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HOUSE BILL 24-1053

BY REPRESENTATIVE(S) Weissman and Marshall, Frizell, Bacon, Brown, Clifford, deGruy Kennedy, Herod, Jodeh, Ricks;
also SENATOR(S) Liston and Hansen, Kolker, Gonzales, Kirkmeyer, Priola.

CONCERNING ANALYSIS OF TAX POLICY BY THE STATE LEGISLATIVE BRANCH,
AND, IN CONNECTION THEREWITH, MODIFYING REQUIREMENTS FOR
EVALUATING STATE TAX EXPENDITURES, REQUIRING THE STATE
AUDITOR TO PREPARE AN ANNUAL REPORT ON FEDERAL TAX LAW AND
CHANGES THAT HAVE SIGNIFICANT IMPACT ON THE STATE'S TAX BASE,
AND EXTENDING THE LEGISLATIVE OVERSIGHT COMMITTEE
CONCERNING TAX POLICY AND THE TASK FORCE CONCERNING TAX
POLICY.

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

SECTION 1. In Colorado Revised Statutes, 39-21-305, **amend** (1)(d) and (1)(e); and **add** (1)(c.5) as follows:

39-21-305. Tax expenditure - state auditor evaluation.
(1) (c.5) IN ADDITION TO ANY OTHER REQUIREMENTS IN THIS SECTION, THE
MANNER IN WHICH THE STATE AUDITOR EVALUATES THE STATE'S TAX

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

EXPENDITURES IS GOVERNED BY THE FOLLOWING:

(I) NEW TAX EXPENDITURES WILL BE EVALUATED IN ACCORDANCE WITH THE SCHEDULE SET BY THE STATE AUDITOR IN SUBSECTION (1)(d) OF THIS SECTION;

(II) TAX EXPENDITURES THAT HAVE BEEN EVALUATED BY THE STATE AUDITOR IN ACCORDANCE WITH THIS SECTION DO NOT NEED TO BE EVALUATED AGAIN, BUT THE STATE AUDITOR, IN THE STATE AUDITOR'S DISCRETION, MAY REEVALUATE TAX EXPENDITURES IF THERE HAVE BEEN SUBSTANTIAL CHANGES TO THE TAX EXPENDITURE;

(III) TAX EXPENDITURES THAT ARE ON THE STATE AUDITOR'S SCHEDULE FOR EVALUATION BUT HAVE BEEN REPEALED OR ARE SET TO REPEAL WITHIN A YEAR OF THE EVALUATION DO NOT NEED TO BE EVALUATED; AND

(IV) FOR A TAX EXPENDITURE THAT IS IN EFFECT FOR THREE YEARS OR LESS, THE STATE AUDITOR SHALL MAKE THE AUDITOR'S BEST EFFORT TO PREPARE A REPORT FOR THE TAX EXPENDITURE USING THE BEST AVAILABLE DATA.

(d) (I) No later than September 15, 2017, the state auditor shall develop and publish a multi-year schedule that lists all tax expenditures in law as of July 1, 2017, and indicates the year when the evaluation report will be published for each tax expenditure. In developing the multi-year schedule the state auditor shall endeavor to review the oldest tax expenditures first and shall endeavor to review a tax expenditure with a statutory repeal date so that the evaluation report for such tax expenditure is available during the legislative session held in the calendar year before the tax expenditure is scheduled to repeal.

(II) The state auditor may revise the schedule ESTABLISHED IN SUBSECTION (1)(d)(I) OF THIS SECTION so long as the state auditor continues to provide for a systematic evaluation of ~~all~~ tax expenditures, including any new tax expenditures enacted by the general assembly since the publication of a previous evaluation report. ~~and so long as each tax expenditure is reviewed at least once every five years.~~ IN REVISING THE SCHEDULE, THE STATE AUDITOR MAY CONSIDER WHEN SUFFICIENT DATA IS EXPECTED TO BE AVAILABLE IN ORDER TO REVIEW A TAX EXPENDITURE.

(e) Notwithstanding section 2-3-103 (2), ~~C.R.S.~~, the state auditor shall present the results in the form of an evaluation report that the state auditor shall ensure is posted on the general assembly's website, and, notwithstanding section 24-1-136 (9), ~~C.R.S.~~, the state auditor shall deliver a copy of the report to the joint budget committee and the finance committees of the senate and the house of representatives. The state auditor shall ensure the first evaluation report is delivered and posted no later than September 14, 2018, and shall ensure subsequent evaluation reports are delivered and posted no later than ~~September 15~~ JUNE 30 of each year thereafter.

SECTION 2. In Colorado Revised Statutes, **add** 39-21-306 as follows:

39-21-306. State auditor report - federal tax law and changes that impact the state tax base. (1) ANNUALLY, THE STATE AUDITOR SHALL STUDY AND EVALUATE IMPACTS TO THE STATE'S POLICY OF USING FEDERAL TAXABLE INCOME AS THE BASIS FOR COLORADO TAXABLE INCOME. THE EVALUATION MUST INCLUDE A REVIEW OF FEDERAL TAX LAW, INCLUDING CHANGES, THAT MAY HAVE A SIGNIFICANT IMPACT ON THE STATE'S TAX BASE OR OTHERWISE IMPACT TAXABLE INCOME WITHIN THE STATE.

(2) NOTWITHSTANDING SECTIONS 2-3-103 (2) AND 24-1-136 (9), THE STATE AUDITOR SHALL PRESENT THE FINDINGS MADE PURSUANT TO SUBSECTION (1) OF THIS SECTION IN THE FORM OF A REPORT THAT MUST BE POSTED ON THE GENERAL ASSEMBLY'S WEBSITE AND DELIVERED TO THE JOINT BUDGET COMMITTEE AND THE FINANCE COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. THE STATE AUDITOR SHALL ENSURE THAT THE FIRST REPORT IS DELIVERED NO LATER THAN JUNE 30, 2025, AND SHALL ENSURE THAT SUBSEQUENT REPORTS ARE DELIVERED NO LATER THAN JUNE 30 OF EACH YEAR THEREAFTER.

(3) (a) ANY RECORDS, INFORMATION, OR DOCUMENTATION GENERATED PURSUANT TO THIS SECTION ARE WORK PAPERS OF THE STATE AUDITOR AND SHALL BE OPEN TO PUBLIC INSPECTION ONLY UPON APPROVAL OF A MAJORITY OF MEMBERS OF THE LEGISLATIVE AUDIT COMMITTEE CREATED IN SECTION 2-3-101. ONLY THE SPECIFIC WORK PAPERS THAT THE LEGISLATIVE AUDIT COMMITTEE VOTES TO APPROVE FOR DISCLOSURE SHALL BE OPEN TO PUBLIC INSPECTION. WORK PAPERS THAT HAVE NOT BEEN SPECIFICALLY APPROVED FOR DISCLOSURE BY A MAJORITY VOTE OF THE

LEGISLATIVE AUDIT COMMITTEE SHALL REMAIN CONFIDENTIAL. UNDER NO CIRCUMSTANCES SHALL THE WORK PAPERS BE OPEN TO PUBLIC INSPECTION PRIOR TO A COMPLETED REPORT BEING POSTED AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

(b) (I) THE STATE AUDITOR SHALL COLLABORATE, AT LEAST ANNUALLY, WITH THE DEPARTMENT REGARDING THE DEPARTMENT'S KNOWLEDGE OR AWARENESS OF:

(A) ANY EXPECTED IMPACTS TO THE STATE'S POLICY OF USING FEDERAL TAXABLE INCOME AS THE BASIS FOR COLORADO TAXABLE INCOME; AND

(B) FEDERAL TAX LAW CHANGES THAT MAY HAVE A SIGNIFICANT IMPACT ON THE STATE'S TAX BASE OR OTHERWISE IMPACT TAXABLE INCOME WITHIN THE STATE.

(II) AS NECESSARY TO DETERMINE THE IMPACTS DESCRIBED IN SUBSECTION (3)(b)(I) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE THE STATE AUDITOR WITH STATISTICS, SO CLASSIFIED AS TO PREVENT THE IDENTIFICATION OF PARTICULAR REPORTS OR RETURNS AND THE ITEMS THEREOF, TO THE EXTENT AUTHORIZED IN SECTION 39-21-113 (5), SECTION 6103 (d)(1) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND THE REGULATIONS AND POLICIES PROMULGATED THERETO.

(c) THE STATE AUDITOR'S AUTHORITY SET FORTH IN SECTION 2-3-107 APPLIES TO THE STATE AUDITOR'S REPORT SET FORTH IN THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 39-21-403, **amend** (2)(c)(I) as follows:

39-21-403. Legislative oversight committee concerning tax policy - creation - duties - report. (2) **Duties.** (c) (I) (A) The committee shall consider the policy considerations contained in the tax expenditure evaluations prepared by the state auditor pursuant to section 39-21-305 AND THE INFORMATION CONTAINED IN THE REPORTS PREPARED BY THE STATE AUDITOR PURSUANT TO SECTION 39-21-306 CONCERNING A REVIEW OF FEDERAL TAX LAW, INCLUDING CHANGES, THAT MAY HAVE A SIGNIFICANT IMPACT ON THE STATE'S TAX BASE.

(B) NOTWITHSTANDING THE STATE AUDITOR'S SCHEDULE ESTABLISHED PURSUANT TO SECTION 39-21-305 (1)(d), THE COMMITTEE MAY, IN WRITING, DIRECT THE STATE AUDITOR TO EVALUATE UP TO THREE ADDITIONAL SPECIFIC TAX EXPENDITURES TO BE INCLUDED IN THE STATE AUDITOR'S EVALUATION REPORTS DUE FOR THE FOLLOWING YEAR PURSUANT TO SECTION 39-21-305 (1)(e).

(C) THE COMMITTEE MAY, IN WRITING, REQUEST THAT THE STATE AUDITOR PREPARE UP TO TWO REPORTS ANNUALLY ON SPECIFIC AND DISCRETE TOPICS RELATED TO EXISTING TAX POLICY. NOT LATER THAN THIRTY DAYS AFTER RECEIPT OF THE REQUEST, THE STATE AUDITOR SHALL PREPARE FOR THE COMMITTEE CHAIR A WRITTEN PROPOSED SCOPE OF WORK CONCERNING THE REQUEST. UPON APPROVAL OF THE PROPOSED SCOPE OF THE WORK BY THE COMMITTEE CHAIR, THE STATE AUDITOR SHALL PROCEED WITH THE RESEARCH AND ANALYSIS REQUIRED TO COMPLETE THE REQUESTED REPORT.

SECTION 4. In Colorado Revised Statutes, 39-21-404, **add** (2)(c) as follows:

39-21-404. Task force concerning tax policy - creation - membership - duties. (2) Issues for study. (c) UPON REQUEST BY THE TASK FORCE, THE OFFICE OF THE STATE AUDITOR SHALL PRESENT TO THE TASK FORCE THE POLICY CONSIDERATIONS CONTAINED IN THE TAX EXPENDITURE EVALUATIONS PREPARED BY THE STATE AUDITOR PURSUANT TO SECTION 39-21-305 AND THE INFORMATION CONTAINED IN THE REPORTS PREPARED BY THE STATE AUDITOR PURSUANT TO SECTION 39-21-306 CONCERNING A REVIEW OF FEDERAL TAX LAW, INCLUDING CHANGES, THAT MAY HAVE A SIGNIFICANT IMPACT ON THE STATE'S TAX BASE.

SECTION 5. In Colorado Revised Statutes, **amend** 39-21-405 as follows:

39-21-405. Repeal of part. This part 4 is repealed, effective ~~December 31, 2026~~. DECEMBER 31, 2031.

SECTION 6. Applicability. This act applies to tax expenditure evaluation reports of the state auditor on or after the effective date of this act.

SECTION 7. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO