

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 16-0929.03 Esther van Mourik x4215

SENATE BILL 16-203

SENATE SPONSORSHIP

Lambert, Grantham, Steadman

HOUSE SPONSORSHIP

Hamner and Rankin, Young

Senate Committees
Appropriations

House Committees
Legislative Council

A BILL FOR AN ACT

101 CONCERNING THE EVALUATION OF STATE TAX EXPENDITURES, AND, IN
102 CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Joint Budget Committee. The bill specifies that the state auditor is responsible for evaluating the state's tax expenditures. The evaluation must include the following:

- ! A summary description of the purpose, intent, or goal of the tax expenditure;
- ! The intended beneficiaries of the tax expenditure;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
2nd Reading Unamended
May 9, 2016

SENATE
3rd Reading Unamended
May 2, 2016

SENATE
Amended 2nd Reading
April 29, 2016

- ! Whether the tax expenditure is accomplishing its purpose, intent, or goal;
- ! An explanation of the intended economic costs and benefits of the tax expenditure, with analyses to support the evaluation if they are available or reasonably possible;
- ! A comparison of the tax expenditure to other similar tax expenditures in other states;
- ! Whether there are other tax expenditures, federal or state spending, or other government, nonprofit, commercial, volunteer, or philanthropic programs that have the same or similar purpose, intent, or goal as the tax expenditure, whether those all are appropriately coordinated, and, if not, how coordination could be improved, or whether any redundancies can be eliminated;
- ! If the evaluation of a particular tax expenditure's economic impact is made difficult because of data constraints, any suggestions for changes in administration or law that would facilitate such data collection; and
- ! An explanation of the performance measures used to determine the extent to which the tax expenditure is accomplishing its purpose, intent, or goal. The bill specifies that the performance measures must be clear and relevant to the specific tax expenditure being evaluated, should be measurable and track actionable goals, and can be assessable and reportable over time.

To the extent it can be determined by the state auditor, the tax expenditure evaluation should also include the following:

- ! The extent to which the tax expenditure is a cost-effective use of resources compared to other options for using the same resources to address the same purpose, intent, or goal;
- ! An analysis of the tax expenditure's effect on competition and on business and stakeholder needs;
- ! Whether there are any opportunities to improve the effectiveness of the tax expenditure in meeting its purpose, intent, or goal; and
- ! An analysis of the effect of the state tax policies connected to local taxing jurisdictions on the overall purpose, intent, or goal of the tax expenditure.

The bill specifies that the state auditor must present the results in the form of an annual evaluation report that is posted on the general assembly's website.

1 *Be it enacted by the General Assembly of the State of Colorado:*

1 **SECTION 1.** In Colorado Revised Statutes, 39-21-301, **add** (3)
2 as follows:

3 **39-21-301. Legislative declaration.** (3) THE GENERAL ASSEMBLY
4 MUST SPEND ITS RESOURCES WISELY AND IT IS BENEFICIAL TO THE STATE
5 TO KNOW WHETHER THE TAX EXPENDITURES THAT ARE IN PLACE ARE
6 ACCOMPLISHING THE GOALS THEY WERE INTENDED TO MEET. IN ENACTING
7 SECTION 39-21-305, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT
8 THE STATE AUDITOR'S EVALUATION WILL PROVIDE THE STATE WITH
9 FACTUAL EVIDENCE OF WHETHER THE STATE'S TAX EXPENDITURES
10 ACHIEVE THE OBJECTIVES THEY ARE INTENDED TO ACHIEVE, INCLUDING
11 ECONOMIC DEVELOPMENT, ASSISTING BENEFICIARIES, AND PROMOTING
12 THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC, INCLUDING THE
13 BUSINESS ENVIRONMENT. ADDITIONALLY, IT IS THE INTENT OF THE
14 GENERAL ASSEMBLY THAT THE STATE AUDITOR'S EVALUATION:

15 (a) COMPARES THE STATE'S TAX EXPENDITURES WITH OTHER
16 STATE'S TAX EXPENDITURES;

17 (b) COMPARES THE EFFECT OF THE STATE'S TAX EXPENDITURES ON
18 COMPETITION;

19 (c) MEASURES THE EFFECT OF THE STATE'S TAX EXPENDITURES ON
20 BUSINESS AND STAKEHOLDER NEEDS;

21 (d) DETERMINES WHETHER THE STATE'S TAX EXPENDITURES ARE
22 ADMINISTERED EFFICIENTLY AND TRANSPARENTLY WITH DEFINED
23 PERFORMANCE MEASURES THAT SUPPORT ACCOUNTABILITY; AND

24 (e) ANALYZES HOW THE STATE'S TAX EXPENDITURES SERVE THE
25 PUBLIC'S INTERESTS BY PROTECTING TAXPAYER DOLLARS AND HOW THE
26 STATE'S TAX EXPENDITURES ENSURE COST-EFFECTIVENESS.

27 **SECTION 2.** In Colorado Revised Statutes, 39-21-302, **add** (1.3)

1 and (1.5) as follows:

2 **39-21-302. Definitions.** As used in this part 3, unless the context
3 otherwise requires:

4 (1.3) "EVALUATION REPORT" MEANS THE EVALUATION REPORT
5 THAT THE STATE AUDITOR IS REQUIRED TO PREPARE PURSUANT TO SECTION
6 39-21-305.

7 (1.5) "STATE AUDITOR" MEANS THE STATE AUDITOR DESCRIBED IN
8 SECTION 2-3-102, C.R.S.

9 **SECTION 3.** In Colorado Revised Statutes, **add** 39-21-305 as
10 follows:

11 **39-21-305. Tax expenditure - state auditor evaluation.**

12 (1) (a) THE STATE AUDITOR SHALL EVALUATE THE STATE'S TAX
13 EXPENDITURES PURSUANT TO THE REQUIREMENTS IN THIS SECTION. IN
14 EVALUATING EACH TAX EXPENDITURE, THE STATE AUDITOR SHALL
15 CONSULT WITH THE INTENDED BENEFICIARIES OR REPRESENTATIVES OF
16 THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE. IN ADDITION, IF
17 THE TAX EXPENDITURE IS INTENDED TO BENEFIT A SPECIFIC GEOGRAPHIC
18 REGION OF THE STATE, THE STATE AUDITOR SHALL CONSULT WITH THE
19 INTENDED BENEFICIARIES IN THAT SPECIFIC GEOGRAPHIC REGION OF THE
20 STATE.

21 (b) THE STATE AUDITOR'S TAX EXPENDITURE EVALUATION MUST
22 INCLUDE THE FOLLOWING:

23 (I) A SUMMARY DESCRIPTION OF THE PURPOSE, INTENT, OR GOAL
24 OF THE TAX EXPENDITURE;

25 (II) THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE;

26 (III) WHETHER THE TAX EXPENDITURE IS ACCOMPLISHING ITS
27 PURPOSE, INTENT, OR GOAL;

1 (IV) AN EXPLANATION OF THE INTENDED ECONOMIC COSTS AND
2 BENEFITS OF THE TAX EXPENDITURE, WITH ANALYSES TO SUPPORT THE
3 EVALUATION IF THEY ARE AVAILABLE OR REASONABLY POSSIBLE;

4 (V) A COMPARISON OF THE TAX EXPENDITURE TO OTHER SIMILAR
5 TAX EXPENDITURES IN OTHER STATES;

6 (VI) WHETHER THERE ARE OTHER TAX EXPENDITURES, FEDERAL
7 OR STATE SPENDING, OR OTHER GOVERNMENT, NONPROFIT, COMMERCIAL,
8 VOLUNTEER, OR PHILANTHROPIC PROGRAMS, TO THE EXTENT THE
9 INFORMATION IS READILY AVAILABLE, THAT HAVE THE SAME OR SIMILAR
10 PURPOSE, INTENT, OR GOAL AS THE TAX EXPENDITURE, HOW THOSE ALL
11 ARE COORDINATED, AND IF COORDINATION COULD BE IMPROVED, OR
12 WHETHER ANY REDUNDANCIES CAN BE ELIMINATED;

13 (VII) IF THE EVALUATION OF A PARTICULAR TAX EXPENDITURE'S
14 ECONOMIC IMPACT IS MADE DIFFICULT BECAUSE OF DATA CONSTRAINTS,
15 ANY SUGGESTIONS FOR CHANGES IN ADMINISTRATION OR LAW THAT
16 WOULD FACILITATE SUCH DATA COLLECTION; AND

17 (VIII) AN EXPLANATION OF THE PERFORMANCE MEASURES USED
18 TO DETERMINE THE EXTENT TO WHICH THE TAX EXPENDITURE IS
19 ACCOMPLISHING ITS PURPOSE, INTENT, OR GOAL. THE PERFORMANCE
20 MEASURES MUST BE CLEAR AND RELEVANT TO THE SPECIFIC TAX
21 EXPENDITURE BEING EVALUATED, SHOULD BE MEASURABLE AND TRACK
22 ACTIONABLE GOALS, AND CAN BE ASSESSABLE AND REPORTABLE OVER
23 TIME. THE STATE AUDITOR SHALL CONSIDER THE ORIGINAL LEGISLATIVE
24 INTENT AS WELL AS SUBSEQUENT DEVELOPMENTS IN THE STATE'S
25 ECONOMY, THE NATIONAL ECONOMY, AND ANY CHANGES IN NATIONAL,
26 STATE, OR LOCAL FISCAL POLICIES AND CONDITIONS.

27 (c) TO THE EXTENT IT CAN BE DETERMINED BY THE STATE

1 AUDITOR, THE TAX EXPENDITURE EVALUATION SHOULD ALSO INCLUDE THE
2 FOLLOWING:

3 (I) THE EXTENT TO WHICH THE TAX EXPENDITURE IS A
4 COST-EFFECTIVE USE OF RESOURCES COMPARED TO OTHER OPTIONS FOR
5 USING THE SAME RESOURCES TO ADDRESS THE SAME PURPOSE, INTENT, OR
6 GOAL;

7 (II) AN ANALYSIS OF THE TAX EXPENDITURE'S EFFECT ON
8 COMPETITION AND ON BUSINESS AND STAKEHOLDER NEEDS;

9 (III) WHETHER THERE ARE ANY OPPORTUNITIES TO IMPROVE THE
10 EFFECTIVENESS OF THE TAX EXPENDITURE IN MEETING ITS PURPOSE,
11 INTENT, OR GOAL; AND

12 (IV) AN ANALYSIS OF THE EFFECT OF THE STATE TAX POLICIES
13 CONNECTED TO LOCAL TAXING JURISDICTIONS ON THE OVERALL PURPOSE,
14 INTENT, OR GOAL OF THE TAX EXPENDITURE.

15 (d) NO LATER THAN SEPTEMBER 15, 2017, THE STATE AUDITOR
16 SHALL DEVELOP AND PUBLISH A MULTI-YEAR SCHEDULE THAT LISTS ALL
17 TAX EXPENDITURES IN LAW AS OF JULY 1, 2017, AND INDICATES THE YEAR
18 WHEN THE EVALUATION REPORT WILL BE PUBLISHED FOR EACH TAX
19 EXPENDITURE. IN DEVELOPING THE MULTI-YEAR SCHEDULE THE STATE
20 AUDITOR SHALL ENDEAVOR TO REVIEW THE OLDEST TAX EXPENDITURES
21 FIRST AND SHALL ENDEAVOR TO REVIEW A TAX EXPENDITURE WITH A
22 STATUTORY REPEAL DATE SO THAT THE EVALUATION REPORT FOR SUCH
23 TAX EXPENDITURE IS AVAILABLE DURING THE LEGISLATIVE SESSION HELD
24 IN THE CALENDAR YEAR BEFORE THE TAX EXPENDITURE IS SCHEDULED TO
25 REPEAL. THE STATE AUDITOR MAY REVISE THE SCHEDULE SO LONG AS THE
26 STATE AUDITOR CONTINUES TO PROVIDE FOR A SYSTEMATIC EVALUATION
27 OF ALL TAX EXPENDITURES, INCLUDING ANY NEW TAX EXPENDITURES

1 ENACTED BY THE GENERAL ASSEMBLY SINCE THE PUBLICATION OF A
2 PREVIOUS EVALUATION REPORT, AND SO LONG AS EACH TAX EXPENDITURE
3 IS REVIEWED AT LEAST ONCE EVERY FIVE YEARS.

4 (e) NOTWITHSTANDING SECTION 2-3-103 (2), C.R.S., THE STATE
5 AUDITOR SHALL PRESENT THE RESULTS IN THE FORM OF AN EVALUATION
6 REPORT THAT THE STATE AUDITOR SHALL ENSURE IS POSTED ON THE
7 GENERAL ASSEMBLY'S WEBSITE, AND, NOTWITHSTANDING SECTION
8 24-1-136 (9), C.R.S., THE STATE AUDITOR SHALL DELIVER A COPY OF THE
9 REPORT TO THE JOINT BUDGET COMMITTEE AND THE FINANCE COMMITTEES
10 OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. THE STATE
11 AUDITOR SHALL ENSURE THE FIRST EVALUATION REPORT IS DELIVERED
12 AND POSTED NO LATER THAN SEPTEMBER 14, 2018, AND SHALL ENSURE
13 SUBSEQUENT EVALUATION REPORTS ARE DELIVERED AND POSTED NO
14 LATER THAN SEPTEMBER 15 OF EACH YEAR THEREAFTER.

15 (2) (a) ANY RECORDS, INFORMATION, OR DOCUMENTATION
16 GENERATED PURSUANT TO THIS SECTION ARE WORK PAPERS OF THE STATE
17 AUDITOR AND SHALL BE OPEN TO PUBLIC INSPECTION ONLY UPON
18 APPROVAL OF A MAJORITY OF MEMBERS OF THE LEGISLATIVE AUDIT
19 COMMITTEE CREATED IN SECTION 2-3-101, C.R.S. ONLY THE SPECIFIC
20 WORK PAPERS THAT THE LEGISLATIVE AUDIT COMMITTEE VOTES TO
21 APPROVE FOR DISCLOSURE SHALL BE OPEN TO PUBLIC INSPECTION. WORK
22 PAPERS THAT HAVE NOT BEEN SPECIFICALLY APPROVED FOR DISCLOSURE
23 BY A MAJORITY VOTE OF THE LEGISLATIVE AUDIT COMMITTEE SHALL
24 REMAIN CONFIDENTIAL. UNDER NO CIRCUMSTANCES SHALL THE WORK
25 PAPERS BE OPEN TO PUBLIC INSPECTION PRIOR TO A COMPLETED REPORT
26 BEING POSTED AS SPECIFIED IN PARAGRAPH (e) OF SUBSECTION (1) OF THIS
27 SECTION.

1 (b) THE DEPARTMENT OF REVENUE MUST PROVIDE ANY REQUESTED
2 INFORMATION, ANALYSIS, OR DATA, IF AVAILABLE AND UNDER THE
3 CONTROL OF THE DEPARTMENT, AS REQUESTED BY THE STATE AUDITOR;
4 EXCEPT THAT, IF THE REQUEST INCLUDES CONFIDENTIAL INFORMATION,
5 SUCH INFORMATION MUST REMAIN CONFIDENTIAL IN THE HANDS OF THE
6 STATE AUDITOR, AND THE STATE AUDITOR IS SUBJECT TO THE SAME
7 LIMITATIONS SPECIFIED IN SECTION 39-21-113.

8 (c) THE STATE AUDITOR'S AUTHORITY SET FORTH IN SECTION
9 2-3-107, C.R.S., APPLIES TO THE STATE AUDITOR'S EVALUATION SET
10 FORTH IN THIS SECTION.

11 **SECTION 4. Appropriation.** For the 2016-17 state fiscal year,
12 \$212,149 is appropriated to the legislative department for use by the
13 office of the state auditor. This appropriation is from the general fund and
14 is based on an assumption that the office will require an additional 2.7
15 FTE. To implement this act, the office may use this appropriation for evaluating
16 and reporting on state tax expenditures.

17 **SECTION 5. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2016 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.