

**Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0929.03 Esther van Mourik x4215

**SENATE BILL 16-203**

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**SENATE SPONSORSHIP**

**Lambert**, Grantham, Steadman

**HOUSE SPONSORSHIP**

**Hamner and Rankin**, Young

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**Senate Committees**  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

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

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**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.*

- ! 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.

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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.