

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0697.01 Michael Dohr x4347

SENATE BILL 26-137

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SENATE SPONSORSHIP

Coleman and Simpson,

HOUSE SPONSORSHIP

McCluskie and Caldwell,

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Senate Committees  
Finance

House Committees

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A BILL FOR AN ACT

101 CONCERNING MEASURES TO REDUCE ADMINISTRATIVE BURDENS, AND,  
102 IN CONNECTION THEREWITH, MAKING CHANGES TO THE  
103 MANDATORY REVIEW OF DEPARTMENT RULES BY EACH  
104 PRINCIPAL DEPARTMENT AND CLARIFYING THE ATTORNEY  
105 GENERAL'S SCOPE OF AUTHORITY RELATED TO LITIGATION  
106 DISCOVERY.

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

Current law requires each principal department (department) to

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

establish a schedule to review all of its rules. The bill requires the review to occur at least every 5 years. Current law directs each department to make certain determinations when conducting the review of the rules. The bill requires the following additional determinations:

- Whether the department has rules with the same or similar purpose, intent, or goal and, if so, how those are coordinated and whether redundant rules can be eliminated;
- Whether the rule is outdated or obsolete;
- Whether funding levels to support the program or function subject to the rule are appropriate;
- Whether there are opportunities to improve the effectiveness of the rule in meeting its purpose, intent, or goal; and
- Whether the rule creates administrative burdens on the agency, consumers, or businesses without a corresponding public benefit.

Current law requires each department to present a report at its "SMART Act" hearing regarding its mandatory review of all rules. The bill permits the committee of reference presiding over the "SMART Act" hearing to determine whether a program or function subject to the rules should be subject to a sunset review and to provide to the legislative audit committee its departmental regulatory agenda for the audit committee to determine whether a program or function subject to the rule should be subject to a performance or financial audit.

The bill clarifies the attorney general's responsibility regarding litigation discovery on behalf of the state of Colorado or on behalf of the people of the state of Colorado.

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

2           **SECTION 1.** In Colorado Revised Statutes, 24-4-103.3, **amend**  
3 (1) introductory portion, (1)(e), (1)(g), (3), and (4); and **add** (1)(i), (1)(j),  
4 (1)(k), (1)(l), and (1)(m) as follows:

5           **24-4-103.3. Mandatory review of rules by agencies - report on**  
6 **results of review in departmental regulatory agendas - definitions.**

7           (1) ~~The department of regulatory agencies~~ EACH PRINCIPAL  
8 DEPARTMENT shall establish a schedule ~~in consultation with each~~  
9 ~~principal department~~, for the PERIODIC review of all of the DEPARTMENT'S  
10 rules ~~for each principal department~~ TO OCCUR AT LEAST EVERY FIVE

1 YEARS; EXCEPT THAT THE YEAR BEFORE AND THE YEAR AFTER A SUNSET  
2 REVIEW ARE NOT INCLUDED IN THE FIVE-YEAR CALCULATION. Each  
3 principal department shall conduct a review of all of its rules to assess the  
4 continuing need for and the appropriateness and cost-effectiveness of its  
5 rules to determine if they should be continued in their current form,  
6 modified, or repealed. The applicable rule-making agency or official in  
7 the principal department shall consider the following:

8 (e) Whether the rule can be amended to give more flexibility,  
9 reduce regulatory burdens, or reduce unnecessary paperwork or steps  
10 while ~~maintaining~~ MEETING its INTENDED GOALS AND benefits;

11 (g) Whether a cost-benefit analysis was performed by the  
12 applicable rule-making agency or official in the principal department  
13 pursuant to section 24-4-103 (2.5) ~~and~~ OR AN EQUIVALENT ANALYSIS  
14 REQUIRED BY FEDERAL LAW OR PURSUANT TO SECTION 25-7-110.5;

15 (i) WHETHER THERE ARE OTHER RULES ADOPTED BY THE  
16 RULE-MAKING AGENCY OR OFFICIAL THAT HAVE THE SAME OR SIMILAR  
17 PURPOSE, INTENT, OR GOAL; HOW THOSE ARE COORDINATED; AND  
18 WHETHER REDUNDANCIES CAN BE ELIMINATED;

19 (j) WHETHER THE RULE IS OUTDATED OR OBSOLETE;

20 (k) WHETHER FUNDING LEVELS TO SUPPORT THE PROGRAM OR  
21 FUNCTION SUBJECT TO THE RULE ARE APPROPRIATE. AS USED IN THIS  
22 SUBSECTION (1)(k), "APPROPRIATE" MEANS SUFFICIENT TO ADMINISTER  
23 AND ENFORCE THE PROGRAM OR RULE IN COMPLIANCE WITH STATE AND  
24 FEDERAL LAW, WITHIN EXISTING APPROPRIATIONS AND AUTHORIZED FEE  
25 STRUCTURES.

26 (l) WHETHER THERE ARE OPPORTUNITIES TO IMPROVE THE  
27 EFFECTIVENESS OF THE RULE IN MEETING ITS PURPOSE, INTENT, OR GOAL.

1 AS USED IN THIS SUBSECTION (1)(l), "OPPORTUNITIES" MEANS  
2 REASONABLE AND LEGALLY PERMISSIBLE ADJUSTMENTS WITHIN THE  
3 AGENCY'S EXISTING STATUTORY AUTHORITY THAT WOULD IMPROVE  
4 IMPLEMENTATION OR ADMINISTRATION OF THE RULE.

5 (m) WHETHER THE RULE CREATES ADMINISTRATIVE BURDENS ON  
6 THE AGENCY, CONSUMERS, OR BUSINESSES WITHOUT A CORRESPONDING  
7 PUBLIC BENEFIT. FOR THE PURPOSES OF THIS SUBSECTION (1)(m), A RULE  
8 REQUIRED BY FEDERAL LAW OR APPROVED AS PART OF A STATE  
9 IMPLEMENTATION PLAN IS PRESUMED TO HAVE A CORRESPONDING PUBLIC  
10 BENEFIT.

11 (3) ~~The department of regulatory agencies~~ A PRINCIPAL  
12 DEPARTMENT shall not schedule mandatory review under this section  
13 during the year of and during the year following any scheduled sunset  
14 review conducted by the department of regulatory agencies pursuant to  
15 section 24-34-104.

16 (4) (a) Each principal department shall include a report on the  
17 results of its mandatory review of rules as part of its departmental  
18 regulatory agenda that it submits to the staff of the legislative council for  
19 distribution to the applicable committee of reference of the general  
20 assembly as outlined in section 2-7-203. ~~C.R.S.~~ THE COMMITTEE OF  
21 REFERENCE SHALL REVIEW THE DEPARTMENTAL REPORT DURING THE  
22 COMMITTEE'S "SMART ACT" HEARING.

23 (b) THE COMMITTEE OF REFERENCE MAY DETERMINE WHETHER A  
24 PROGRAM OR FUNCTION SUBJECT TO THE RULES SHOULD BE SUBJECT TO A  
25 SUNSET REVIEW PURSUANT TO SECTION 24-34-104(5) AND SHALL PROVIDE  
26 TO THE LEGISLATIVE AUDIT COMMITTEE ITS DEPARTMENTAL REGULATORY  
27 AGENDA FOR THE LEGISLATIVE AUDIT COMMITTEE TO DETERMINE

1 WHETHER A PROGRAM OR FUNCTION SUBJECT TO THE RULES SHOULD BE  
2 SUBJECT TO A PERFORMANCE OR FINANCIAL AUDIT BY THE OFFICE OF THE  
3 STATE AUDITOR PURSUANT TO SECTION 2-3-103.

4 **SECTION 2.** In Colorado Revised Statutes, 24-31-101, **add** (6)  
5 as follows:

6 **24-31-101. Powers and duties of attorney general.**

7 (6) IN ANY ACTION BROUGHT BY THE ATTORNEY GENERAL IN THE  
8 ATTORNEY GENERAL'S OFFICIAL CAPACITY, OR ON THE RELATION OF THE  
9 STATE OF COLORADO OR THE PEOPLE OF THE STATE OF COLORADO, TO  
10 ENFORCE THE LAW AS AUTHORIZED BY STATUTE OR COMMON LAW, THE  
11 ATTORNEY GENERAL SHALL NOT BE DEEMED TO PURSUE AN ACTION ON  
12 BEHALF OF ANY OTHER STATE OFFICER OR ANY STATE AGENCY,  
13 DEPARTMENT, OFFICE, BOARD, COMMISSION, OR ENTERPRISE AND SHALL  
14 NOT BE DEEMED IN POSSESSION, CUSTODY, OR CONTROL OF ANY RECORD  
15 THAT IS MADE, KEPT, OR MAINTAINED BY ANY OTHER STATE OFFICER OR  
16 ANY STATE AGENCY, DEPARTMENT, OFFICE, BOARD, COMMISSION, OR  
17 ENTERPRISE FOR THE PURPOSE OF ANY DISCOVERY REQUEST DIRECTED AT  
18 THE ATTORNEY GENERAL IN THE ATTORNEY GENERAL'S OFFICIAL  
19 CAPACITY, OR ON THE RELATION OF THE STATE OF COLORADO OR THE  
20 PEOPLE OF THE STATE OF COLORADO, AS A PARTY TO SUCH ACTION.

21 **SECTION 3. Act subject to petition - effective date.** This act  
22 takes effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly (August  
24 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a  
25 referendum petition is filed pursuant to section 1 (3) of article V of the  
26 state constitution against this act or an item, section, or part of this act  
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in  
2 November 2026 and, in such case, will take effect on the date of the  
3 official declaration of the vote thereon by the governor.