

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0223.01 Bob Lackner x4350

HOUSE BILL 19-1136

HOUSE SPONSORSHIP

Kraft-Tharp and Saine, Michaelson Jenet, Ransom

SENATE SPONSORSHIP

Smallwood and Todd, Fields

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ACCESS BY THE OFFICE OF THE STATE AUDITOR TO**
102 **RECORDS NECESSARY TO CONDUCT FOUR STATUTORILY**
103 **AUTHORIZED AUDITS IN CONNECTION WITH ENTITIES THAT ARE**
104 **NOT STATE AGENCIES.**

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://leg.colorado.gov/>.)

Legislative Audit Committee. Under current law, the state auditor (auditor) generally has access at all times to all of the books, accounts, reports, vouchers, or other records or information in any state department,

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

institution, or agency that is the subject of a performance or financial audit the auditor conducts. **Section 2** of the bill extends the same authority to performance or financial audits the auditor conducts of:

- ! The Colorado new energy improvement district and the new energy improvement program;
- ! The use of money in the state historical fund that is used for the preservation and restoration of the cities of Central, Black Hawk, and Cripple Creek;
- ! The health benefit exchange; and
- ! Community-centered boards.

The authority of the auditor or his or her designated representative to access books, accounts, reports, vouchers, or other records or information provided in connection with the audit of the use of money in the state historical fund terminates on the date the final audit report is released by the legislative audit committee.

Under current law, any state employee or other individual acting in an oversight role as a member of a state committee, board, or commission who willfully and knowingly discloses the contents of any report prepared by or at the direction of the auditor prior to the release of such report by a majority vote of the legislative audit committee is guilty of a misdemeanor and, upon conviction, shall be punished by a fine. **Section 1** extends the same criminal liability and penalty to any employee or other individual acting in an oversight role with respect to any audit of an entity, program, or use of money specified in the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, 2-3-103.7, **amend** (1)
3 as follows:

4 **2-3-103.7. Disclosure of reports before filing.** (1) Any state
5 employee or other individual acting in an oversight role as a member of
6 a committee, board, or commission, OR ANY EMPLOYEE OR OTHER
7 INDIVIDUAL ACTING IN AN OVERSIGHT ROLE WITH RESPECT TO ANY AUDIT
8 CONDUCTED PURSUANT TO SECTIONS 2-3-120, 2-3-123, 10-22-105 (4)(c),
9 AND 25.5-10-209 (4), who willfully and knowingly discloses the contents
10 of any report prepared by or at the direction of the state auditor's office
11 prior to the release of such report by a majority vote of the committee as

1 provided in section 2-3-103 (2) is guilty of a misdemeanor and, upon
2 conviction thereof, shall be punished by a fine of not more than five
3 hundred dollars.

4 **SECTION 2.** In Colorado Revised Statutes, 2-3-107, **amend**
5 (2)(a) as follows:

6 **2-3-107. Authority to subpoena witnesses - access to records.**

7 (2) (a) (I) Notwithstanding any provision of law to the contrary, the state
8 auditor or his or her designated representative shall have access at all
9 times, except as provided by sections 39-1-116, 39-4-103, and 39-5-120,
10 ~~C.R.S.~~, to all of the books, accounts, reports, vouchers, or other records
11 or information in any department, institution, or agency, including but not
12 limited to records or information required to be kept confidential or
13 exempt from public disclosure upon subpoena, search warrant, discovery
14 proceedings, or otherwise. THE AUTHORITY OF THE STATE AUDITOR OR HIS
15 OR HER DESIGNATED REPRESENTATIVE TO ACCESS AT ALL TIMES THE
16 BOOKS, ACCOUNTS, REPORTS, VOUCHERS, OR OTHER RECORDS OR
17 INFORMATION IN ACCORDANCE WITH THIS SUBSECTION (2)(a) ALSO
18 EXTENDS TO ANY FISCAL OR PERFORMANCE AUDIT THE STATE AUDITOR OR
19 HIS OR HER DESIGNATED REPRESENTATIVE CONDUCTS OF:

20 (A) THE COLORADO NEW ENERGY IMPROVEMENT DISTRICT AND
21 THE NEW ENERGY IMPROVEMENT PROGRAM IN CONNECTION WITH SECTION
22 2-3-120;

23 (B) THE USE OF MONEY IN THE STATE HISTORICAL FUND THAT IS
24 USED FOR THE PRESERVATION AND RESTORATION OF THE CITIES OF
25 CENTRAL, BLACK HAWK, AND CRIPPLE CREEK IN ACCORDANCE WITH
26 SECTION 2-3-123;

27 (C) THE HEALTH BENEFIT EXCHANGE CREATED IN SECTION

1 10-22-104 IN ACCORDANCE WITH SECTION 10-22-105 (4)(c); AND

2 (D) COMMUNITY-CENTERED BOARDS IN ACCORDANCE WITH
3 SECTION 25.5-10-209 (4).

4 (II) THE AUTHORITY OF THE STATE AUDITOR OR HIS OR HER
5 DESIGNATED REPRESENTATIVE TO ACCESS AT ALL TIMES THE BOOKS,
6 ACCOUNTS, REPORTS, VOUCHERS, OR OTHER RECORDS OR INFORMATION
7 PROVIDED UNDER SUBSECTION (2)(a)(I)(B) OF THIS SECTION TERMINATES
8 ON THE DATE THE FINAL AUDIT REPORT IS RELEASED BY THE LEGISLATIVE
9 AUDIT COMMITTEE.

10 (III) When accessing confidential health records, the state auditor
11 shall determine the necessity of accessing personal identifying health
12 information for the purpose of achieving the audit objectives.

13 **SECTION 3. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2020 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.