

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0633.02 Ed DeCecco x4216

HOUSE BILL 15-1180

HOUSE SPONSORSHIP

Kraft-Tharp and Wilson,

SENATE SPONSORSHIP

Heath and Holbert,

House Committees

Business Affairs and Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF A STATE SALES AND USE TAX REFUND
102 FOR TANGIBLE PERSONAL PROPERTY THAT IS USED IN
103 COLORADO FOR RESEARCH AND DEVELOPMENT BY A QUALIFIED
104 MEDICAL TECHNOLOGY OR CLEAN TECHNOLOGY TAXPAYER.

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://www.leg.state.co.us/bills summaries>.)

The bill recreates and reenacts, with amendments, a refund for state sales and use tax paid by a qualified medical technology or clean technology taxpayer (qualified taxpayer). A qualified taxpayer is a

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.

business entity that:

- ! Employs 35 or fewer full-time employees in Colorado;
- ! Is headquartered in Colorado or has more than 50% of its employees in Colorado; and
- ! Conducts research and development of medical technology or clean technology.

From 2015 through 2019, a qualified taxpayer may claim a refund for state sales and use tax paid on tangible personal property used in Colorado directly and predominately in research and development of medical technology or clean technology. For this purpose, the definition for "clean technology" is expanded. The maximum refund a qualified taxpayer may receive for sales and use tax paid in a calendar year is \$50,000. To receive a refund, a qualified taxpayer must submit an application to the department of revenue no later than April 1 of the following year and provide certain information to the department.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-401, **amend**
3 (2) (b), (2) (c), (3), and (5); and **repeal** (2) (d) as follows:

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

6 (2) "Clean technology" means:

7 (b) Products and technologies used in renewable energy
8 development and generation on a commercial scale; AND

9 (c) Products and technologies that enhance the efficient
10 EXTRACTION, COLLECTION, storage, distribution, ~~and~~ PRODUCTION, OR
11 consumption of energy ~~and~~ FROM RENEWABLE OR TRADITIONAL SOURCES.

12 ~~(d) Products and technologies that mitigate human impact on the~~
13 ~~environment, including but not limited to products and technologies that~~
14 ~~facilitate the management of greenhouse gases, water, and waste.~~

15 (3) "Medical ~~device~~ TECHNOLOGY" means a therapeutic or
16 diagnostic machine or tool used to improve human or animal health.

17 (5) "Qualified MEDICAL TECHNOLOGY OR clean technology ~~or~~

1 ~~medical device taxpayer~~" means A TAXPAYER THAT:

2 (a) IS a C corporation, as defined in section 39-22-103 (2.5); a
3 partnership, as defined in section 39-22-103 (5.6); a limited liability
4 company that is not a C corporation; an S corporation, as defined in
5 section 39-22-103 (10.5); or a sole proprietorship;

6 (b) ~~That~~ Employs ~~fifty~~ THIRTY-FIVE or fewer full-time employees
7 in Colorado;

8 (c) IS HEADQUARTERED IN COLORADO OR HAS MORE THAN FIFTY
9 PERCENT OF ITS EMPLOYEES IN COLORADO; AND

10 (d) ~~which taxpayer purchases, stores, uses, or consumes tangible~~
11 ~~personal property to be used in Colorado directly and predominately in~~
12 CONDUCTS research and development of MEDICAL TECHNOLOGY OR clean
13 technology. ~~or medical devices.~~

14 **SECTION 2.** In Colorado Revised Statutes, **recreate and**
15 **reenact, with amendments,** 39-26-403 as follows:

16 **39-26-403. Refund of state sales and use tax for medical**
17 **technology and clean technology - application requirements and**
18 **procedures - legislative declaration - repeal.** (1) (a) THE GENERAL

19 ASSEMBLY FINDS AND DECLARES THAT:

20 (I) COLORADO'S MEDICAL TECHNOLOGY AND CLEAN TECHNOLOGY
21 INDUSTRIES DIRECTLY EMPLOY OVER THIRTY-THREE THOUSAND HIGHLY
22 SKILLED WORKERS AND CONTRIBUTE BILLIONS OF DOLLARS TO THE STATE'S
23 ECONOMY;

24 (II) THESE INDUSTRIES ARE CAPITAL INTENSIVE WITH THE NEED
25 FOR STEADY INVESTMENTS IN RESEARCH AND DEVELOPMENT IN ORDER TO
26 PRODUCE THE PRODUCTS THAT COMPETE IN A GLOBAL ECONOMY;

27 (III) WHILE THE MEDICAL TECHNOLOGY AND CLEAN TECHNOLOGY

1 INDUSTRIES ARE CURRENTLY THRIVING HERE, THERE IS STRONG
2 COMPETITION FROM OTHER STATES, WHICH ARE CREATING TAX BREAKS TO
3 ATTRACT AND GROW THESE INNOVATIVE COMPANIES; AND

4 (IV) A SALES AND USE TAX REFUND FOR ITEMS USED IN RESEARCH
5 AND DEVELOPMENT FOR MEDICAL TECHNOLOGY AND CLEAN TECHNOLOGY
6 WOULD HELP THE STATE RETAIN, GROW, AND ATTRACT COMPANIES TO
7 COLORADO AND POTENTIALLY ALLOW THESE COMPANIES TO REINVEST
8 THESE FUNDS TO PURCHASE ADDITIONAL NEEDED EQUIPMENT AND HIRE
9 MORE EMPLOYEES.

10 (b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
11 THE INTENDED PURPOSE OF THE TAX REFUND CREATED IN THIS SECTION IS
12 TO CREATE AN INCENTIVE TO RETAIN, GROW, AND ATTRACT BUSINESSES IN
13 THE MEDICAL TECHNOLOGY AND CLEAN TECHNOLOGY INDUSTRIES.

14 (2) (a) FOR THE 2015 CALENDAR YEAR AND EACH CALENDAR YEAR
15 THEREAFTER PRIOR TO JANUARY 1, 2020, A QUALIFIED MEDICAL
16 TECHNOLOGY OR CLEAN TECHNOLOGY TAXPAYER IS ALLOWED TO CLAIM
17 A REFUND IN AN AMOUNT UP TO THE LIMIT ESTABLISHED IN PARAGRAPH (b)
18 OF THIS SUBSECTION (2) FOR STATE SALES AND USE TAX PAID BY THE
19 TAXPAYER UNDER PARTS 1 AND 2 OF THIS ARTICLE FOR TANGIBLE
20 PERSONAL PROPERTY USED IN COLORADO DIRECTLY AND PREDOMINATELY
21 IN RESEARCH AND DEVELOPMENT OF MEDICAL TECHNOLOGY OR CLEAN
22 TECHNOLOGY.

23 (b) THE MAXIMUM SALES AND USE TAX REFUND THAT A QUALIFIED
24 MEDICAL TECHNOLOGY OR CLEAN TECHNOLOGY TAXPAYER IS ELIGIBLE TO
25 RECEIVE IN A CALENDAR YEAR UNDER THIS SECTION IS FIFTY THOUSAND
26 DOLLARS.

27 (3) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (2) OF THIS

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

20 (4) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2021.

21 **SECTION 3. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2016 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.