

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.10.19

BILL 8

LLS NO. 20-0231.01 Esther van Mourik x4215

INTERIM COMMITTEE BILL

Tax Expenditure Evaluation Interim Study Committee

BILL TOPIC: "Tax Expenditure Bill Requirements"

A BILL FOR AN ACT

101 **CONCERNING CERTAIN REQUIREMENTS THAT MUST BE INCLUDED IN A**
102 **TAX EXPENDITURE BILL.**

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/>.)

Tax Expenditure Evaluation Interim Study Committee. Current law requires a legislative declaration stating the intended purpose of a new tax expenditure or the intended purpose for extending an expiring tax expenditure. The bill expands that law by:

- Requiring a statutory legislative declaration, not nonstatutory;

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- Requiring any bill that creates a new tax expenditure to include a repeal of the expenditure after a specified period of tax years and any bill that extends an expiring tax expenditure to extend the expenditure for a specified period of tax years; and
- Requiring the statement of the intended purpose to be a part of a tax preference performance statement, which includes:
 - The classification of the type of the tax expenditure; and
 - Detailed information regarding the legislative purpose of the tax expenditure, which, at minimum, includes clear, relevant, and ascertainable metrics and data requirements that allow the tax expenditure to be measured for effectiveness in achieving the intended purpose.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 39-21-304 as
3 follows:

4 **39-21-304. Tax expenditure - tax preference performance**
5 **statement - tax expenditure repeal requirement.** (1) (a) On and after
6 ~~January 1, 2012~~ JANUARY 1, 2021, any bill that creates a new tax
7 expenditure or extends an expiring tax expenditure ~~shall~~ **MUST** include a
8 ~~legislative declaration stating the intended purpose of the tax expenditure~~
9 TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
10 LEGISLATIVE DECLARATION.

11 (b) IF THE BILL EXTENDS AN EXPIRING TAX EXPENDITURE, THE BILL
12 MUST EITHER INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT IF
13 ONE WAS NOT EARLIER INCLUDED OR IT MUST AMEND, IN SUCH A WAY AS
14 TO PROVIDE UPDATED INFORMATION, THE TAX PREFERENCE PERFORMANCE
15 STATEMENT THAT WAS INCLUDED WHEN THE TAX EXPENDITURE WAS
16 ENACTED.

17 (2) THE TAX PREFERENCE PERFORMANCE STATEMENT MUST

1 INDICATE ONE OR MORE OF THE FOLLOWING GENERAL CATEGORIES, BY
2 REFERENCE TO THE APPLICABLE CATEGORY SPECIFIED IN THIS SUBSECTION
3 (2), AS THE LEGISLATIVE PURPOSE OF THE NEW TAX EXPENDITURE:

4 (a) TAX EXPENDITURE INTENDED TO INDUCE CERTAIN DESIGNATED
5 BEHAVIOR BY TAXPAYERS;

6 (b) TAX EXPENDITURE INTENDED TO IMPROVE INDUSTRY
7 COMPETITIVENESS;

8 (c) TAX EXPENDITURE INTENDED TO CREATE OR RETAIN JOBS;

9 (d) TAX EXPENDITURE INTENDED TO REDUCE STRUCTURAL
10 INEFFICIENCIES IN THE TAX STRUCTURE; OR

11 (e) TAX EXPENDITURE INTENDED TO PROVIDE TAX RELIEF FOR
12 CERTAIN BUSINESSES OR INDIVIDUALS.

13 (3) IN ADDITION TO THE GENERAL CATEGORY SPECIFIED IN
14 SUBSECTION (2) OF THIS SECTION, A TAX PREFERENCE PERFORMANCE
15 STATEMENT MUST ALSO PROVIDE DETAILED INFORMATION REGARDING THE
16 LEGISLATIVE PURPOSE OF THE NEW TAX EXPENDITURE OR OF THE
17 EXTENSION OF THE EXPIRING TAX EXPENDITURE. THE REQUIRED DETAILED
18 INFORMATION MUST, AT MINIMUM, INCLUDE CLEAR, RELEVANT, AND
19 ASCERTAINABLE METRICS AND DATA REQUIREMENTS THAT ALLOW THE
20 GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE
21 EFFECTIVENESS OF THE TAX EXPENDITURE IN ACHIEVING THE PURPOSE
22 DESIGNATED UNDER THIS SECTION.

23 (4) ON AND AFTER JANUARY 1, 2021, ANY BILL THAT CREATES A
24 NEW TAX EXPENDITURE MUST INCLUDE A REPEAL OF THE EXPENDITURE
25 AFTER A SPECIFIED PERIOD OF TAX YEARS AND ANY BILL THAT EXTENDS AN
26 EXPIRING TAX EXPENDITURE MUST EXTEND THE EXPENDITURE FOR A
27 SPECIFIED PERIOD OF TAX YEARS. A BILL THAT CREATES A NEW TAX

1 EXPENDITURE OR EXTENDS AN EXPIRING TAX EXPENDITURE MAY NOT
2 ESTABLISH THE TAX EXPENDITURE FOR AN INDEFINITE PERIOD OF TIME.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2020 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.