

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0225.01 Esther van Mourik x4215

SENATE BILL 19-006

SENATE SPONSORSHIP

Williams A., Bridges, Cooke, Crowder, Donovan, Fenberg, Garcia, Gardner, Ginal, Gonzales, Hill, Lee, Lundeen, Marble, Moreno, Priola, Rankin, Rodriguez, Scott, Smallwood, Sonnenberg, Story, Tate, Todd, Winter, Woodward

HOUSE SPONSORSHIP

Kraft-Tharp and Van Winkle,

Senate Committees

Finance

House Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AN ELECTRONIC SALES AND USE TAX SIMPLIFICATION**
102 **SYSTEM, AND, IN CONNECTION THEREWITH, REQUIRING THE**
103 **OFFICE OF INFORMATION TECHNOLOGY** **TO CONDUCT A**
104 **SOURCING METHOD FOR THE DEVELOPMENT OF THE SYSTEM**
105 **AND REQUIRING THE DEPARTMENT OF REVENUE TO ESTABLISH**
106 **THE IMPLEMENTATION OF THE SYSTEM FOR THE ACCEPTANCE**
107 **OF RETURNS AND PROCESSING OF PAYMENTS FOR THE SALES AND**
108 **USE TAX LEVIED BY THE STATE AND ANY LOCAL TAXING**
109 **JURISDICTIONS, AND MAKING AN APPROPRIATION.**

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

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

HOUSE
Amended 2nd Reading
March 8, 2019

SENATE
3rd Reading Unamended
January 28, 2019

SENATE
Amended 2nd Reading
January 25, 2019

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sales and Use Tax Simplification Task Force. The bill requires the department of revenue (department), within existing resources, to conduct a sourcing method in accordance with the applicable provisions of the procurement code, and any applicable rules, for the development of an electronic sales and use tax simplification system (system). The bill also requires the department to involve stakeholders to develop the scope of work.

The bill specifies that on and after the date the system is online the department is required to accept any returns and payments processed through the system for state sales and use tax and for any sales and use taxes that are collected by the department on behalf of any local taxing jurisdiction.

The bill specifies that it is the general assembly's intent that a certain number of local taxing jurisdictions with home rule charters voluntarily use the system when the system comes online. Additionally, the bill states that it is the general assembly's intent that all local taxing jurisdictions with home rule charters voluntarily use the system within a specified number of years.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:


4 (a) The sales and use tax simplification task force (task force) has
5 met several times in the interim between the 2018 and 2019 legislative
6 sessions and has again heard testimony from both businesses and local
7 governments about the complex nature of our state and local sales and use
8 tax system;

9 (b) In enacting this act, the task force's objective is to take the next
10 step toward the development and implementation of an electronic sales
11 and use tax simplification system to be used by the state and local taxing
12 jurisdictions for the acceptance of returns and processing of payments for
13 the sales and use tax levied by the state and any local taxing jurisdictions;

1 (c) It is the task force's intent that the electronic sales and use tax
2 simplification system allow for various payment options, including
3 contributions by the state, local taxing jurisdictions, or retailers; ___

4 (d) It is the task force's intent to move forward with simplifying
5 certain administrative details of the state and local sales and use tax
6 system for the state and local taxing jurisdictions, but on an elective basis
7 for any municipality with a home rule charter in order to protect the
8 important legal authority of such entities as set forth in section 6 of article
9 XX of the state constitution; and

10 (e) It is the task force's intent that the cost of the initial funding
11 and ongoing maintenance of the electronic sales and use tax
12 simplification system be paid for from the additional sales tax revenues
13 that the state is receiving as a result of the United States Supreme Court's
14 decision in *South Dakota v. Wayfair, Inc., et al.*, which allowed states to
15 require retailers without physical presence in the state to collect sales tax
16 on purchases made by in-state customers so long as the sales tax system
17 in the state is not too burdensome for the out-of-state retailer.

18 
19 **SECTION 2.** In Colorado Revised Statutes, 39-26-123, **amend**
20 **(3)** as follows:

21 **39-26-123. Receipts - disposition - transfers of general fund**
22 **surplus - sales tax holding fund - creation - definitions.** (3) For any
23 state fiscal year commencing on or after July 1, 2013, the state treasurer
24 shall credit eighty-five percent of all net revenue collected under ~~the~~
25 ~~provisions of this article~~ ARTICLE 26 to the old age pension fund created
26 in section 1 of article XXIV of the state constitution. The state treasurer
27 shall credit to the general fund the remaining fifteen percent of the net

1 revenue, less:

2 (a) Ten million dollars, which the state treasurer shall credit to the
3 older Coloradans cash fund created in section 26-11-205.5 (5); ~~C.R.S.~~

4 (b) TEN MILLION DOLLARS FOR THE 2019-20 STATE FISCAL YEAR,
5 WHICH THE STATE TREASURER SHALL CREDIT TO THE ELECTRONIC SALES
6 AND USE TAX SIMPLIFICATION SYSTEM CASH FUND CREATED IN SECTION
7 39-26-802.7 (3); AND

8 (c) EIGHT MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS
9 FOR THE 2020-21 STATE FISCAL YEAR, WHICH THE STATE TREASURER
10 SHALL CREDIT TO THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION
11 SYSTEM CASH FUND CREATED IN SECTION 39-26-802.7 (3).

12 **SECTION 3.** In Colorado Revised Statutes, add 39-26-802.7 as
13 follows:

14 **39-26-802.7. Electronic sales and use tax simplification system**
15 **- sourcing method - implementation cash fund - legislative intent -**
16 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
17 OTHERWISE REQUIRES:

18 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

19 (b) "LOCAL TAXING JURISDICTION" MEANS A CITY, TOWN,
20 MUNICIPALITY, COUNTY, SPECIAL DISTRICT, OR AUTHORITY AUTHORIZED
21 TO LEVY A SALES OR USE TAX PURSUANT TO TITLE 24, 25, 29, 30, 31, 32,
22 37, 42, OR 43, AND ANY COUNTY, CITY AND COUNTY, OR MUNICIPALITY
23 GOVERNED BY A HOME RULE CHARTER.

24 (c) "OFFICE OF INFORMATION TECHNOLOGY" OR "OFFICE" MEANS
25 THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION
26 24-37.5-103.

27 (d) "SALES AND USE TAX SIMPLIFICATION TASK FORCE" OR "TASK

1 FORCE" MEANS THE SALES AND USE TAX SIMPLIFICATION TASK FORCE
2 CREATED IN SECTION 39-26-802.

3 (2) (a) THE OFFICE OF INFORMATION TECHNOLOGY, ON BEHALF OF
4 THE DEPARTMENT, WITHIN EXISTING RESOURCES, SHALL CONDUCT A
5 SOURCING METHOD IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF
6 THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, AND ANY
7 APPLICABLE RULES, FOR THE DEVELOPMENT OF AN ELECTRONIC SALES AND
8 USE TAX SIMPLIFICATION SYSTEM. THE OFFICE AND THE DEPARTMENT
9 SHALL INVOLVE STAKEHOLDERS TO DEVELOP THE SCOPE OF WORK.

10 (b) ON AND AFTER THE DATE THE ELECTRONIC SALES AND USE TAX
11 SIMPLIFICATION SYSTEM IS ONLINE, AND NOTWITHSTANDING ANY LAW TO
12 THE CONTRARY, THE DEPARTMENT SHALL ACCEPT ANY RETURNS AND
13 PAYMENTS PROCESSED THROUGH THE SYSTEM FOR STATE SALES AND USE
14 TAX AND FOR ANY SALES AND USE TAXES THAT ARE COLLECTED BY THE
15 DEPARTMENT ON BEHALF OF ANY LOCAL TAXING JURISDICTION.

16 (c) (I) ON AND AFTER THE DATE THE ELECTRONIC SALES AND USE
17 TAX SIMPLIFICATION SYSTEM IS ONLINE, IT IS THE GENERAL ASSEMBLY'S
18 INTENT THAT AT LEAST THREE LOCAL GOVERNMENTS GOVERNED BY A
19 HOME RULE CHARTER VOLUNTARILY USE THE SYSTEM FOR ACCEPTING
20 RETURNS AND PROCESSING PAYMENTS OF ANY LOCAL SALES AND USE TAX.

21 (II) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE VOLUNTARY
22 USE OF THE SYSTEM INCREASE EVERY YEAR SO THAT NO LATER THAN
23 THREE YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION ALL LOCAL
24 GOVERNMENTS GOVERNED BY A HOME RULE CHARTER ARE VOLUNTARILY
25 USING THE SYSTEM.

26 (3) (a) THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION
27 SYSTEM CASH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE

1 FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO SECTION
2 39-26-123 (3) AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY
3 MAY APPROPRIATE OR TRANSFER TO THE FUND.

4 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
5 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
6 ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM CASH FUND TO
7 THE FUND.

8 (c) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
9 ASSEMBLY, THE OFFICE OF INFORMATION TECHNOLOGY MAY EXPEND
10 MONEY FROM THE FUND FOR THE INITIAL FUNDING AND ONGOING
11 MAINTENANCE OF THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION
12 SYSTEM. ANY CONTRACT ENTERED INTO FOR THE SYSTEM MUST PROVIDE
13 THAT INITIAL FUNDING PAYMENTS TO THE VENDOR ARE MADE ON A
14 QUARTERLY BASIS.

15 (4) IN THE INTERIM BETWEEN THE 2019 AND 2020 LEGISLATIVE
16 SESSIONS, THE OFFICE AND THE DEPARTMENT SHALL REGULARLY PROVIDE
17 THE SALES AND USE TAX SIMPLIFICATION TASK FORCE WITH ANY SUCH
18 DETAILED INFORMATION REGARDING THE SOURCING METHOD PROGRESS
19 AS IS ALLOWED UNDER THE PROCUREMENT CODE.

20 **SECTION 4.** In Colorado Revised Statutes, 24-75-402, add
21 (5)(qq) as follows:

22 **24-75-402. Cash funds - limit on uncommitted reserves -**
23 **reduction in the amount of fees - exclusions - repeal.**

24 (5) Notwithstanding any provision of this section to the contrary, the
25 following cash funds are excluded from the limitations specified in this
26 section:

27 (qq) THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM

1 CASH FUND CREATED IN SECTION 39-26-802.7 (3).

2 **SECTION 5. Appropriation.** (1) For the 2019-20 state fiscal
3 year, \$9,183,000 is appropriated to the Office of the Governor for use by
4 the Office of Information Technology. This appropriation is from the
5 electronic sales and use tax simplification system cash fund created in
6 section 39-26-802.7 (3), C.R.S. To implement this act, the office of
7 information technology may use this appropriation for the initial funding
8 of the electronic sales and use tax simplification system.

9 (2) (a) For the 2019-20 state fiscal year, \$817,000 is appropriated
10 to the department of revenue. This appropriation is from the electronic
11 sales and use tax simplification system cash fund created in section
12 39-26-802.7 (3), C.R.S. To implement this act, the department may use
13 this appropriation for the purchase of information technology services,
14 specifically a global information system (GIS) database to maintain
15 jurisdictional boundaries of sales tax districts and to calculate appropriate
16 sales and use tax rates for individual addresses.

17 (b) For the 2019-20 state fiscal year, \$817,000 is appropriated to
18 the office of the governor for use by the office of information technology.
19 This appropriation is from reappropriated funds received from the
20 department of revenue under subsection (2)(a) of this section. To
21 implement this act, the office may use this appropriation to provide
22 information technology services for the department of revenue as
23 specified in subsection (2)(a) of this section.

24 **SECTION 6. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.