HOUSE SPONSORSHIP
Kraft-Tharp and Van Winkle, Arndt, Coleman, Garnett, Gray, Liston, Rosenthal, Sandridge, Sias, Thurlow, Williams D.

SENATE SPONSORSHIP
Neville T.,

House Committees
Business Affairs and Labor

Senate Committees
Business, Labor, & Technology

A BILL FOR AN ACT

CONCERNING THE CONTINUATION OF THE REQUIREMENTS REGARDING
THE PREPARATION OF A COST-BENEFIT ANALYSIS AS ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2017 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY 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.)

Sunset Process - House Business Affairs and Labor

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.
Committee. The bill implements the recommendations of the department of regulatory agencies' (department) sunset review and report on requirements and procedures regarding the preparation of a cost-benefit analysis by:

- Continuing the requirements and procedures indefinitely (recommendation 1, sections 1 and 2 of the bill);
- Requiring state rule-making agencies to include on their applicable websites information about the cost-benefit analysis process and a link to the online regulatory notice enrollment form created by the executive director of the department or the executive director's designee (section 2).

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

SECTION 1. In Colorado Revised Statutes, 24-34-104, repeal (15)(a)(VI) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (15) (a) The following agencies, functions, or both, will repeal on September 1, 2018:

(6) (VI) The requirements and procedures regarding the preparation of a cost-benefit analysis specified in section 24-4-103 (2.5);

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:

24-4-103. Rule-making - procedure - definitions - statutory 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 THE AGENCY SHALL NOT ADOPT THE rule or
amendment Such UN TIL 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:

1. **(A)** The reason for the rule or amendment;

2. **(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;

3. **(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;

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

5. **(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 repealed, effective September 1;
2018:

(II) Prior to such repeal, the provisions regarding the preparation of a cost-benefit analysis pursuant to this subsection (2.5) shall be reviewed as provided for in section 24-34-104.

(g) Each state rule-making agency with a website containing rule-making information shall include the following information on its website:

(I) Information about the cost-benefit analysis process set forth in this subsection (2.5); and

(II) A link to the online regulatory notice enrollment form created by the executive director of the department of regulatory agencies or the executive director's designee and listed on the department's website.

(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):

(I) "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.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.