM THE DIVISION, THE DIRECTOR, OR THE COMMISSION,
(9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE DIRECTOR, AFTER CONSULTATION WITH THE COMMISSION, MAY REQUEST THAT THE LANDOWNER, AT THE LANDOWNER'S EXPENSE, OBTAIN EITHER A SECOND APPRAISAL OR A REVIEW OF THE APPRAISAL SUBMITTED WITH THE APPLICATION FROM AN APPRAISER WHO MEETS THE REQUIREMENTS OF PART 7 OF THIS TITLE 12 AND IS IN GOOD STANDING WITH THE BOARD BEFORE MAKING A FINAL DETERMINATION REGARDING THE APPLICATION.
(b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE DIRECTOR AND THE COMMISSION, THE DIVISION SHALL ISSUE A WRITTEN DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING THOSE DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE DIVISION SHALL DATE THE WRITTEN DENIAL AND SEND IT BY FIRST CLASS MAIL TO THE LANDOWNER AT THE ADDRESS PROVIDED BY THE LANDOWNER ON THE APPLICATION. THE DIRECTOR MAY ACT ON BEHALF OF...
THE COMMISSION FOR PURPOSES OF ADMINISTERING THE PROCESS FOR
ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR
ADMINISTERING SUBSECTION (12) OF THIS SECTION.

(12) (a) The landowner may appeal to the director either
the director's or the commission's denial of an application, in
writing, within thirty days after the issuance of the denial. This
written appeal constitutes a request for an administrative
hearing.

(b) If the landowner fails to appeal the denial of an
application within thirty days after the issuance of the denial,
the denial becomes final, and the division shall not issue a tax
credit certificate to the landowner.

(c) Administrative hearings must be conducted in
accordance with section 24-4-105. At the discretion of the
director, hearings may be conducted by an authorized
representative of the director or the commission or an
administrative law judge from the office of administrative
courts in the department of personnel. All hearings must be
held in the county where the division is located unless the
director designates otherwise. The decision of the director or
the commission is subject to judicial review by the court of
appeals and is subject to the provisions of section 24-4-106.

(d) In conducting settlement discussions with a
landowner, the director and the commission may compromise on
any of the deficiencies identified in the application and
supporting documentation, including the dollar amount of the
tax credit certificate to be issued. The director shall place on
file in the division a record of any compromise and the reasons
for the compromise.

(e) The director may promulgate rules pursuant to
article 4 of title 24 to effectuate the purposes of this subsection
(12).

(13) (a) Commencing with the 2014 calendar year, and for
each calendar year thereafter, the division shall create a
report, which shall be made available to the public, containing
the following aggregate information:

(I) The total number of tax credit certificate applications
received, approved, and denied in accordance with this section,
along with average processing times;

(II) For applications approved in accordance with this
section:
(A) The total acreage under easement summarized by the allowable conservation purposes as defined in Section 170 (h) of the Federal "Internal Revenue Code of 1986", as amended, and any federal regulations promulgated in connection with such section;

(B) The total appraised value of the easements;

(C) The total donated value of the easements; and

(D) The total dollar amount of tax credit certificates issued.

(b) The division may include additional easement-specific information in the public report that, notwithstanding the provisions of this Part 11 or any other law to the contrary, would otherwise be publicly available.

(c) The commissioner is authorized to share publicly available information regarding conservation easements with a third-party vendor for the purpose of developing and maintaining a registry of conservation easements in the state with a corresponding map displaying the boundaries of each easement in the state relative to county boundaries and other relevant mapping information. Prior to sharing the information, the commissioner shall consult with the commission regarding the appropriate types of information and the methods used for collecting the information. The department of regulatory agencies shall annually report on the information contained in the registry as a part of its presentation to its committee of reference at a hearing held pursuant to Section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". The information to be shared shall include the following:

(I) Any deeds, contracts, or other instruments creating, assigning, transferring, conveying, terminating, or otherwise affecting the easement, including the reception numbers on all instruments;

(II) The location and acreage of each easement, delineated by county;

(III) The names and addresses of any grantors of the easement and the names and addresses of any holders of the easement since its creation;

(IV) Whether the holder of the easement is a certified organization pursuant to Section 12-61-724;

(V) The conservation purposes of the easement; and
(VI) The amount of any income tax credits claimed or allowed for the easement and the amount of any such credits that were transferred to another taxpayer pursuant to section 39-22-522.

(14) (a) In addition to the tax credit certificate application process set forth in this section, a landowner may submit a proposed conservation easement donation to the division to obtain an optional preliminary advisory opinion regarding the transaction. The opinion may address the proposed deed of conservation easement, appraisal, conservation purpose, or other relevant aspect of the transaction.

(b) The division, the director, and the commission shall review the information and documentation provided in a manner consistent with the scope of their authority and responsibilities for reviewing tax credit certificate applications as outlined in subsection (3) of this section and issue either a favorable opinion or a nonfavorable opinion.

(c) The director or the commission may request that the landowner submit additional information or documentation that the director or the commission deems necessary to complete the review and issue an opinion.

(d) A nonfavorable opinion shall set forth any potential deficiencies identified by the director or the commission and that fall within the scope of the director's and the commission's review of the conservation easement transaction. The preliminary opinion is advisory only and is not binding for any purpose upon the division, the director, the commission, or the department of revenue.

(15) The division may promulgate rules to effectuate the purpose, implementation, and administration of this section pursuant to article 4 of title 24. The authority to promulgate rules includes the authority to define further in rule the administrative processes and requirements, including application processing and review time frames, for obtaining and issuing an optional preliminary advisory opinion pursuant to subsection (14) of this section.

(16) Notwithstanding the provisions of the "Colorado Open Records Act", part 2 of article 72 of title 24, the division, the director, and the commission shall deny the right of public inspection of any documentation or other record related to
INFORMATION OBTAINED AS PART OF AN INDIVIDUAL LANDOWNER’S
APPLICATION FOR A TAX CREDIT CERTIFICATE OR AN OPTIONAL
PRELIMINARY ADVISORY OPINION PURSUANT TO THE REQUIREMENTS OF
THIS SECTION, INCLUDING DOCUMENTATION OR OTHER RECORDS RELATED
TO ADMINISTRATIVE HEARINGS AND SETTLEMENT DISCUSSIONS HELD
PURSUANT TO SUBSECTION (12) OF THIS SECTION. THE DIVISION, THE
DIRECTOR, AND THE COMMISSION MAY SHARE DOCUMENTATION OR OTHER
RECORDS RELATED TO INFORMATION OBTAINED PURSUANT TO THIS
SECTION WITH THE DEPARTMENT OF REVENUE.

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

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

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

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

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

SECTION 3. In Colorado Revised Statutes, 12-61-702, repeal (5)
12-61-702. Definitions. As used in this part 7, unless the context otherwise requires:

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

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

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

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

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

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

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

39-22-522. Credit against tax - conservation easements.
(2) (b) For income tax years commencing on or after January 1, 2014, but prior to January 1, 2019, and for income tax years commencing on or after January 1, 2022, and, with regard to any credit over the amount of one hundred thousand dollars, for income tax years commencing on or after January 1, 2003, subject to the provisions of subsections (4) and (6) of this section, there shall be allowed a credit with respect to the income taxes imposed by this article ARTICLE 22 to each taxpayer who donates during the taxable year all or part of the value of a perpetual conservation easement in gross created pursuant to article 30.5 of title 38 C.R.S.; upon real property the taxpayer owns to a governmental entity or a charitable organization described in section 38-30.5-104 (2). The credit shall only be allowed for a donation that meets the requirements of section 170 of the federal "Internal Revenue Code of 1986", as amended, and any federal regulations promulgated in accordance with such section. The amount of the credit shall not include the value of any portion of an easement on real property located in another state.

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

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

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

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

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

(I) The executive director shall have the authority, pursuant to subsection (8) of this section, to require additional information from the taxpayer or transferee regarding the appraisal value of the easement, the amount of the credit, and the validity of the credit. In resolving disputes regarding the validity or the amount of a credit allowed pursuant to subsection (2) of this section, including the value of the conservation easement for which the credit is granted, the executive director shall have the authority, for good cause shown and in consultation with the division of real estate conservation and the conservation easement oversight commission created in section 12-61-725-(1), C.R.S., subsection 12-61-1103 (1) to review and accept or reject, in whole or in part, the appraisal value of the easement, the amount of the credit, and the validity of the credit based upon the internal revenue code and federal regulations...
in effect at the time of the donation. If the executive director reasonably
believes that the appraisal represents a gross valuation misstatement,
receives notice of such a valuation misstatement from the division of real
estate, or receives notice from the division of real estate that an
enforcement action has been taken by the board of real estate appraisers
against the appraiser, the executive director shall have the authority to
require the taxpayer to provide a second appraisal at the expense of the
taxpayer. The second appraisal shall be conducted by a certified general
appraiser in good standing and not affiliated with the first appraiser that
meets qualifications established by the division of real estate. In the event
the executive director rejects, in whole or in part, the appraisal value of
the easement, the amount of the credit, or the validity of the credit, the
procedures described in sections 39-21-103, 39-21-104, 39-21-104.5, and
39-21-105 shall apply.

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

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

(c) Notwithstanding any other provision of this section,
for any conservation easement in gross donated for any tax
year commencing on or after January 1, 2000, for which a credit
claimed pursuant to this section was subsequently denied in
whole or in part because the appraised value of the easement
was determined by the state to be too high, the taxpayer may
 elect in any subsequent tax year to amend the return for such
tax year and not claim the credit. Upon amending a return and
repaying to the state the amount, if any, allowed by the state
and claimed by the taxpayer for such tax year, the taxpayer
shall be entitled to repayment from the state of the full
amount of any interest or penalties paid by or on behalf of the
taxpayer to the state in connection with the denial of the
original claim for the credit.

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

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

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

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

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

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

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


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

29-20-110. Conservation easements - public hearing. (1) On and after the effective date of this section, prior to creating, modifying the terms of, or transferring a conservation easement in gross pursuant to article 30.5 of title 38, the governing body of a local government within which the property is located shall hold a public hearing regarding the creation, modification, or transfer of the easement as provided
IN THIS SECTION. IF THE PROPERTY IS LOCATED ENTIRELY WITHIN THE
UNINCORPORATED PORTION OF ONE OR MORE COUNTIES, THE BOARD OF
COUNTY COMMISSIONERS OF THE COUNTY WITH THE GREATEST PORTION
OF THE PROPERTY SHALL HOLD THE HEARING. IF THE PROPERTY IS
LOCATED IN WHOLE OR IN PART WITHIN ONE OR MORE MUNICIPALITIES, THE
GOVERNING BODY OF THE MUNICIPALITY WITH THE GREATEST PORTION OF
THE PROPERTY SHALL HOLD THE HEARING.

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

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

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

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

(a) THE STATE HAS REJECTED THE CLAIM FOR THE CREDIT OR THE TAXPAYER HAS ELECTED NOT TO CLAIM THE CREDIT PURSUANT TO SECTION 39-22-522 (5)(c);
(b) THE EASEMENT HAS BEEN APPRAISED TO HAVE NO VALUE OR NO MORE THAN A NOMINAL DOLLAR VALUE; AND
(c) THE HOLDER OF THE EASEMENT EITHER PROVIDED NO COMPENSATION FOR THE EASEMENT OR HAS BEEN REIMBURSED IN WHOLE FOR ANY COMPENSATION PROVIDED.

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

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

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

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

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

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

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


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

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