

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

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.

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;
- ! Whether the tax expenditure is accomplishing its purpose, intent, or goal;

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.*

- ! 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:*

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

1 as follows:

2 **39-21-301. Legislative declaration.** (3) THE GENERAL ASSEMBLY  
3 MUST SPEND ITS RESOURCES WISELY AND IT IS BENEFICIAL TO THE STATE  
4 TO KNOW WHETHER THE TAX EXPENDITURES THAT ARE IN PLACE ARE  
5 ACCOMPLISHING THE GOALS THEY WERE INTENDED TO MEET. IN ENACTING  
6 SECTION 39-21-305, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT  
7 THE STATE AUDITOR'S EVALUATION WILL PROVIDE THE STATE WITH  
8 FACTUAL EVIDENCE OF WHETHER THE STATE'S TAX EXPENDITURES  
9 ACHIEVE THE OBJECTIVES THEY ARE INTENDED TO ACHIEVE, INCLUDING  
10 ECONOMIC DEVELOPMENT, ASSISTING BENEFICIARIES, AND PROMOTING  
11 THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC, INCLUDING THE  
12 BUSINESS ENVIRONMENT. ADDITIONALLY, IT IS THE INTENT OF THE  
13 GENERAL ASSEMBLY THAT THE STATE AUDITOR'S EVALUATION:

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

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

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

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

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

26 **SECTION 2.** In Colorado Revised Statutes, 39-21-302, **add** (1.3)  
27 and (1.5) as follows:

1           **39-21-302. Definitions.** As used in this part 3, unless the context  
2 otherwise requires:

3           (1.3) "EVALUATION REPORT" MEANS THE EVALUATION REPORT  
4 THAT THE STATE AUDITOR IS REQUIRED TO PREPARE PURSUANT TO SECTION  
5 39-21-305.

6           (1.5) "STATE AUDITOR" MEANS THE STATE AUDITOR DESCRIBED IN  
7 SECTION 2-3-102, C.R.S.

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

10           **39-21-305. Tax expenditure - state auditor evaluation.**

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

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

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

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

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

27           (IV) AN EXPLANATION OF THE INTENDED ECONOMIC COSTS AND

1 BENEFITS OF THE TAX EXPENDITURE, WITH ANALYSES TO SUPPORT THE  
2 EVALUATION IF THEY ARE AVAILABLE OR REASONABLY POSSIBLE;

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

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

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

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

26 (c) TO THE EXTENT IT CAN BE DETERMINED BY THE STATE  
27 AUDITOR, THE TAX EXPENDITURE EVALUATION SHOULD ALSO INCLUDE THE

1 FOLLOWING:

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

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

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

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

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

1 PREVIOUS EVALUATION REPORT, AND SO LONG AS EACH TAX EXPENDITURE  
2 IS REVIEWED AT LEAST ONCE EVERY FIVE YEARS.

3 (e) NOTWITHSTANDING SECTION 2-3-103 (2), C.R.S., THE STATE  
4 AUDITOR SHALL PRESENT THE RESULTS IN THE FORM OF AN EVALUATION  
5 REPORT THAT THE STATE AUDITOR SHALL ENSURE IS POSTED ON THE  
6 GENERAL ASSEMBLY'S WEBSITE. THE STATE AUDITOR SHALL ENSURE THE  
7 POSTING OF THE FIRST EVALUATION REPORT NO LATER THAN SEPTEMBER  
8 14, 2018, AND SHALL ENSURE THE POSTING OF SUBSEQUENT EVALUATION  
9 REPORTS NO LATER THAN SEPTEMBER 15 OF EACH YEAR THEREAFTER.

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

23 (b) THE DEPARTMENT OF REVENUE MUST PROVIDE ANY REQUESTED  
24 INFORMATION, ANALYSIS, OR DATA, IF AVAILABLE AND UNDER THE  
25 CONTROL OF THE DEPARTMENT, AS REQUESTED BY THE STATE AUDITOR;  
26 EXCEPT THAT, IF THE REQUEST INCLUDES CONFIDENTIAL INFORMATION,  
27 SUCH INFORMATION MUST REMAIN CONFIDENTIAL IN THE HANDS OF THE

1 STATE AUDITOR, AND THE STATE AUDITOR IS SUBJECT TO THE SAME  
2 LIMITATIONS SPECIFIED IN SECTION 39-21-113.

3 (c) THE STATE AUDITOR'S AUTHORITY SET FORTH IN SECTION  
4 2-3-107, C.R.S., APPLIES TO THE STATE AUDITOR'S EVALUATION SET  
5 FORTH IN THIS SECTION.

6 **SECTION 4. Act subject to petition - effective date.** This act  
7 takes effect at 12:01 a.m. on the day following the expiration of the  
8 ninety-day period after final adjournment of the general assembly (August  
9 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
10 referendum petition is filed pursuant to section 1 (3) of article V of the  
11 state constitution against this act or an item, section, or part of this act  
12 within such period, then the act, item, section, or part will not take effect  
13 unless approved by the people at the general election to be held in  
14 November 2016 and, in such case, will take effect on the date of the  
15 official declaration of the vote thereon by the governor.