SENATE COMMITTEE OF REFERENCE REPORT

March 21, 2018

Chairman of Committee

Date

Committee on Business, Labor, & Technology.

After consideration on the merits, the Committee recommends the following:

HB18-1237 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend reengrossed bill, page 2, strike lines 10 and 11 and substitute:

"SECTION 2. In Colorado Revised Statutes, 24-4-103, amend (2.5)(a) and (2.5)(b); repeal (2.5)(f); and add (2.5)(g), (2.5)(h), and (2.5)(i) as follows":

Page 2, strike line 13 and substitute "citation correction - reporting -repeal. (2.5) (a) (I) At the time of filing a notice of proposed rule-making with the secretary of state as the secretary may require, an agency shall submit a draft of the proposed rule or the proposed amendment to an existing rule and a statement, in plain language, concerning the subject matter or purpose of the proposed rule or amendment to the office of the executive director in the department of regulatory agencies. The executive director, or his or her designee, shall distribute the proposed rule or amendment, the agency's statement concerning the subject matter or purpose of the proposed rule or amendment, and any cost-benefit analysis prepared pursuant to this section to all persons who have submitted a request to receive notices from the department of regulatory agencies about proposed rule-making. (II) WITHIN FIVE DAYS AFTER RECEIVING A DRAFT OF AN AGENCY'S PROPOSED RULE OR PROPOSED AMENDMENT PURSUANT TO SUBSECTION (2.5)(a)(I) OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL REVIEW THE PROPOSED RULE OR PROPOSED AMENDMENT..."
TO DETERMINE IF ANY PORTION OF IT CONSTITUTES A SIGNIFICANT
REGULATORY ACTION. IF THE EXECUTIVE DIRECTOR OR THE EXECUTIVE
DIRECTOR'S DESIGNEE DETERMINES THAT ANY PORTION OF THE PROPOSED
RULE OR PROPOSED AMENDMENT CONSTITUTES A SIGNIFICANT
REGULATORY ACTION, HE OR SHE SHALL SEND A COPY OF THE PROPOSED
RULE OR PROPOSED AMENDMENT, ALONG WITH AN EXPLANATION WHY IT
CONSTITUTES A SIGNIFICANT REGULATORY ACTION, TO THE OFFICE. AT
LEAST TEN BUSINESS DAYS BEFORE THE AGENCY'S HEARING ON THE
PROPOSED RULE OR PROPOSED AMENDMENT, THE DIRECTOR OF THE OFFICE
OR THE DIRECTOR'S DESIGNEE, IN COLLABORATION WITH THE AGENCY,
SHALL CONDUCT A COST-BENEFIT ANALYSIS OF THE PROPOSED RULE OR
PROPOSED AMENDMENT PURSUANT TO SUBSECTION (2.5)(a)(V) OF THIS
SECTION AND SHALL SEND THE COST-BENEFIT ANALYSIS TO THE
EXECUTIVE DIRECTOR AND TO THE AGENCY. THE AGENCY SHALL MAKE
THE COST-BENEFIT ANALYSIS AVAILABLE TO THE PUBLIC BY POSTING IT ON
THE AGENCY'S OFFICIAL WEBSITE. THE EXECUTIVE DIRECTOR, OR THE
EXECUTIVE DIRECTOR'S DESIGNEE, SHALL POST THE ANALYSIS ON THE
DEPARTMENT OF REGULATORY AGENCIES' OFFICIAL WEBSITE.

(III) Any person may, within five BUSINESS days after publication
of the notice of proposed rule-making in the Colorado register, request
that the department of regulatory agencies require the agency submitting
the proposed rule or amendment to prepare a cost-benefit analysis. The
executive director, or his or her designee, shall determine, after
consultation with the agency proposing the rule or amendment, whether
to require the agency to prepare a cost-benefit analysis. If the executive
director, or his or her designee, determines that a cost-benefit analysis is
required, the DEPARTMENT SHALL REQUIRE the agency to complete
a cost-benefit analysis at least ten BUSINESS days before the hearing on the
rule or amendment, shall make the analysis available to the public by
posting the analysis on the agency's official website, and shall submit a
copy to the executive director of the DEPARTMENT or his or her designee.
The executive director, or his or her designee, shall post the analysis on
the department of regulatory agencies' official website.

(IV) By filing an additional notice published in the Colorado
register, the agency may postpone the hearing on the rule or amendment
to comply with the requirement to complete the THAT ANY cost-benefit
analysis REQUIRED PURSUANT TO SUBSECTION (2)(a)(II) OR (2)(a)(III) OF
THIS SECTION BE COMPLETED at least ten days before the hearing. Failure
to complete a requested If a cost-benefit analysis IS REQUIRED FOR A
PROPOSED RULE OR AMENDMENT pursuant to this subsection (2.5), shall
preclude the adoption of such
amendment until the cost-benefit analysis has been completed.

(V) A cost-benefit analysis, shall whether conducted by the office in collaboration with an agency, or solely by the agency, must include the following:

(I) (A) The reason for the rule or amendment;

(II) (B) The anticipated economic benefits of the rule or amendment, which shall include including economic growth, the creation of new jobs, and increased economic competitiveness;

(III) (C) The anticipated costs of the rule or amendment, which shall include including the direct costs to the government to administer the rule or amendment and the direct and indirect costs to business and other entities required to comply with the rule or amendment;

(IV) (D) Any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness; and

(V) (E) At least two alternatives to the proposed rule or amendment that can be identified by the submitting agency, the office, or a member of the public, including the costs and benefits of pursuing each of the alternatives identified.

(b) The executive director of the department of regulatory agencies, or his or her designee, or, for a cost-benefit analysis conducted pursuant to subsection (2.5)(a)(II), the director or the director's designee, shall study the cost-benefit analysis and may urge the agency to revise the rule or amendment to eliminate or reduce the negative economic impact. The executive director, or his or her designee, may inform the public about the negative impact of the proposed rule or the proposed amendment to an existing rule.

(f) (I) This subsection (2.5) is.

Page 3, after line 7 insert:

"(h) (I) Notwithstanding section 24-1-136 (11), the executive director of the department of regulatory agencies or the executive director's designee shall, on an annual basis, prepare a report summarizing the cost-benefit analyses conducted in the previous twelve-month period, including:

(A) The number of cost-benefit analyses prepared;

(B) The agencies for which one or more cost-benefit analyses were prepared;

(C) A summary of any proposed rule or proposed
AMENDMENT TO AN EXISTING RULE THAT WAS MODIFIED IN RESPONSE TO
A COST-BENEFIT ANALYSIS CONducted AND THE MANNER IN WHICH IT
WAS MODIFIED; AND

(D) FOR COST-BENEFIT ANALYSES THAT WERE PREPARED AS A
RESULT OF A DETERMINATION THAT THE PROPOSED RULE OR PROPOSED
AMENDMENT TO AN EXISTING RULE CONSTITUTED A SIGNIFICANT
REGULATORY ACTION, THE BASIS FOR THE SIGNIFICANT REGULATORY
ACTION DETERMINATION.

(II) ON OR BEFORE OCTOBER 31, 2019, AND ON OR BEFORE
OCTOBER 31 OF EACH YEAR THEREAFTER, THE EXECUTIVE DIRECTOR OR
THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL SEND COPIES OF THE REPORT
TO THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE IN THE SENATE,
THE BUSINESS AFFAIRS AND LABOR COMMITTEE IN THE HOUSE OF
REPRESENTATIVES, AND THE LEGISLATIVE AUDIT COMMITTEE, OR THEIR
SUCCESSOR COMMITTEES.

(i) AS USED IN THIS SUBSECTION (2.5):
(II) "OFFICE" MEANS THE OFFICE OF STATE PLANNING AND
BUDGETING CREATED IN SECTION 24-37-102.

(II) "SIGNIFICANT REGULATORY ACTION" MEANS A PROPOSED RULE
THAT, IF ADOPTED, IS LIKELY TO RESULT IN ONE OR MORE OF THE
FOLLOWING:
(A) A COST OF TEN MILLION DOLLARS OR MORE OVER A FIVE-YEAR
PERIOD TO THE REGULATED INDUSTRY OR OTHER PRIVATE ENTITIES TO
COMPLY WITH THE RULE; OR
(B) A SERIOUS INCONSISTENCY OR OTHER FORM OF INTERFERENCE
WITH AN ACTION TAKEN OR PLANNED BY ANOTHER AGENCY.".

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