

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

DRAFT  
10/10/23

**BILL 7**

LLS NO. 24-0389.01 Megan McCall x4215

**INTERIM COMMITTEE BILL**

**Legislative Oversight Committee Concerning Tax Policy**

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**BILL TOPIC:** Tax Policy Analysis By The Legislative Branch

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**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.**

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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*

*Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words 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the evaluation requirement for tax expenditures that are on the state auditor's schedule for evaluation but have been repealed or will repeal within one year of the evaluation;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 and changes that 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 federal tax policy changes 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 and 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.

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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 LAW  
6 AND CHANGES THAT MAY HAVE A SIGNIFICANT IMPACT ON THE STATE'S  
7 TAX BASE OR OTHERWISE IMPACT TAXABLE INCOME WITHIN THE STATE.

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

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

1 POSTED AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

2 (b) THE DEPARTMENT OF REVENUE MUST PROVIDE ANY REQUESTED  
3 INFORMATION, ANALYSIS, OR DATA, IF AVAILABLE AND UNDER THE  
4 CONTROL OF THE DEPARTMENT, AS REQUESTED BY THE STATE AUDITOR;  
5 EXCEPT THAT, IF THE REQUEST INCLUDES CONFIDENTIAL INFORMATION,  
6 SUCH INFORMATION MUST REMAIN CONFIDENTIAL IN THE HANDS OF THE  
7 STATE AUDITOR, AND THE STATE AUDITOR IS SUBJECT TO THE SAME  
8 LIMITATIONS SPECIFIED IN SECTION 39-21-113.

9 (c) THE STATE AUDITOR'S AUTHORITY SET FORTH IN SECTION  
10 2-3-107 APPLIES TO THE STATE AUDITOR'S REPORT SET FORTH IN THIS  
11 SECTION.

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

14 **39-21-403. Legislative oversight committee concerning tax**  
15 **policy - creation - duties - report. (2) Duties. (c) (I) (A)** The  
16 committee shall consider the policy considerations contained in the tax  
17 expenditure evaluations prepared by the state auditor pursuant to section  
18 39-21-305 AND THE INFORMATION CONTAINED IN THE REPORTS PREPARED  
19 BY THE STATE AUDITOR PURSUANT TO SECTION 39-21-306 CONCERNING  
20 FEDERAL TAX LAW AND CHANGES THAT HAVE SIGNIFICANT IMPACT ON THE  
21 STATE'S TAX BASE.

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

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

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

12 **39-21-404. Task force concerning tax policy - creation -**  
13 **membership - duties. (2) Issues for study. (c)** UPON WRITTEN REQUEST  
14 BY THE TASK FORCE, THE OFFICE OF THE STATE AUDITOR SHALL PRESENT  
15 TO THE TASK FORCE THE POLICY CONSIDERATIONS CONTAINED IN THE TAX  
16 EXPENDITURE EVALUATIONS PREPARED BY THE STATE AUDITOR PURSUANT  
17 TO SECTION 39-21-305 AND THE INFORMATION CONTAINED IN THE  
18 REPORTS PREPARED BY THE STATE AUDITOR PURSUANT TO SECTION  
19 39-21-306 CONCERNING FEDERAL TAX LAW AND CHANGES THAT HAVE  
20 SIGNIFICANT IMPACT ON THE STATE'S TAX BASE.

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

23 **39-21-405. Repeal of part.** This part 4 is repealed, effective  
24 ~~December 31, 2026.~~ DECEMBER 31, 2031.

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

1           **SECTION 7. Safety clause.** The general assembly hereby finds,  
2 determines, and declares that this act is necessary for the immediate  
3 preservation of the public peace, health, or safety.