

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

January 27, 2009
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB09-1035 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, line 6, after "Qualified", insert
2 "BIOTECHNOLOGY";

3 strike lines 10 through 19 and substitute the following:

4 "proprietorship that purchases, stores, uses, or consumes tangible personal
5 property to be used in Colorado directly and predominately in research
6 and development of biotechnology.

7 (5) "QUALIFIED CLEAN TECHNOLOGY OR MEDICAL DEVICE
8 TAXPAYER" MEANS A C CORPORATION, AS DEFINED IN SECTION 39-22-103
9 (2.5), A PARTNERSHIP, AS DEFINED IN SECTION 39-22-103 (5.6), A LIMITED
10 LIABILITY COMPANY THAT IS NOT A C CORPORATION, AN S CORPORATION,
11 AS DEFINED IN SECTION 39-22-103 (10.5), OR A SOLE PROPRIETORSHIP
12 THAT EMPLOYS FIFTY OR FEWER FULL-TIME EMPLOYEES IN COLORADO,
13 WHICH TAXPAYER PURCHASES, STORES, USES, OR CONSUMES TANGIBLE
14 PERSONAL PROPERTY TO BE USED IN COLORADO DIRECTLY AND
15 PREDOMINATELY IN RESEARCH AND DEVELOPMENT OF CLEAN
16 TECHNOLOGY OR MEDICAL DEVICES."

17 Renumber succeeding subsections accordingly.

18 Page 3, line 26, after "**tax**", insert "**for biotechnology**";

- 1 line 27, strike "(a)".
- 2 Page 4, line 2, after "qualified", insert "BIOTECHNOLOGY";
- 3 line 3, after "qualified", insert "BIOTECHNOLOGY";
- 4 line 6, strike "biotechnology, CLEAN TECHNOLOGY, OR MEDICAL" and
5 substitute "biotechnology";
- 6 line 7, strike "DEVICES";
- 7 strike lines 8 through 13;
- 8 line 15, after "qualified", insert "BIOTECHNOLOGY";
- 9 line 20, after "qualified", insert "BIOTECHNOLOGY";
- 10 line 25, strike "and a statement that the qualified" and substitute "and a
11 statement that the qualified BIOTECHNOLOGY";
- 12 line 27, strike "request, INFORMATION CONCERNING THE" and substitute
13 "request. No refund shall be allowed if the qualified BIOTECHNOLOGY
14 taxpayer has not complied with this subsection (2).".
- 15 Page 5, strike lines 1 through 5;
- 16 after line 5, insert the following:

17 **"39-26-403. Refund of state sales and use tax for clean**
18 **technology and medical devices - application requirements and**
19 **procedures - repeal.** (1) FOR THE CALENDAR YEAR COMMENCING
20 JANUARY 1, 2009, AND FOR EACH CALENDAR YEAR THEREAFTER, EACH
21 QUALIFIED CLEAN TECHNOLOGY OR MEDICAL DEVICE TAXPAYER SHALL BE
22 ALLOWED TO CLAIM A REFUND OF ALL STATE SALES AND USE TAX PAID BY
23 THE QUALIFIED CLEAN TECHNOLOGY OR MEDICAL DEVICE TAXPAYER,
24 PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE, ON THE SALE, STORAGE,
25 USE, OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY TO BE USED IN
26 COLORADO DIRECTLY AND PREDOMINATELY IN RESEARCH AND
27 DEVELOPMENT OF CLEAN TECHNOLOGY OR MEDICAL DEVICES DURING
28 THAT CALENDAR YEAR.

1 (2) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (1) OF THIS
2 SECTION, A QUALIFIED CLEAN TECHNOLOGY OR MEDICAL DEVICE
3 TAXPAYER SHALL SUBMIT A REFUND APPLICATION TO THE DEPARTMENT OF
4 REVENUE ON A FORM PROVIDED BY THE DEPARTMENT. THE APPLICATION
5 SHALL BE SUBMITTED NO EARLIER THAN JANUARY 1 AND NO LATER THAN
6 APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE CALENDAR YEAR FOR
7 WHICH THE REFUND IS CLAIMED. THE APPLICATION SHALL BE
8 ACCOMPANIED BY PROOF OF PAYMENT OF STATE SALES AND USE TAXES
9 PAID BY THE QUALIFIED CLEAN TECHNOLOGY OR MEDICAL DEVICE
10 TAXPAYER IN THE IMMEDIATELY PRECEDING CALENDAR YEAR. THE
11 APPLICATION SHALL ALSO INCLUDE ANY ADDITIONAL INFORMATION THAT
12 THE DEPARTMENT OF REVENUE MAY REQUIRE BY RULE, WHICH MAY
13 INCLUDE, WITHOUT LIMITATION, A DETAILED LIST OF ALL EXPENDITURES
14 THAT SUPPORT A CLAIM FOR A REFUND, THE NAME AND ADDRESSES OF AN
15 INDIVIDUAL WHO MAINTAINS RECORDS OF SUCH EXPENDITURES, A
16 STATEMENT THAT THE QUALIFIED CLEAN TECHNOLOGY OR MEDICAL
17 DEVICE TAXPAYER AGREES TO FURNISH RECORDS OF ALL SUCH
18 EXPENDITURES TO THE DEPARTMENT OF REVENUE UPON REQUEST, AND
19 THE NUMBER OF PERSONS WHO ARE EMPLOYED ON A FULL-TIME BASIS BY
20 THE QUALIFIED CLEAN TECHNOLOGY OR MEDICAL DEVICE TAXPAYER. THE
21 REFUND SHALL NOT BE ALLOWED IF THE QUALIFIED CLEAN TECHNOLOGY
22 OR MEDICAL DEVICE TAXPAYER HAS NOT COMPLIED WITH THIS SUBSECTION
23 (2).

24 (3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF
25 THIS SECTION:

26 (a) A SALES AND USE TAX REFUND DESCRIBED IN SUBSECTION (1)
27 OF THIS SECTION SHALL NOT EXCEED FIFTY THOUSAND DOLLARS FOR A
28 QUALIFIED CLEAN TECHNOLOGY OR MEDICAL DEVICE TAXPAYER IN A
29 CALENDAR YEAR.

30 (b) IF THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE
31 LEGISLATIVE COUNCIL IN DECEMBER 2009 AND EACH DECEMBER
32 THEREAFTER INDICATES THAT THE AMOUNT OF THE TOTAL GENERAL FUND
33 REVENUES FOR A PARTICULAR FISCAL YEAR WILL NOT BE SUFFICIENT TO
34 MAINTAIN THE LIMIT ON APPROPRIATIONS SPECIFIED IN SECTION
35 24-75-201.1 (1), C.R.S., THEN THE CREDIT AUTHORIZED IN SUBSECTION (1)
36 OF THIS SECTION SHALL NOT BE ALLOWED FOR THE NEXT CALENDAR YEAR
37 FOLLOWING THE YEAR IN WHICH THE ESTIMATE IS PREPARED. A QUALIFIED
38 CLEAN TECHNOLOGY OR MEDICAL DEVICE TAXPAYER WHO WOULD HAVE

1 BEEN ELIGIBLE TO CLAIM A CREDIT PURSUANT TO THIS SECTION IN A
2 CALENDAR YEAR IN WHICH THE CREDIT WAS NOT ALLOWED MAY CLAIM
3 SAID CREDIT IN THE NEXT CALENDAR YEAR IN WHICH THE REVENUE
4 ESTIMATE ALLOWS THE CREDIT. THE DEPARTMENT OF REVENUE SHALL,
5 THROUGH ITS WEB SITE, SPECIFY ON OR BEFORE JANUARY 1, 2010, AND ON
6 OR BEFORE EACH JANUARY 1 THEREAFTER, WHETHER THE CREDIT
7 AUTHORIZED IN SUBSECTION (1) OF THIS SECTION SHALL BE ALLOWED FOR
8 A GIVEN CALENDAR YEAR.

9 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014.".

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