

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 15-0161.01 Esther van Mourik x4215

HOUSE BILL 15-1205

HOUSE SPONSORSHIP

Becker K. and Saine,

SENATE SPONSORSHIP

Hill and Johnston,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE TAX EXPENDITURE EVALUATION**
102 **COMMITTEE OF THE SENATE AND HOUSE OF REPRESENTATIVES,**
103 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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/bills summaries>.)

The bill creates a joint committee of the senate and house of representatives, known as the tax expenditure evaluation committee. The committee is made up of 7 legislative members and 3 nonvoting, nonlegislative members from the office of state planning and budgeting, the department of revenue, and the Colorado office of economic

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.

HOUSE
Amended 2nd Reading
April 6, 2015

development. The committee is to function during both the legislative sessions and the interims between. The committee is responsible for reviewing evaluations of the state's tax expenditures made by the state auditor, or an evaluation contractor hired by the state auditor, as required in the bill. The committee may recommend legislation for the continuation, repeal, or modification of the evaluated tax expenditures for the following legislative session. The bill further specifies that the committee may make recommendations, or may recommend legislation, to the department of revenue, the office of state planning and budgeting, the Colorado office of economic development, or any other appropriate state agency, regarding improvements of tax expenditure administration.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 18 to article
 3 of title 2 as follows:

4 **PART 18**

5 **TAX EXPENDITURE EVALUATION COMMITTEE**

6 **2-3-1801. Definitions.** AS USED IN THIS PART 18:

7 (1) "COMMITTEE" MEANS THE TAX EXPENDITURE EVALUATION
 8 COMMITTEE CREATED IN SECTION 2-3-1802.

9 (2) "EVALUATION CONTRACTOR" MEANS THE CONTRACTOR WHO
 10 MAY BE HIRED PURSUANT TO SECTION 2-3-1804 (1) TO PERFORM THE
 11 EVALUATIONS OF TAX EXPENDITURES.

12 (3) "STATE AUDITOR" MEANS THE STATE AUDITOR DESCRIBED IN
 13 SECTION 2-3-102.

14 (4) "TAX EXPENDITURE" HAS THE SAME MEANING AS IN SECTION
 15 39-21-302 (2), C.R.S.; EXCEPT THAT IT DOES NOT INCLUDE THE SALES AND
 16 USE TAX EXEMPTIONS FOUND IN SECTIONS 39-26-102 (20) AND (21),
 17 39-26-704 (1) AND (4), 39-26-706 (3), 39-26-707 (1) AND (2), 39-26-708,
 18 39-26-709, 39-26-713 (1) (d) AND (2) (e), AND 39-26-724, C.R.S.

19 

1 **2-3-1802. Tax expenditure evaluation committee established.**

2 (1) THERE IS HEREBY ESTABLISHED A JOINT COMMITTEE OF THE SENATE
3 AND HOUSE OF REPRESENTATIVES KNOWN AS THE TAX EXPENDITURE
4 EVALUATION COMMITTEE, CONSISTING OF:

5 (a) THE FOLLOWING VOTING MEMBERS OF THE COMMITTEE:

6 (I) TWO MEMBERS OF THE FINANCE COMMITTEE OF THE SENATE, OR
7 SUCH SUCCESSOR COMMITTEE, ONE OF WHOM IS APPOINTED BY THE
8 PRESIDENT OF THE SENATE AND ONE OF WHOM IS APPOINTED BY THE
9 MINORITY LEADER OF THE SENATE;

10 (II) TWO MEMBERS OF THE FINANCE COMMITTEE OF THE HOUSE OF
11 REPRESENTATIVES, OR SUCH SUCCESSOR COMMITTEE, ONE OF WHOM IS
12 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE
13 OF WHOM IS APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
14 REPRESENTATIVES;

15 (III) ONE MEMBER FROM THE JOINT APPROPRIATIONS COMMITTEE
16 OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. THE SPEAKER OF
17 THE HOUSE OF REPRESENTATIVES SHALL APPOINT THE FIRST MEMBER FROM
18 THE JOINT APPROPRIATIONS COMMITTEE TO SERVE A TWO-YEAR TERM.
19 UPON THE EXPIRATION OF THAT MEMBER'S TERM, THE PRESIDENT OF THE
20 SENATE SHALL APPOINT THE NEXT MEMBER FROM THE JOINT
21 APPROPRIATIONS COMMITTEE TO SERVE A TWO-YEAR TERM. THE
22 APPOINTMENT OF A MEMBER FROM THE JOINT APPROPRIATIONS
23 COMMITTEE MUST CONTINUE TO ALTERNATE BETWEEN THE SPEAKER AND
24 THE PRESIDENT AS SPECIFIED IN THIS SUBPARAGRAPH (III).

25 (IV) TWO MEMBERS FROM THE LEGISLATIVE AUDIT COMMITTEE
26 CREATED IN SECTION 2-3-101, ONE OF WHOM IS APPOINTED BY THE
27 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM

1 IS APPOINTED BY THE MINORITY LEADER OF THE SENATE.

2 (b) THE FOLLOWING NONVOTING MEMBERS OF THE COMMITTEE:

3 (I) A REPRESENTATIVE OF THE OFFICE OF STATE PLANNING AND
4 BUDGETING CREATED IN SECTION 24-37-102, C.R.S., APPOINTED BY THE
5 OFFICE'S DIRECTOR;

6 (II) A REPRESENTATIVE OF THE DEPARTMENT OF REVENUE,
7 APPOINTED BY THE DEPARTMENT'S EXECUTIVE DIRECTOR; AND

8 (III) A REPRESENTATIVE OF THE COLORADO OFFICE OF ECONOMIC
9 DEVELOPMENT CREATED IN SECTION 24-48.5-101, C.R.S., APPOINTED BY
10 THE OFFICE'S DIRECTOR.

11 (2) THE TERMS OF THE VOTING AND NONVOTING MEMBERS OF THE
12 COMMITTEE ARE TWO YEARS FROM THE DATE OF APPOINTMENT.

13 (3) THE COMMITTEE FUNCTIONS DURING THE LEGISLATIVE
14 SESSIONS AND DURING THE INTERIMS BETWEEN SESSIONS.

15 (4) INITIAL APPOINTMENTS TO THE COMMITTEE MUST BE MADE NO
16 LATER THAN JULY 1, 2017. TO EXPEDITE THE WORK OF THE COMMITTEE,
17 SUBSEQUENT APPOINTEES MAY BE DESIGNATED AFTER THE GENERAL
18 ELECTION AND PRIOR TO THE CONVENING OF THE GENERAL ASSEMBLY AT
19 WHICH SUCH COMMITTEE IS TO SERVE, WHETHER SUCH APPOINTEES ARE
20 MEMBERS OF THE THEN-CURRENT GENERAL ASSEMBLY OR
21 MEMBERS-ELECT OF THE NEXT GENERAL ASSEMBLY, OR BOTH; AND SUCH
22 APPOINTEES HAVE ALL THE POWERS AND DUTIES AND ARE ENTITLED TO
23 THE SAME COMPENSATION AND EXPENSE ALLOWANCE AS MEMBERS DULY
24 APPOINTED UNDER THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION.

25 (5) THE COMMITTEE SHALL ELECT A CHAIR AND A VICE-CHAIR, ONE
26 FROM THE SENATE MEMBERSHIP OF THE COMMITTEE AND ONE FROM THE
27 HOUSE MEMBERSHIP OF THE COMMITTEE. THE CHAIR SO ELECTED SHALL

1 SERVE AS CHAIR FOR THE FIRST REGULAR SESSION OF THE GENERAL
2 ASSEMBLY AT WHICH THE COMMITTEE IS TO SERVE, AND AS VICE-CHAIR
3 FOR THE SECOND REGULAR SESSION; THE VICE-CHAIR SO ELECTED SHALL
4 SERVE AS CHAIR FOR THE SECOND REGULAR SESSION OF SAID GENERAL
5 ASSEMBLY.

6 **2-3-1803. Organization, procedures, and meetings.** THE
7 COMMITTEE MAY PRESCRIBE ITS OWN RULES OF PROCEDURE AND MAY
8 MEET AS OFTEN AS NECESSARY TO PERFORM ITS FUNCTIONS.

9 **2-3-1804. Powers and duties of the tax expenditure evaluation**
10 **committee.** (1) THE COMMITTEE IS RESPONSIBLE FOR REVIEWING
11 EVALUATIONS OF THE STATE'S TAX EXPENDITURES MADE BY THE STATE
12 AUDITOR PURSUANT TO THE REQUIREMENTS SPECIFIED IN SUBSECTION (2)
13 OF THIS SECTION AND PURSUANT TO THE SCHEDULE SET FORTH IN
14 SUBSECTION (3) OF THIS SECTION. THE STATE AUDITOR MAY PERFORM
15 SUCH EVALUATIONS BY ENTERING INTO A CONTRACT OR CONTRACTS WITH
16 AN EVALUATION CONTRACTOR. SUCH CONTRACT OR CONTRACTS SHALL BE
17 BID BY EMPLOYING STANDARD BIDDING PRACTICES INCLUDING, BUT NOT
18 LIMITED TO, THE USE OF REQUESTS FOR INFORMATION, REQUESTS FOR
19 PROPOSALS, OR ANY OTHER STANDARD VENDOR SELECTION PRACTICES
20 DETERMINED BY THE COMMITTEE TO BE BEST SUITED TO SELECTING AN
21 APPROPRIATE EVALUATION CONTRACTOR.


22 (2) (a) THE TAX EXPENDITURE EVALUATION MUST INCLUDE THE
23 FOLLOWING:

- 24 (I) THE PURPOSE, INTENT, OR GOAL OF THE TAX EXPENDITURE;
- 25 (II) THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE;
- 26 (III) WHETHER THE TAX EXPENDITURE IS ACCOMPLISHING ITS
27 PURPOSE, INTENT, OR GOAL;

1 (IV) THE ECONOMIC IMPACT OF THE TAX EXPENDITURE, INCLUDING
2 PAST AND ESTIMATED FUTURE IMPACTS;

3 (V) THE EXTENT TO WHICH THE DESIGN OF THE TAX EXPENDITURE
4 IS EFFECTIVE TO ACCOMPLISH ITS PURPOSE, INTENT, OR GOAL AND
5 WHETHER THE DESIGN OF THE TAX EXPENDITURE IS CONSISTENT WITH BEST
6 PRACTICES;

7 (VI) WHETHER THERE ARE OTHER TAX EXPENDITURES, STATE
8 SPENDING, OR OTHER GOVERNMENT PROGRAMS THAT HAVE THE SAME
9 PURPOSE, INTENT, OR GOAL AS THE TAX EXPENDITURE, WHETHER THOSE
10 ALL ARE APPROPRIATELY COORDINATED, AND, IF NOT, HOW COORDINATION
11 COULD BE IMPROVED;

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

17 (VIII) AN EXPLANATION OF THE PERFORMANCE MEASURES USED
18 TO DETERMINE THE EXTENT TO WHICH THE TAX EXPENDITURE IS
19 ACCOMPLISHING ITS PURPOSE, INTENT, OR GOAL. THE PERFORMANCE
20 MEASURES MUST BE CLEAR AND RELEVANT TO THE SPECIFIC TAX
21 EXPENDITURE BEING EVALUATED. THE STATE AUDITOR OR THE
22 EVALUATION CONTRACTOR 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 (b) TO THE EXTENT IT CAN BE DETERMINED BY THE AUDITOR OR
27 THE EVALUATION CONTRACTOR, THE TAX EXPENDITURE EVALUATION

1 SHOULD ALSO INCLUDE THE FOLLOWING:

2 (I) THE EXTENT TO WHICH IT IS LIKELY THAT THE DESIRED
3 BEHAVIOR MIGHT HAVE OCCURRED WITHOUT THE TAX EXPENDITURE;

4 (II) THE EXTENT TO WHICH THE TAX EXPENDITURE IS A
5 COST-EFFECTIVE USE OF RESOURCES COMPARED TO OTHER OPTIONS FOR
6 USING THE SAME RESOURCES OR ADDRESSING THE SAME PURPOSE, INTENT,
7 OR GOAL; AND

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

11 (3) (a) NOTWITHSTANDING THE REQUIREMENTS IN SECTION
12 2-3-103 (2), THE STATE AUDITOR OR THE EVALUATION CONTRACTOR
13 SHALL EVALUATE TAX EXPENDITURES AND SUBMIT THE RESULTS OF THE
14 EVALUATIONS IN AN EVALUATION REPORT TO THE COMMITTEE AS
15 FOLLOWS:

16 (I) NO LATER THAN SEPTEMBER 15, 2017, FOR ANY TAX
17 EXPENDITURES IN LAW AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH (a)
18 AND ANY TAX EXPENDITURES ENACTED DURING THE FIRST REGULAR
19 SESSION OF THE SEVENTIETH GENERAL ASSEMBLY;

20 (II) NO LATER THAN SEPTEMBER 15, 2022, AND EACH SEPTEMBER
21 15 EVERY FIVE YEARS THEREAFTER, FOR A REEVALUATION OF THE TAX
22 EXPENDITURES EVALUATED IN THE PREVIOUS EVALUATION REPORT AND
23 AN EVALUATION OF ANY NEW TAX EXPENDITURES ENACTED BY THE
24 GENERAL ASSEMBLY SINCE THE PREVIOUS EVALUATION REPORT.

25 (b) BY DECEMBER 15, 2017, AND BY DECEMBER 15 EVERY FIVE
26 YEARS THEREAFTER, THE COMMITTEE SHALL MEET TO CONSIDER THE
27 EVALUATION REPORT SUBMITTED BY THE STATE AUDITOR OR THE

1 EVALUATION CONTRACTOR. THE COMMITTEE MUST HOLD A PUBLIC
2 HEARING, TAKING TESTIMONY FROM THE STATE AUDITOR OR THE
3 EVALUATION CONTRACTOR AND ANY INTERESTED MEMBERS OF THE PUBLIC
4 REGARDING THE RESULTS OF THE EVALUATION REPORT. THE COMMITTEE
5 MAY RECOMMEND LEGISLATION FOR THE CONTINUATION, REPEAL, OR
6 MODIFICATION OF THE EVALUATED TAX EXPENDITURES FOR THE
7 FOLLOWING LEGISLATIVE SESSION. THE COMMITTEE MAY MEET AS
8 NECESSARY DURING THE FIVE YEARS BETWEEN THE PRESENTATION OF THE
9 EVALUATION REPORTS.

10 (4) THE COMMITTEE MAY MAKE RECOMMENDATIONS TO THE
11 DEPARTMENT OF REVENUE, THE OFFICE OF STATE PLANNING AND
12 BUDGETING, THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, OR ANY
13 OTHER APPROPRIATE STATE AGENCY, OR MAY RECOMMEND LEGISLATION,
14 REGARDING IMPROVEMENTS OF TAX EXPENDITURE ADMINISTRATION OR
15 REGARDING ANY DUTIES THE COMMITTEE HAS UNDER THIS PART 18.

16 (5) LEGISLATION RECOMMENDED BY THE COMMITTEE THAT
17 ADDRESSES ANY OF THE COMMITTEE'S DUTIES PURSUANT TO THIS PART 18
18 IS EXEMPT FROM THE FIVE-BILL LIMITATION SPECIFIED IN RULE 24 OF THE
19 JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR
20 SUCH SUCCESSOR RULE.

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

1 STATE AUDITOR, OR EVALUATION CONTRACTOR IS SUBJECT TO THE SAME
2 LIMITATIONS SPECIFIED IN SECTION 39-21-113, C.R.S. OTHER STATE
3 AGENCIES MAY PROVIDE INFORMATION OR DATA AS REQUESTED BY THE
4 COMMITTEE, THE STATE AUDITOR, OR THE EVALUATION CONTRACTOR.

5 **2-3-1805. Staff assistance.** THE STAFF OF THE STATE AUDITOR
6 AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL ASSIST THE TAX
7 EXPENDITURE EVALUATION COMMITTEE IN CARRYING OUT ITS DUTIES.

8 **2-3-1806. Repeal of part.** THIS PART 18 IS REPEALED, EFFECTIVE
9 JULY 1, 2028.

10 **SECTION 2. Appropriation.** For the 2015-16 state fiscal year,
11 \$546,114 is appropriated to the legislative department for use by the
12 office of the state auditor. This appropriation is from the general fund and
13 is based on an assumption that the office will require an additional 5.6
14 FTE. To implement this act, the office may use this appropriation to
15 support the tax expenditure evaluation committee.

16 **SECTION 3. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.