

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

March 3, 2022

Committee on Finance.

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

HB22-1118 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, strike lines 2 through 22.

2 Page 3, strike lines 1 through 10 and substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, 39-21-110, **amend**
4 (1) introductory portion and (1)(b); and **add** (1)(c) as follows:

5 **39-21-110. Interest on overpayments.** (1) Interest shall be
6 allowed and paid upon any overpayment in respect to any tax or any
7 charge on oil and gas production imposed pursuant to articles 22 to 29 of
8 this title, article 60 of title 34, or article 3 of title 42 ~~C.R.S.~~, at the rate
9 imposed under section 39-21-110.5. Such interest shall be allowed and
10 paid as follows:

11 (b) EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION,
12 in the case of a refund, from the date of the overpayment to a date, to be
13 determined by the executive director of the department of revenue or ~~his~~
14 THEIR delegate, preceding the date of the refund by not more than thirty
15 days, whether or not such refund is accepted by the taxpayer after tender
16 of such refund to the taxpayer. The acceptance of such refund shall be
17 without prejudice to any right of the taxpayer to claim any additional
18 overpayment and interest thereon; OR

19 (c) (I) IN THE CASE OF A REFUND CLAIM MADE BY A PURCHASER
20 FOR SALES OR USE TAX PAID TO A VENDOR UNDER SECTION 39-26-703 (2)
21 ON OR AFTER JULY 1, 2022, BUT BEFORE JULY 1, 2026, FROM THE DATE
22 THAT THE CLAIM FOR REFUND WAS FILED TO A DATE, TO BE DETERMINED
23 BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE OR THEIR
24 DELEGATE, PRECEDING THE DATE OF THE REFUND BY NOT MORE THAN
25 THIRTY DAYS, WHETHER OR NOT SUCH REFUND IS ACCEPTED BY THE
26 TAXPAYER AFTER TENDER OF SUCH REFUND TO THE TAXPAYER, BUT ONLY

1 IF THE DATE OF THE REFUND IS MORE THAN ONE HUNDRED AND EIGHTY
2 DAYS FROM THE DATE THE CLAIM FOR REFUND WAS FILED. THE
3 ACCEPTANCE OF SUCH REFUND SHALL BE WITHOUT PREJUDICE TO ANY
4 RIGHT OF THE PURCHASER TO CLAIM ANY ADDITIONAL OVERPAYMENT AND
5 INTEREST THEREON.

6 (II) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JULY 1,
7 2030."

8 Renumber succeeding sections accordingly.

9 Page 3, strike lines 18 through 20 and substitute "information, such
10 OTHER pertinent data, INFORMATION, OR DOCUMENTATION as the
11 executive director prescribes BY RULES PROMULGATED IN ACCORDANCE
12 WITH ARTICLE 4 OF TITLE 24. Except as".

13 Page 3, line 27, strike "MAKES" and substitute "FILES".

14 Page 4, line 2, after "2022," insert "BUT BEFORE JULY 1, 2026,".

15 Page 4, strike lines 4 and 5 and substitute:

16 "PROVIDED BY LAW, A CIVIL PENALTY AS FOLLOWS:

17 (A) FIVE PERCENT OF THE TOTAL REFUND CLAIMED IF THE CLAIM
18 IS FOUND TO BE MATERIALLY INCOMPLETE; AND

19 (B) TEN PERCENT OF THE AMOUNT OF THE REFUND CLAIM THAT IS
20 FOUND TO BE DUPLICATIVE OR LACKING A REASONABLE BASIS IN LAW OR
21 IN FACT.

22 (II) THE CIVIL PENALTY IMPOSED BY THIS".

23 Renumber succeeding subparagraph accordingly.

24 Page 4, strike lines 7 through 10 and substitute "DOLLARS OR MORE.".

25 Page 4, line 16, after the period insert: "THE EXECUTIVE DIRECTOR SHALL
26 GIVE THE PERSON AGAINST WHOM THE PENALTY IS ASSESSED WRITTEN
27 NOTICE OF THE PENALTY IN ACCORDANCE WITH SECTION 39-21-105.5.
28 WITHIN THIRTY DAYS AFTER SUCH NOTICE IS MAILED, THE PERSON
29 AGAINST WHOM THE PENALTY WAS ASSESSED MAY PETITION THE
30 EXECUTIVE DIRECTOR FOR A HEARING ON THE NOTICE IN THE MANNER
31 PROVIDED IN SECTION 39-21-103 AND MAY APPEAL TO THE DISTRICT
32 COURT IN THE MANNER PROVIDED IN SECTION 39-21-105.".

33 Page 4, strike lines 23 through 27.

1 Page 5, strike lines 1 through 9 and substitute:

2 "(c) (I) A CLAIM FOR REFUND IS INCOMPLETE IF IT DOES NOT
3 INCLUDE THE FORM AND SUBSTANTIALLY ALL OF THE PERTINENT DATA,
4 INFORMATION, AND DOCUMENTATION REQUIRED BY SUBSECTION (2)(d) OF
5 THIS SECTION AND THE RULES PROMULGATED THEREUNDER.

6 (II) PRIOR TO ASSESSING A PENALTY FOR A FRIVOLOUS CLAIM FOR
7 REFUND DUE TO INCOMPLETENESS UNDER SUBSECTION (5)(b)(I) OF THIS
8 SECTION, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE PURCHASER OR
9 THE PREPARER OF THE CLAIM, IF ANY, THAT THE CLAIM APPEARS TO BE
10 INCOMPLETE. THE NOTIFICATION MUST SPECIFY THE PERTINENT DATA,
11 INFORMATION, AND DOCUMENTATION THAT APPEARS TO BE MISSING AND
12 MUST STATE THAT FAILURE TO EITHER CORRECT THE OMISSION OR
13 WITHDRAW THE CLAIM FOR REFUND WITHIN SIXTY DAYS OF THE DATE OF
14 THE NOTICE, PLUS SUCH ADDITIONAL TIME ALLOWED BY THE EXECUTIVE
15 DIRECTOR FOR REASONABLE CAUSE SHOWN, WILL RESULT IN THE
16 ASSESSMENT AND COLLECTION OF THE CIVIL PENALTY ALLOWED UNDER
17 THIS SUBSECTION (5). CORRECTING THE OMISSION REQUIRES THE
18 PURCHASER OR PREPARER TO PROVIDE THE MISSING DATA, INFORMATION,
19 AND DOCUMENTATION AND TO DEMONSTRATE WHY THE CLAIM IS NOT
20 INCOMPLETE.

21 (d) IF AN APPLICATION FOR REFUND IS IDENTIFIED AT THE TIME OF
22 FILING AS A PROTECTIVE CLAIM FILED IN ORDER TO PRESERVE THE RIGHT
23 TO A REFUND PRIOR TO THE EXPIRATION OF THE STATUTE OF LIMITATIONS,
24 THE EXECUTIVE DIRECTOR SHALL DETERMINE IF THE CLAIM FOR REFUND
25 IS FRIVOLOUS AFTER THE CLAIM FOR REFUND IS PERFECTED."

26 Reletter succeeding paragraph accordingly.

27 Page 5, strike lines 13 through 16.

28 Renumber succeeding subparagraphs accordingly.

29 Page 5, after line 20 insert:

30 "(f) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2030."

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