

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

Bill D

LLS NO. 24-0389.01 Megan McCall x4215

HOUSE BILL

HOUSE SPONSORSHIP

Weissman and Marshall, Frizell

SENATE SPONSORSHIP

Liston and Hansen, Kolker

House Committees

Senate Committees

A BILL FOR AN ACT

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

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

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.*

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Legislative Oversight Committee Concerning Tax Policy.

Section 1 of the bill makes the following changes to the state auditor's procedures for evaluating state tax expenditures:

- Requires evaluation reports to be delivered and posted on June 30 instead of September 15;
- Requires the state auditor to evaluate new tax expenditures in accordance with the state auditor's schedule;
- Allows the state auditor to use discretion in reevaluating tax expenditures if there have been substantial changes to the tax expenditure;
- Eliminates the evaluation requirement for tax expenditures that are on the state auditor's schedule for evaluation but have been repealed or will repeal within one year of the evaluation;
- For tax expenditures that are in effect for 3 years or less, requires the state auditor to make the auditor's best effort to prepare the evaluation report using the best available data; and
- Allows the state auditor to modify the schedule for evaluating tax expenditures in consideration of timing for when sufficient data may be available to evaluate the tax expenditure.

Section 2 requires the state auditor to annually study and evaluate federal tax law, including changes, that may have significant impact on the state's tax base and prepare a report with the state auditor's findings by June 30, 2025, and by June 30 of each year thereafter.

Section 3 requires the legislative oversight committee concerning tax policy (committee) to consider the policy considerations set forth in the state auditor's report concerning a review of federal tax law, including changes, that may have a significant impact on the state's tax base, in addition to the policy considerations set forth in the state auditor's tax expenditure evaluations. The committee may request that the state auditor evaluate specific tax expenditures for the next year's evaluation report notwithstanding when the tax expenditure might otherwise be evaluated according to the state auditor's schedule. The committee may additionally request the state auditor to perform specific and discrete research and analysis tasks.

Section 4 requires that the office of the state auditor present to the task force concerning tax policy (task force) its tax expenditure evaluation reports and annual report concerning federal tax law, including changes, that have significant impact on the state's tax base upon request by the task force.

Section 5 extends the committee and the task force until December 31, 2031.

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

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

4 **39-21-305. Tax expenditure - state auditor evaluation.**

5 (1) (c.5) IN ADDITION TO ANY OTHER REQUIREMENTS IN THIS SECTION,
6 THE MANNER IN WHICH THE STATE AUDITOR EVALUATES THE STATE'S TAX
7 EXPENDITURES IS GOVERNED BY THE FOLLOWING:

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

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

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

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

24 (d) (I) No later than September 15, 2017, the state auditor shall
25 develop and publish a multi-year schedule that lists all tax expenditures

1 in law as of July 1, 2017, and indicates the year when the evaluation
2 report will be published for each tax expenditure. In developing the
3 multi-year schedule the state auditor shall endeavor to review the oldest
4 tax expenditures first and shall endeavor to review a tax expenditure with
5 a statutory repeal date so that the evaluation report for such tax
6 expenditure is available during the legislative session held in the calendar
7 year before the tax expenditure is scheduled to repeal.

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

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

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

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

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

18 (3) (a) ANY RECORDS, INFORMATION, OR DOCUMENTATION
19 GENERATED PURSUANT TO THIS SECTION ARE WORK PAPERS OF THE STATE
20 AUDITOR AND SHALL BE OPEN TO PUBLIC INSPECTION ONLY UPON
21 APPROVAL OF A MAJORITY OF MEMBERS OF THE LEGISLATIVE AUDIT
22 COMMITTEE CREATED IN SECTION 2-3-101. ONLY THE SPECIFIC WORK
23 PAPERS THAT THE LEGISLATIVE AUDIT COMMITTEE VOTES TO APPROVE FOR
24 DISCLOSURE SHALL BE OPEN TO PUBLIC INSPECTION. WORK PAPERS THAT
25 HAVE NOT BEEN SPECIFICALLY APPROVED FOR DISCLOSURE BY A MAJORITY
26 VOTE OF THE LEGISLATIVE AUDIT COMMITTEE SHALL REMAIN
27 CONFIDENTIAL. UNDER NO CIRCUMSTANCES SHALL THE WORK PAPERS BE

1 OPEN TO PUBLIC INSPECTION PRIOR TO A COMPLETED REPORT BEING
2 POSTED AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

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

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

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

12 (II) AS NECESSARY TO DETERMINE THE IMPACTS DESCRIBED IN
13 SUBSECTION (3)(b)(I) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE
14 THE STATE AUDITOR WITH STATISTICS, SO CLASSIFIED AS TO PREVENT THE
15 IDENTIFICATION OF PARTICULAR REPORTS OR RETURNS AND THE ITEMS
16 THEREOF, TO THE EXTENT AUTHORIZED IN SECTION 39-21-113 (5), SECTION
17 6103 (d)(1) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
18 AMENDED, AND THE REGULATIONS AND POLICIES PROMULGATED THERETO.

19 (c) THE STATE AUDITOR'S AUTHORITY SET FORTH IN SECTION
20 2-3-107 APPLIES TO THE STATE AUDITOR'S REPORT SET FORTH IN THIS
21 SECTION.

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

24 **39-21-403. Legislative oversight committee concerning tax**
25 **policy - creation - duties - report. (2) Duties. (c) (I) (A)** The committee
26 shall consider the policy considerations contained in the tax expenditure
27 evaluations prepared by the state auditor pursuant to section 39-21-305

1 AND THE INFORMATION CONTAINED IN THE REPORTS PREPARED BY THE
2 STATE AUDITOR PURSUANT TO SECTION 39-21-306 CONCERNING A REVIEW
3 OF FEDERAL TAX LAW, INCLUDING CHANGES, THAT MAY HAVE A
4 SIGNIFICANT IMPACT ON THE STATE'S TAX BASE.

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

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

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

22 **39-21-404. Task force concerning tax policy - creation -**
23 **membership - duties. (2) Issues for study. (c)** UPON REQUEST BY THE
24 TASK FORCE, THE OFFICE OF THE STATE AUDITOR SHALL PRESENT TO THE
25 TASK FORCE THE POLICY CONSIDERATIONS CONTAINED IN THE TAX
26 EXPENDITURE EVALUATIONS PREPARED BY THE STATE AUDITOR PURSUANT
27 TO SECTION 39-21-305 AND THE INFORMATION CONTAINED IN THE

1 REPORTS PREPARED BY THE STATE AUDITOR PURSUANT TO SECTION
2 39-21-306 CONCERNING A REVIEW OF FEDERAL TAX LAW, INCLUDING
3 CHANGES, THAT MAY HAVE A SIGNIFICANT IMPACT ON THE STATE'S TAX
4 BASE.

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

7 **39-21-405. Repeal of part.** This part 4 is repealed, effective
8 ~~December 31, 2026.~~ DECEMBER 31, 2031.

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

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