

CHAPTER 185

TAXATION

SENATE BILL 20-021

BY SENATOR(S) Tate, Moreno, Crowder;
also REPRESENTATIVE(S) Snyder and Benavidez, Kennedy, Becker.

AN ACT

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

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

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

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

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

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

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

(b) TAX EXPENDITURE INTENDED TO IMPROVE INDUSTRY COMPETITIVENESS;

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.

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

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

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

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

(4) ON AND AFTER JANUARY 1, 2021, ANY BILL THAT CREATES A NEW TAX EXPENDITURE MUST INCLUDE A REPEAL OF THE EXPENDITURE AFTER A SPECIFIED PERIOD OF TAX YEARS AND ANY BILL THAT EXTENDS AN EXPIRING TAX EXPENDITURE MUST EXTEND THE EXPENDITURE FOR A SPECIFIED PERIOD OF TAX YEARS. A BILL THAT CREATES A NEW TAX EXPENDITURE OR EXTENDS AN EXPIRING TAX EXPENDITURE MAY NOT ESTABLISH THE TAX EXPENDITURE FOR AN INDEFINITE PERIOD OF TIME.

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

Approved: June 30, 2020