

## CHAPTER 184

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**TAXATION**

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**HOUSE BILL 99-1335**

BY REPRESENTATIVES Swenson, Hagedorn, Allen, Bacon, Dean, Fairbank, George, Larson, Lawrence, Lee, May, McElhany, McKay, Nunez, Paschall, Scott, Sinclair, Spence, Spradley, Stengel, Vigil, and Witwer;  
also SENATORS Lacy, Powers, Chlouber, Evans, Feeley, Hernandez, Lamborn, Owen, Pascoe, Reeves, Rupert, Tebedo, Wattenberg, Weddig, and Wham.

**AN ACT**

CONCERNING FINANCIAL INCENTIVES FOR THE DEVELOPMENT OF BIOTECHNOLOGICAL ACTIVITY IN COLORADO, AND, IN CONNECTION THEREWITH, REFUNDING STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING BY MEANS OF A REFUND OF STATE SALES AND USE TAX PAID IN CONNECTION WITH TANGIBLE PERSONAL PROPERTY TO BE USED IN COLORADO FOR BIOTECHNOLOGICAL PURPOSES.

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

**SECTION 1. Legislative declaration.** The general assembly hereby finds and declares that House Bill 99-1335, enacted at the first regular session of the sixty-second general assembly, seeks to achieve the same objectives as Senate Bill 99-127, the prime sponsor of which was our esteemed former colleague, senator Tony Grampsas. The general assembly recognizes that senator Grampsas was the prime sponsor of legislation promoting biotechnological activity in 1997 while serving as a member of the house of representatives. The general assembly further finds and declares that senator Grampsas was a strong proponent of using public and private resources to ensure that the people of this state are among the nation's best-educated and that, as a consequence of that educational achievement, Colorado can play a leading role in the development of new and beneficial technologies. Therefore, it is the intent of the general assembly that this act be a living testament to the public vision and spirit exhibited by senator Grampsas during his distinguished public career.

**SECTION 2.** Article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

## PART 4

## SALES AND USE TAX REFUND FOR BIOTECHNOLOGY

**39-26-401. Definitions.** AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BIOTECHNOLOGY" MEANS:

(a) THE APPLICATION OF TECHNOLOGIES TO PRODUCE OR MODIFY PRODUCTS, TO DEVELOP MICROORGANISMS FOR SPECIFIC USES, TO IDENTIFY TARGETS FOR SMALL PHARMACEUTICAL DEVELOPMENT, OR TO TRANSFORM BIOLOGICAL SYSTEMS INTO USEFUL PROCESSES OR PRODUCTS; AND

(b) THE POTENTIAL ENDPOINTS OF THE RESULTING PRODUCTS, PROCESSES, MICROORGANISMS, OR TARGETS ARE FOR IMPROVING HUMAN OR ANIMAL HEALTH CARE OUTCOMES.

(2) "QUALIFIED TAXPAYER" MEANS A C CORPORATION, AS DEFINED IN SECTION 39-22-103 (2.5), A PARTNERSHIP, AS DEFINED IN SECTION 39-22-103 (5.6), A LIMITED LIABILITY COMPANY THAT IS NOT A C CORPORATION, AN S CORPORATION, AS DEFINED IN SECTION 39-22-103 (10.5), OR A SOLE PROPRIETORSHIP THAT PURCHASES, STORES, USES, OR CONSUMES TANGIBLE PERSONAL PROPERTY TO BE USED IN COLORADO DIRECTLY AND PREDOMINATELY IN RESEARCH AND DEVELOPMENT OF BIOTECHNOLOGY.

(3) "RESEARCH AND DEVELOPMENT" MEANS QUALIFIED RESEARCH AS DEFINED BY 26 U.S.C. SEC. 41 (d) (1).

(4) "TANGIBLE PERSONAL PROPERTY" INCLUDES CAPITAL EQUIPMENT, INSTRUMENTS, APPARATUS, AND SUPPLIES USED IN LABORATORIES, INCLUDING, BUT NOT LIMITED TO, MICROSCOPES, MACHINES, GLASSWARE, CHEMICAL REAGENTS, COMPUTERS, COMPUTER SOFTWARE, AND TECHNICAL BOOKS AND MANUALS.

**39-26-402. Refund of state sales and use tax - application requirements and procedures.** (1) FOR THE CALENDAR YEAR COMMENCING JANUARY 1, 1999, AND FOR EACH CALENDAR YEAR THEREAFTER, EACH QUALIFIED TAXPAYER SHALL BE ALLOWED TO CLAIM A REFUND OF ALL STATE SALES AND USE TAX PAID BY THE QUALIFIED TAXPAYER, PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE, ON THE SALE, STORAGE, USE, OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY TO BE USED IN COLORADO DIRECTLY AND PREDOMINATELY IN RESEARCH AND DEVELOPMENT OF BIOTECHNOLOGY DURING THAT CALENDAR YEAR.

(2) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (1) OF THIS SECTION, A QUALIFIED TAXPAYER SHALL SUBMIT A REFUND APPLICATION TO THE DEPARTMENT OF REVENUE ON A FORM PROVIDED BY THE DEPARTMENT. SUCH APPLICATION SHALL BE SUBMITTED NO EARLIER THAN JANUARY 1 AND NO LATER THAN APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE CALENDAR YEAR FOR WHICH THE REFUND IS CLAIMED. THE APPLICATION SHALL BE ACCOMPANIED BY PROOF OF PAYMENT OF STATE SALES AND USE TAXES PAID BY THE QUALIFIED TAXPAYER IN THE IMMEDIATELY PRECEDING STATE FISCAL YEAR. THE APPLICATION SHALL ALSO INCLUDE ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT OF REVENUE MAY REQUIRE BY

RULE, WHICH MAY INCLUDE, WITHOUT LIMITATION, A DETAILED LIST OF ALL EXPENDITURES THAT SUPPORT A CLAIM FOR A REFUND, THE NAME AND ADDRESSES OF AN INDIVIDUAL WHO MAINTAINS RECORDS OF SUCH EXPENDITURES, AND A STATEMENT THAT THE QUALIFIED TAXPAYER AGREES TO FURNISH RECORDS OF ALL SUCH EXPENDITURES TO THE DEPARTMENT OF REVENUE UPON REQUEST. NO REFUND SHALL BE ALLOWED IF THE QUALIFIED TAXPAYER HAS NOT COMPLIED WITH THIS SUBSECTION (2).

**SECTION 3. No appropriation.** The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 17, 1999