

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0298.01 Richard Sweetman

HOUSE BILL 09-1035

HOUSE SPONSORSHIP

Riesberg,

SENATE SPONSORSHIP

Heath,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING SALES AND USE TAX REFUNDS FOR CERTAIN**
102 **COLORADO-BASED TECHNOLOGY COMPANIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Allows clean technology companies and medical device companies that are headquartered in Colorado and that employ 50 or fewer employees (clean technology and medical device companies) to receive refunds of state sales and use taxes paid on the sale, storage, use, or consumption of tangible personal property used in Colorado directly and predominately in research and development of clean technology or medical devices during a calendar year (tax refunds). Limits the amount

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

of the tax refunds that may be claimed by clean technology and medical device companies to \$50,000 per company per year.

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

2 **SECTION 1.** Part 4 of article 26 of title 39, Colorado Revised
3 Statutes, is amended to read:

4 **PART 4**

5 **SALES AND USE TAX REFUND FOR BIOTECHNOLOGY,**
6 **CLEAN TECHNOLOGY, AND MEDICAL DEVICES**

7 **39-26-401. Definitions.** As used in this part 4, unless the context
8 otherwise requires:

9 (1) "Biotechnology" means:

10 (a) The application of technologies to produce or modify products,
11 to develop microorganisms for specific uses, to identify targets for small
12 pharmaceutical development, or to transform biological systems into
13 useful processes or products; and

14 (b) The potential endpoints of the resulting products, processes,
15 microorganisms, or targets are for improving human or animal health care
16 outcomes.

17 (2) "CLEAN TECHNOLOGY" MEANS:

18 (a) RENEWABLE ENERGY GENERATION TECHNOLOGIES, INCLUDING
19 BUT NOT LIMITED TO SOLAR, WIND, BIOFUEL, AND GEOTHERMAL ENERGY
20 GENERATION TECHNOLOGIES;

21 (b) PRODUCTS AND TECHNOLOGIES USED IN RENEWABLE ENERGY
22 DEVELOPMENT AND GENERATION ON A COMMERCIAL SCALE;

23 (c) PRODUCTS AND TECHNOLOGIES THAT ENHANCE THE EFFICIENT
24 STORAGE, DISTRIBUTION, AND CONSUMPTION OF ENERGY; AND

25 (d) PRODUCTS AND TECHNOLOGIES THAT MITIGATE HUMAN IMPACT

1 ON THE ENVIRONMENT, INCLUDING BUT NOT LIMITED TO PRODUCTS AND
2 TECHNOLOGIES THAT FACILITATE THE MANAGEMENT OF GREENHOUSE
3 GASES, WATER, AND WASTE.

4 (3) "MEDICAL DEVICE" MEANS A THERAPEUTIC OR DIAGNOSTIC
5 MACHINE OR TOOL USED TO IMPROVE HUMAN OR ANIMAL HEALTH.

6 ~~(2)~~ (4) "Qualified taxpayer" means a C corporation, as defined in
7 section 39-22-103 (2.5), a partnership, as defined in section 39-22-103
8 (5.6), a limited liability company that is not a C corporation, an S
9 corporation, as defined in section 39-22-103 (10.5), or a sole
10 proprietorship that:

11 (a) Purchases, stores, uses, or consumes tangible personal property
12 to be used in Colorado directly and predominately in research and
13 development of biotechnology; OR

14 (b) (I) PURCHASES, STORES, USES, OR CONSUMES TANGIBLE
15 PERSONAL PROPERTY TO BE USED IN COLORADO DIRECTLY AND
16 PREDOMINATELY IN RESEARCH AND DEVELOPMENT OF CLEAN
17 TECHNOLOGY OR MEDICAL DEVICES;

18 (II) IS HEADQUARTERED WITHIN COLORADO; AND

19 (III) EMPLOYS FIFTY OR FEWER FULL-TIME EMPLOYEES.

20 ~~(3)~~ (5) "Research and development" means qualified research as
21 defined by 26 U.S.C. sec. 41 (d) (1).

22 ~~(4)~~ (6) "Tangible personal property" includes capital equipment,
23 instruments, apparatus, and supplies used in laboratories, including, but
24 not limited to, microscopes, machines, glassware, chemical reagents,
25 computers, computer software, and technical books and manuals.

26 **39-26-402. Refund of state sales and use tax - application**
27 **requirements and procedures.** (1) (a) For the calendar year

1 commencing January 1, 1999, and for each calendar year thereafter, each
2 qualified taxpayer shall be allowed to claim a refund of all state sales and
3 use tax paid by the qualified taxpayer, pursuant to parts 1 and 2 of this
4 article, on the sale, storage, use, or consumption of tangible personal
5 property to be used in Colorado directly and predominately in research
6 and development of biotechnology, CLEAN TECHNOLOGY, OR MEDICAL
7 DEVICES during that calendar year.

8 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
9 THIS SUBSECTION (1), A SALES AND USE TAX REFUND ON THE SALE,
10 STORAGE, USE, OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY USED
11 DIRECTLY AND PREDOMINATELY IN THE RESEARCH AND DEVELOPMENT OF
12 CLEAN TECHNOLOGY OR MEDICAL DEVICES SHALL NOT EXCEED FIFTY
13 THOUSAND DOLLARS FOR A QUALIFIED TAXPAYER IN A CALENDAR YEAR.

14 (2) To claim the refund allowed by subsection (1) of this section,
15 a qualified taxpayer shall submit a refund application to the department
16 of revenue on a form provided by the department. Such application shall
17 be submitted no earlier than January 1 and no later than April 1 of the
18 calendar year following the calendar year for which the refund is claimed.
19 The application shall be accompanied by proof of payment of state sales
20 and use taxes paid by the qualified taxpayer in the immediately preceding
21 calendar year. The application shall also include any additional
22 information that the department of revenue may require by rule, which
23 may include, without limitation, a detailed list of all expenditures that
24 support a claim for a refund, the name and addresses of an individual who
25 maintains records of such expenditures, and a statement that the qualified
26 taxpayer agrees to furnish records of all such expenditures to the
27 department of revenue upon request, INFORMATION CONCERNING THE

1 LOCATION OF THE HEADQUARTERS OF THE QUALIFIED TAXPAYER, AND
2 INFORMATION CONCERNING THE NUMBER OF PERSONS WHO ARE EMPLOYED
3 ON A FULL-TIME BASIS BY THE QUALIFIED TAXPAYER. No refund shall be
4 allowed if the qualified taxpayer has not complied with this subsection
5 (2).

6 **SECTION 2. Applicability.** This act shall apply to sales and use
7 taxes paid on or after January 1, 2009.

8 **SECTION 3. Act subject to petition - effective date.** This act
9 shall take effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly that is
11 allowed for submitting a referendum petition pursuant to article V,
12 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
13 sine die is on May 6, 2009); except that, if a referendum petition is filed
14 against this act or an item, section, or part of this act within such period,
15 then the act, item, section, or part, if approved by the people, shall take
16 effect on the date of the official declaration of the vote thereon by
17 proclamation of the governor.