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Talking Points in Support of HB09-1014: Concerning Additional Resources for the Division of Real Estate to Address Conservation Easement Issues

Background:

- Last year, the passage of HB08-1353 established a conservation easement oversight program and conservation easement oversight commission administered by the Division of Real Estate. This program has two primary functions: 1) reviewing conservation easement (CE) appraisals for overvaluation before state credits are doled out, and 2) certifying land trusts and local governments to ensure they are legitimate and proper stewards of donated conservation easements.
- The legislation was necessary because an extensive investigation by the Division of Real Estate showed significant abuse of the program by a few unscrupulous entities. Without the Division's conservation easement oversight program, abuse of the tax credit program will continue, threatening legitimate conservation efforts and misappropriating millions of state tax dollars.

Why This New Legislation is Necessary:

- The CE program is cash funded by the fees the Division collects from appraisal submissions and certification applications meaning there is no impact on the general fund from the program. However, HB 1353 placed caps on the amount of those fees.
- Due to the fee cap, and since it is unknown how many entities will apply for certification, the state controller appropriately refused to loan the Division of Real Estate the funds necessary to cover the start-up costs for the program. Therefore, the program currently is not funded.

What The Bill Does:

- Removes the fee caps and converts to an annual certification, giving the Division the financial resources needed to fund the CE program.
- Specifically, this bill:
 - Eliminates the fee caps
 - Allows the Division to receive gifts, grants and donations to offset expenses
 - Changes the 3-year period for certification to an annual period
- The Division is not requesting any additional resources; it is solely seeking sufficient funding for the resources allocated in HB 1353.

From a Policy Perspective:

- This legislation removes a technical encumbrance, which will allow the Division to fulfill its statutory duties in administering a conservation easement oversight program.
- The Division has express authority under Section 12-61-720(11), C.R.S., to issue rules and set fees regarding the certification program. This will allow the Division to establish separate processes and fees for initial certification and annual renewal of certification.
- To date, the Division's program has been effective in exposing and preventing abuse of the conservation tax credit program, emphasizing the need for this legislation to be passed.