

Advocacy 101: SB22-233 and the Making of Legislative Sausage



BY MARY E. MEDLEY, CEO

On March 29, 1869, the Daily Cleveland Herald quoted lawyer-poet John Godfrey Saxe, “Laws, like sausages, cease to inspire respect in proportion as we know how they are made.” Or, as it’s often paraphrased and attributed to German chancellor Otto von Bismarck, “If you like laws and sausages, you should never watch either one being made.” Law-making, like sausage-making, requires chopping, grinding, and mashing together through drafting, witness testimony, debate, and amendment. It often demands citizens participate in the process for the best possible outcome.

Here’s a behind-the-scenes look into the making of Senate Bill 22-233, “Concerning an additional mechanism to refund excess state revenues for state fiscal year 2021-22 only, that provides a refund in an identical amount to each qualified resident individual, and, in connection therewith, making an appropriation.” Thanks to COCPA members, staff, and legislative counsel efforts, it turned out well for Colorado taxpayers and their tax preparers - and offers real time context for why advocacy and participation in legislative and regulatory processes matter.

THE ANNOUNCEMENT

On April 25, 2022, Colorado Governor Jared Polis stood on the Capitol steps, surrounded by his legislative colleagues, to announce that every Colorado taxpayer would receive “The Colorado Dividend” this summer - \$400 per individual or \$800 for those filing a joint return. Legislation would be forthcoming to make it so. You’d have to meet the eligibility requirements, of course, one of which was to file your 2021 tax return by May 31, 2022.

THE QUESTIONS

Phones, email inboxes, direct messaging channels, and the virtual water cooler im-

mediately heated up across the state. What about those who filed a federal extension? What about those who took advantage of Colorado’s automatic six-month extension? What about those who didn’t have to file a tax return? What about those who couldn’t file until they received all their K-1’s? What about clients who expect their returns to be completed without all the necessary information - and amend the returns later? What about ...? Already weary from the crush of the filing season, tax preparers were barraged with client calls, and numerous COCPA members asked us (using a wide variety of passionate words), “How can this be right?”

THE WAIT

“Hit the PAUSE button.” I wrote it and said it to COCPA members countless times between Monday and Wednesday, April 27, as we awaited the bill to accomplish Gov. Polis’s promise. Late on Wednesday night, Senate Bill 22-233, sponsored by Senators Nick Hinrichsen (D-Pueblo) and Robert Rodriguez (D-Denver), was introduced.

Thursday morning, April 28, I crafted an all-members email alert, asking for outreach to Senate Finance Committee members, in support of amendments so that all eligible Coloradans - including those file by October 17 - would receive the TABOR refund. We

also asked COCPA members to sign up to testify when the bill came before the committee.

We sought amendments to:

- *Extend the May 31st deadline to a later date*
- *Allow taxpayers who filed a federal extension or took advantage of Colorado's automatic six-month extension and file their tax return by October 17, 2022 to receive their tax refund by Spring 2023*
- *Include a hold harmless provision for tax preparers*
- *Publish a "TABOR Refund claim form" or "Intent to File form" on the Colorado Department of Revenue (CDOR) website which taxpayers could submit, attesting that they previously filed - or were eligible for - an extension and should be eligible for the TABOR refund*

At the Capitol, COCPA legislative counsel Daniel Furman, Esq., was raising our concerns about the fundamental inequity the bill created with the bill sponsors, Colorado Department of Revenue representatives, and the Governor's office. Colorado Chamber of Commerce CEO Loren Furman was carrying the message as well. And, emails - lots of them - started to appear in legislators' inboxes from CPAs across Colorado.

THE COMMITTEE HEARING

On Friday, April 29, the bill was listed fourth on the Senate Finance Committee agenda. It would be heard "upon adjournment" of the Senate from floor action. Another email alert was sent to those who'd volunteered to testify. I registered to speak in person, listened to the live feed until the Senate adjourned around 11:15 a.m., and headed to the Capitol.

Before the committee began hearing the bill, I learned the bill sponsors would offer amendments to extend the initial deadline to June 30 and to add the "hold harmless" language. Also, they were working with the Department of Revenue to draft amendment language so that taxpayers who filed by October 17 could expect to receive their TABOR refunds by January 2023. They testified during the hearing that the amendment would be offered on second reading in the full Senate.

COCPA members Lucas Denberg, Mary Gallagher, Victoria Marschner, and Orville Peterson testified virtually in support of the proposed amendments. I testified in person, along with Loren Furman and Richard Orf

SB22-233 At a Glance

BY PAMELA M. FEELY, CPA, MBA

Senate Bill 22-233 establishes a temporary TABOR refund mechanism for excess state revenues from all sources for state fiscal year 2021-2022. Qualified taxpayers will receive at least \$400/person (at least \$800/married filing jointly) refunds beginning later this summer if they file by June 30, 2022, or in early 2023 if they file by October 17, 2022.

WHO QUALIFIES?

Residents who:

- Lived in Colorado from January 1 – December 31, 2021.
- Filed, by June 30, 2022, a Colorado income tax return for 2021 or receive a property tax, rent, or heat credit rebate.
- Were at least 18 years old on December 31, 2021.

WHAT IF I HAVEN'T FILED A 2021 TAX RETURN BECAUSE I DIDN'T HAVE TAXABLE INCOME?

- File a return by October 17, 2022. Income, even if not taxed, needs to show on the return.
- A return showing only zeros will be considered fraudulent.

WHAT IF I COULDN'T FILE MY 2021 RETURN BY JUNE 30, 2022?

For individuals who filed a federal extension and/or took advantage of the Colorado automatic extension for numerous reasons:

- Missing information
- Waiting on K-1s from partnerships, S corporations, estates, or trusts
- Funding retirement contributions
- Marshall Fire victim
- Medical reasons
- Out of the country
- Or other reasons

and file a return by October 17, 2022, the TABOR Refund payment will be issued in Q1 2023.

UPDATE: The "Colorado Cash Back" program will give Coloradans a tax rebate of \$750 for individual filers and \$1500 for joint filers. See the complete details at tax.colorado.gov/cash-back. ▲

representing the Associated Governments of Northern Colorado.

When we had completed our testimony, committee Chair Sen. Julie Gonzales (D-Denver) said, "Thank you for being willing to come forward and share your perspectives. This is an iterative process. It is how we make strong public policy here in the state of Colorado. I appreciate the many, many, many emails that we've all received and am grateful for the organization (COCPA) that you represent."

Sen. Pete Lee (D-Colorado Springs) added, "Thank you, echoing the words of Madame

Chair, for engaging and activating your (COCPA) members across the state. That really is how you get people's attention, quite frankly. This was a matter of some urgency... and we have a lot to respond to in these last couple of weeks. So, the insight, input, and concerns of your members are very much appreciated. I just wanted to set that publicly on the record that you're doing exactly what you ought to be doing, and we hope to respond to it. Thanks for doing it and thanks for coming here to testify and giving us not just 'this is the problem' but 'these are the solutions' because that's really what we need help with as well."

CONTINUED ON PAGE 12

CONTINUED FROM PAGE 11

That afternoon, the bill was referred to the Senate Appropriations Committee, passed, and referred to the full Senate.

THE NEXT STEPS

On May 2, the Senate amended the bill on second reading to include Colorado taxpayers who file by October 17, 2022. Third reading was accomplished on May 3, and the bill was referred to the House Finance Committee for hearing.

Once again, committee members received emails from COCPA members, encouraging support for the bill as amended. On May 5, it was heard, passed, and referred to the House Appropriations Committee which amended it to provide funding for the Colorado Department of Revenue (\$2.5M) and Department of Personnel (\$2.1M) to implement the legislation. The full House passed the bill on second reading that day.

On Monday, May 9, the bill was amended on third reading to provide for recalculation of the refund amount per taxpayer based on current state revenue numbers. It was returned to the Senate for concurrence with the House amendments.

Late in the session, May 10, the Senate concurred and re-passed the bill. On May 11, the bill was sent to Governor Polis for signature. He signed it on May 23.

THE OUTCOME

All eligible Colorado taxpayers will receive the TABOR Refund - the "Colorado Cash Back" Gov. Polis announced just 17 days before the legislative session was required to adjourn on May 11. Colorado CPAs spoke, and legislators listened.

Aaron Silverstein, senior legislative aide to Sen. Rachel Zenzinger (D-Arvada), observed in a social media post, "I don't talk a lot about the making of the sausage, but I liked how the system worked on this bit. The accommodation for people needing extensions wasn't originally in the bill, but CPAs in the community read the bill and wrote emails explaining that it would force sloppy, rushed filings. As pros, they refused to cut corners to save time but also didn't want their clients punished for doing things right. The legislators listened and fixed it. I thought it was a really good example of transparent lawmaking, public comment, and responsive legislators. Get involved, people! Read the bills and comment!"

Thanks to CPAs who communicated quickly and effectively with legislators and colleagues in their firms and communities, COCPA legislative counsel Daniel Furman, Esq., with Hall & Evans, LLC, Denver, Colorado Chamber of Commerce CEO Loren Furman, COCPA staff who posted frequent updates and responded to COCPA members' inquiries, and the COCPA marketing team which sent out the email alerts with lightning speed, we succeeded in turning inequitable proposed legislation into fair and equitable public policy. It was the best possible outcome for Colorado citizens and accounting professionals who serve them - and really good sausage, too. ▲

To read the bill as passed, go to <https://leg.colorado.gov/bills/sb22-233>. To listen to the recording of the April 29 Senate Finance Committee hearing, go to https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20220429/-1/13442#agenda_, and begin at 1:13:53 p.m.

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A contribution to the CPA Political Action Committee and/or the 1904 Small Donor Fund is your opportunity to support candidates for election to the Colorado General Assembly who support issues important to CPAs and those they serve. The profession's success in amending Senate Bill 22-233 is just one example of how important the profession's voice is in working with legislators to develop public policy.

In this election year, your contribution is more important than ever. Contributions to CPA-PAC are limited to \$625 per two-year election cycle. Contributions to the 1904 Small Donor Fund are limited to \$50 annually. Go to cocpa.org/1904 to contribute online, or mail your check, payable to CPA-PAC or 1904 Small Donor Fund to Pam Feely, 7830 W Alameda Ave Unit 283, Lakewood, CO 80226.



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