

First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0537.01 Esther van Mourik x4215

SENATE BILL 19-130

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SENATE SPONSORSHIP

Gardner,

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Rich and Larson, Liston

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Senate Committees  
Finance

House Committees

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A BILL FOR AN ACT

101 CONCERNING SALES TAX ADMINISTRATION, AND, IN CONNECTION  
102 THEREWITH, SIMPLIFYING THE COLLECTION OF SALES TAX BY  
103 RETAILERS WITHOUT PHYSICAL PRESENCE AND REVERSING THE  
104 DEPARTMENT OF REVENUE'S DESTINATION SOURCING RULE FOR  
105 COLORADO RETAILERS.

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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://leg.colorado.gov>.)*

The United States Supreme Court, on June 21, 2018, decided *South Dakota v. Wayfair, Inc., et al.*, overruling 2 previous United States

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.

Supreme Court cases that stood for the rule that a state could not require an out-of-state retailer to collect sales tax if the retailer lacked physical presence in the state. Because of the *Wayfair* decision, states can require retailers without physical presence in the state to collect sales tax on purchases made by in-state customers so long as the sales tax system in the state is not too burdensome for the out-of-state retailer. The bill simplifies the state sales tax system for retailers without physical presence by:

- ! Not requiring retailers without physical presence that only transact limited business in Colorado to collect sales tax;
- ! Specifying that only the state's sales tax base, not a local sales tax base, will apply to all sales made by retailers without physical presence;
- ! Requiring that the department of revenue (department) be responsible for all state and local sales tax administration and return processing, including the establishment of a single form for returns;
- ! Specifying that a central audit bureau is the sole entity within the state that is responsible for auditing retailers without physical presence and specifying that the central audit bureau be developed by the department in coordination with local taxing jurisdictions;
- ! Establishing that sales are taxed based on where the goods are delivered (destination sourcing) for all sales made by retailers without physical presence in the state, including local taxing jurisdictions, but specifying that destination sourcing is not required for sales made by Colorado retailers;
- ! Requiring the department to provide information to retailers without physical presence that indicates the taxability of products and services along with any product and service exemptions from sales tax in the state;
- ! Requiring the department to provide retailers without physical presence a sales tax rate database and a database of local taxing jurisdiction boundaries;
- ! Requiring the department to make available free-of-charge software that calculates sales taxes due on each transaction at the time the transaction is completed, files sales tax returns, and updates to reflect any tax rate changes for the state or any local taxing jurisdiction;
- ! Allowing the department to contract with one or more certified software providers without regard to the procurement code to provide the software or provide access to the software;
- ! Allowing a retailer to elect to collect and remit sales tax on

its own, without using the services of a certified software provider, or allowing a retailer to elect to use the services of a certified software provider;

- ! Specifying that, in providing the software free of charge, the contracts negotiated between the department and the certified software providers must provide that all or a portion of the vendor fee may not be retained by the retailer electing to utilize the services of a certified software provider but will instead be retained by the certified software provider as payment for its services;
- ! Requiring the department to establish certification procedures for persons to be approved as certified software providers; and
- ! Providing the required relief of liability for errors to retailers without physical presence and other retailers utilizing the software.

The bill allows local taxing jurisdictions governed by a home rule charter to opt in by passing an ordinance, resolution, or accepting the state's administration and distribution of its local sales tax on sales made by retailers without physical presence that is collected and remitted by such sellers in accordance with the bill.

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

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

4 (a) It is established in the state's constitution that local taxing  
5 jurisdictions governed by a home rule charter generally have the authority  
6 to regulate taxation within their jurisdiction; and

7 (b) It is therefore the general assembly's intent to allow local  
8 taxing jurisdictions governed by a home rule charter to opt into this act by  
9 passing an ordinance or resolution accepting the state's administration and  
10 distribution of its local sales tax on sales made and collected by retailers  
11 without physical presence in the state.

12 (2) The general assembly hereby further finds and declares that:

13 (a) Uniform provisions for the sourcing of sales for sales tax

1 collection purposes is a matter of statewide concern;

2 (b) The Colorado Supreme Court in *Winslow Construction*  
3 *Company v. City and County of Denver*, 960 P.2d 685 (1998), explained  
4 that when "analyzing a conflict between a state statute and a municipal  
5 ordinance there are three broad categories of regulatory matters: (1)  
6 matters of local concern; (2) matters of statewide concern; and (3) matters  
7 of mixed state and local concern." *Id.* at 693. The Court went on to say  
8 that "We have emphasized four factors in making this determination:  
9 whether there is a need for statewide uniformity of regulation; whether  
10 the municipal regulation has an extraterritorial impact; whether the  
11 subject matter is one traditionally governed by state or local government;  
12 and whether the Colorado constitution specifically commits the particular  
13 matter to state or local regulation." *Id.*

14 (c) While the general assembly recognizes that it is established in  
15 the state's constitution that local taxing jurisdictions governed by a home  
16 rule charter generally have the authority to regulate taxation within their  
17 jurisdiction, it is time, particularly considering the United States Supreme  
18 Court's decision in *South Dakota v. Wayfair, Inc., et al.*, 585 U.S. \_\_\_  
19 2018, for statewide uniformity of regulation regarding the sourcing of  
20 sales for purposes of sales tax collection;

21 (d) Furthermore, it is clear that local taxing jurisdictions with  
22 different regulations regarding the sourcing of sales have an  
23 extraterritorial impact on businesses that are operating throughout the  
24 state and that must comply with a wide variety of different taxing  
25 procedures;

26 (e) As the *Winslow* court recognized, "the General Assembly has  
27 an interest in promoting the free flow of commerce between jurisdictions

1 within Colorado. . ." *Winslow*, at 695; and

2 (f) Consequently, no home rule city, city, county, or other local  
3 government shall impose a sourcing rule contrary to the sourcing rule set  
4 forth in section 39-26-104 (3), Colorado Revised Statutes, enacted in  
5 section 5 of this act.

6 **SECTION 2.** In Colorado Revised Statutes, 39-26-102, **amend**  
7 (3) as follows:

8 **39-26-102. Definitions.** As used in this article 26, unless the  
9 context otherwise requires:

10 (3) "Doing business in this state" means the selling, leasing, or  
11 delivering in this state, or any activity in this state in connection with the  
12 selling, leasing, or delivering in this state, of tangible personal property  
13 or taxable services by a retail sale as defined in this section, for use,  
14 storage, distribution, or consumption within this state. This subsection (3)  
15 affects the imposition, application, or collection of sales and use taxes  
16 only. "Doing business in this state" includes, but shall not be limited to,  
17 the following acts or methods of transacting business:

18 (a) The maintaining within this state, directly or indirectly or by  
19 a subsidiary, of an office, distribution facility, salesroom, warehouse,  
20 storage place, or other similar place of business, including the  
21 employment of a resident of this state who works from a home office in  
22 this state; OR

23 (b) The soliciting, either by direct representatives, indirect  
24 representatives, manufacturers' agents, or by distribution of catalogues or  
25 other advertising, or by use of any communication media, or by use of the  
26 newspaper, radio, or television advertising media, or by any other means  
27 whatsoever, of business from persons residing in this state and by reason

1       thereof receiving orders from, or selling or leasing tangible personal  
2       property to, such persons residing in this state for use, consumption,  
3       distribution, and storage for use or consumption in this state.

4               (c) ~~A remote seller doing business in this state with respect to any~~  
5       ~~remote sale subject to tax in accordance with section 39-26-104 (2).~~

6               (d) **Presumptive physical presence - component member with**  
7       ~~**physical presence.**~~ (I) A person is presumed to be doing business in this  
8       state if such person is part of a controlled group of corporations, and that  
9       controlled group has a component member, other than a common carrier  
10      acting in its capacity as such, that has physical presence in this state and  
11      such component member with physical presence:

12              (A) ~~Sells under the same or a similar business name tangible~~  
13      ~~personal property or taxable services similar to that sold by the person~~  
14      ~~against whom the presumption is asserted;~~

15              (B) ~~Maintains an office, distribution facility, salesroom,~~  
16      ~~warehouse, storage place, or other similar place of business in this state~~  
17      ~~to facilitate the delivery of tangible personal property or taxable services~~  
18      ~~sold by the person against whom the presumption is asserted to such~~  
19      ~~person's in-state customers;~~

20              (C) ~~Uses trademarks, service marks, or trade names in this state~~  
21      ~~that are the same or substantially similar to those used by the person~~  
22      ~~against whom the presumption is asserted;~~

23              (D) ~~Delivers, installs, or assembles tangible personal property in~~  
24      ~~this state, or performs maintenance or repair services on tangible personal~~  
25      ~~property in this state, which tangible personal property is sold to in-state~~  
26      ~~customers by the person against whom the presumption is asserted; or~~

27              (E) ~~Facilitates the delivery of tangible personal property to in-state~~

1 customers of the person against whom the presumption is asserted by  
2 allowing such customers to pick up tangible personal property sold by  
3 such person at an office, distribution facility, salesroom, warehouse,  
4 storage place, or other similar place of business maintained in this state.

5 (H) For purposes of this paragraph (d), "controlled group of  
6 corporations" has the same meaning as set forth in section 1563 (a) of the  
7 federal "Internal Revenue Code of 1986", as amended, and "component  
8 member" has the same meaning as set forth in section 1563 (b) of the  
9 federal "Internal Revenue Code of 1986", as amended. "Controlled group  
10 of corporations" and "component member" also include any entity that,  
11 notwithstanding its form of organization, bears the same ownership  
12 relationship to the person against whom the presumption is asserted as a  
13 corporation that would qualify as a component member of the same  
14 controlled group of corporations as the person against whom the  
15 presumption is asserted.

16 (H) The presumption set forth in subparagraph (I) of this  
17 paragraph (d) may be rebutted by proof that, during the calendar year in  
18 question, the component member with physical presence did not engage  
19 in any activities in this state that are sufficient under United States  
20 constitutional standards to establish nexus in this state on behalf of the  
21 person against whom the presumption is asserted.

22 (e) **Presumptive physical presence - agreement or**  
23 **arrangement with a person with physical presence.** (I) Except as  
24 provided in subparagraph (H) of this paragraph (e), a person is presumed  
25 to be doing business in this state if such person against whom the  
26 presumption is asserted enters into an agreement or arrangement with a  
27 person who has physical presence in this state, other than a common

1 carrier acting in its capacity as such, for that person who has physical  
2 presence to:

3 ~~(A) Sell under the same or a similar business name tangible~~  
4 ~~personal property or taxable services similar to that sold by the person~~  
5 ~~against whom the presumption is asserted;~~

6 ~~(B) Maintain an office, distribution facility, salesroom,~~  
7 ~~warehouse, storage place, or other similar place of business in this state~~  
8 ~~to facilitate the delivery of tangible personal property or taxable services~~  
9 ~~sold by the person against whom the presumption is asserted to such~~  
10 ~~person's in-state customers;~~

11 ~~(C) Deliver, install, or assemble tangible personal property in this~~  
12 ~~state, or perform maintenance or repair services on tangible personal~~  
13 ~~property in this state, which tangible personal property is sold to in-state~~  
14 ~~customers by the person against whom the presumption is asserted; or~~

15 ~~(D) Facilitate the delivery of tangible personal property to in-state~~  
16 ~~customers of the person against whom the presumption is asserted by~~  
17 ~~allowing such customers to pick up tangible personal property sold by~~  
18 ~~such person at an office, distribution facility, salesroom, warehouse,~~  
19 ~~storage place, or other similar place of business maintained in this state.~~

20 ~~(H) The presumption set forth in subparagraph (I) of this~~  
21 ~~paragraph (e) may be rebutted by proof that, during the calendar year in~~  
22 ~~question, the person who has physical presence in this state did not~~  
23 ~~engage in any activities in this state that are sufficient under United States~~  
24 ~~constitutional standards to establish nexus in this state on behalf of the~~  
25 ~~person against whom the presumption is asserted.~~

26 ~~(III) Activity to which presumption does not apply. The~~  
27 ~~presumption established in subparagraph (I) of this paragraph (e) does not~~

1 apply to the following agreements or arrangements:

2 ~~(A) **Advertising.** An agreement or arrangement under which a~~  
3 ~~person without direct in-state physical presence purchases advertisements~~  
4 ~~from a person to be delivered in this state on television, radio,~~  
5 ~~newspapers, magazines, the internet, or any other mass-market medium;~~

6 ~~(B) **Affiliate marketing agreements.** An agreement or~~  
7 ~~arrangement between an in-state independent contractor or other~~  
8 ~~representative and a person without direct in-state physical presence~~  
9 ~~under which such independent contractor or other representative, for a~~  
10 ~~cost per action, including but not limited to a commission or other~~  
11 ~~consideration based on completed sales, directly or indirectly refers~~  
12 ~~potential customers through internet promotional methods to the person~~  
13 ~~without direct in-state physical presence; or~~

14 ~~(C) **Small businesses.** An agreement or arrangement between an~~  
15 ~~in-state person and a person without direct in-state physical presence if~~  
16 ~~the cumulative gross receipts from sales by the person without direct~~  
17 ~~in-state physical presence to in-state customers in the prior calendar year~~  
18 ~~is less than fifty thousand dollars.~~

19 **SECTION 3.** In Colorado Revised Statutes, 39-26-102, **amend**  
20 **(5.7) and (8); repeal (7.6) and (7.7); and add (8.5)** as follows:

21 **39-26-102. Definitions.** As used in this article 26, unless the  
22 context otherwise requires:

23 (5.7) (a) "Local taxing jurisdiction" means a city, town,  
24 municipality, county, special district, or authority authorized to levy a  
25 sales tax pursuant to title 24, 25, 29, 30, 31, 32, 37, 42, or 43 C.R.S., and  
26 any municipality governed by a home rule charter that passes an  
27 ordinance, resolution, or charter provision accepting the state's

1 administration and distribution of its local sales tax on ~~remote~~ sales that  
2 is collected and remitted by ~~remote sellers~~ RETAILERS WITHOUT PHYSICAL  
3 PRESENCE in ~~conformance~~ ACCORDANCE with ~~the provisions of House~~  
4 ~~Bill 13-1295~~ SENATE BILL 19-\_\_\_\_, ENACTED IN 2019.

5 (b) Any municipality governed by a home rule charter that passes  
6 an ordinance, resolution, or charter provision accepting the state's  
7 administration and distribution of its local sales tax on ~~remote~~ sales that  
8 is collected and remitted by ~~remote sellers~~ RETAILERS WITHOUT PHYSICAL  
9 PRESENCE in ~~conformance~~ ACCORDANCE with ~~the provisions of House~~  
10 ~~Bill 13-1295~~ SENATE BILL 19-\_\_\_\_, ENACTED IN 2019, must provide a  
11 copy of such ordinance, resolution, or charter provision to the department  
12 of revenue no later than thirty days after its adoption.

13 (7.6) ~~"Remote sale" means a sale into this state as specified in~~  
14 ~~subsection (9) of this section in which the retailer would not legally be~~  
15 ~~required to pay, collect, or remit state or local sales taxes unless provided~~  
16 ~~by an act of congress.~~

17 (7.7) ~~"Remote seller" means a person who makes a remote sale;~~  
18 ~~except that a remote seller does not include a small seller as defined in an~~  
19 ~~act of congress that authorizes states to require certain retailers to pay,~~  
20 ~~collect, or remit state or local sales taxes.~~

21 (8) "Retailer" or "vendor" means a person doing business in this  
22 state, ~~including a remote seller~~, known to the trade and public as such,  
23 and selling to the user or consumer, and not for resale.

24 (8.5) "RETAILER WITHOUT PHYSICAL PRESENCE" MEANS A  
25 RETAILER WITHOUT PHYSICAL PRESENCE IN THE STATE AS DESCRIBED IN  
26 SUBSECTION (3)(a) OF THIS SECTION AND THAT IN THE PREVIOUS  
27 CALENDAR YEAR OR CURRENT CALENDAR YEAR:

1 (a) HAS GROSS REVENUE FROM THE SALE OF TANGIBLE PERSONAL  
2 PROPERTY OR SERVICES DELIVERED INTO THE STATE EXCEEDING ONE  
3 HUNDRED THOUSAND DOLLARS; OR

4 (b) HAS SOLD TANGIBLE PERSONAL PROPERTY OR SERVICES FOR  
5 DELIVERY INTO THE STATE IN TWO HUNDRED OR MORE SEPARATE  
6 TRANSACTIONS.

7 **SECTION 4.** In Colorado Revised Statutes, 39-26-103, **amend**  
8 (1)(c), (2)(b), and (7) as follows:

9 **39-26-103. Licenses - fee - revocation - definition.** (1) (c) For  
10 each license issued, a fee of sixteen dollars shall be paid, which fee shall  
11 accompany the application together with an additional fifty-dollar  
12 deposit; except that the additional deposit may not be required of a ~~remote~~  
13 ~~seller~~ RETAILER WITHOUT PHYSICAL PRESENCE. A further fee of sixteen  
14 dollars shall be paid for each two-year period or fraction thereof for  
15 which said license is renewed. Payment of a fee for such a license issued  
16 after June 30 shall be prorated in increments of six months. The  
17 fifty-dollar deposit shall be allowed as a credit against the Colorado sales  
18 tax to be remitted. Except for licenses issued pursuant to ~~paragraph (b) of~~  
19 ~~subsection (9)~~ SUBSECTION (9)(b) of this section, all licenses issued  
20 pursuant to this section shall be renewed on a biennial basis, effective  
21 January 1, 1986.

22 (2) (b) A ~~remote seller~~ RETAILER WITHOUT PHYSICAL PRESENCE is  
23 only required to have a single license.

24 (7) It is the duty of the executive director of the department of  
25 revenue, at the time of issuance of any new license for a retailer who  
26 makes retail sales, except for a ~~remote seller~~ RETAILER WITHOUT  
27 PHYSICAL PRESENCE, to notify the county treasurer of the county where

1 the new licensee is located, of the name and address of the licensee.

2 **SECTION 5.** In Colorado Revised Statutes, 39-26-104, **amend**  
3 (2); and **add** (3) as follows:

4 **39-26-104. Property and services taxed - definitions.** (2) ~~Upon~~  
5 ~~the effective date of an act of congress that authorizes states to require~~  
6 ~~certain retailers to pay, collect, or remit state or local sales taxes:~~

7 (a) ~~(f)~~ With respect to ~~remote~~ sales MADE BY A RETAILER WITHOUT  
8 PHYSICAL PRESENCE, there is levied and there shall be collected and paid  
9 by ~~remote sellers~~ A RETAILER WITHOUT PHYSICAL PRESENCE on every  
10 incident subject to tax as set forth in subsection (1) of this section, but not  
11 including the incidents set forth in ~~paragraph (c) of this subsection (2)~~  
12 SUBSECTION (2)(f) OF THIS SECTION, a tax at the rate specified in section  
13 39-26-106. Any exemptions with respect to part 1 of this ~~article~~ ARTICLE  
14 26 as set forth in this ~~title~~ TITLE 39 are applicable.

15 ~~(H)~~ (b) In addition to ~~subparagraph (f) of this paragraph (a)~~  
16 SUBSECTION (2)(a) OF THIS SECTION, every ~~remote seller~~ RETAILER  
17 WITHOUT PHYSICAL PRESENCE shall collect and remit, as provided in  
18 section 39-26-122.7, the sales tax at the general sales tax rate levied by a  
19 local taxing jurisdiction; except that such sales tax shall only be collected  
20 on every incident subject to tax as set forth in subsection (1) of this  
21 section. Any exemptions with respect to part 1 of this ~~article~~ ARTICLE 26  
22 as set forth in this ~~title~~ TITLE 39 are applicable.

23 ~~(b)~~ (c) Notwithstanding any provision of law, a local taxing  
24 jurisdiction may not collect a sales or use tax on ~~remote~~ sales MADE BY A  
25 RETAILER WITHOUT PHYSICAL PRESENCE except as provided in this  
26 subsection (2).

27 ~~(e)~~ (d) Notwithstanding any provision of law, with respect to a

1 local taxing jurisdiction, the effective date of any change in the general  
2 sales tax rate of the local taxing jurisdiction shall be either January 1 or  
3 July 1 following the date of the election in which such a sales tax  
4 proposal is approved; and notice of the adoption of any sales tax proposal  
5 shall be submitted by the local taxing jurisdiction to the executive director  
6 of the department of revenue at least one hundred days prior to the  
7 effective date of such tax. If such a sales tax proposal is approved at an  
8 election held less than one hundred five days prior to the January 1 or July  
9 1 following the date of election, such sales tax proposal shall not be  
10 effective until the next succeeding January 1 or July 1.

11 ~~(d)~~ (e) For the purpose of the administration by the state of ~~the~~  
12 ~~provisions of this subsection (2)~~, each local taxing jurisdiction shall file,  
13 pursuant to section 29-2-109, ~~C.R.S.~~, with the executive director of the  
14 department of revenue a copy of each sales tax ordinance or resolution,  
15 or any amendment thereto, that changes the general sales tax rate  
16 described in ~~paragraph (a) of this subsection (2)~~ SUBSECTIONS (2)(a) AND  
17 (2)(b) OF THIS SECTION, and a copy of any ordinance or resolution that  
18 changes the local taxing jurisdiction's boundaries, no later than one  
19 hundred days before the effective date thereof.

20 ~~(e)~~ (f) Notwithstanding any provisions of law, the following  
21 incidents are not subject to the collection and payment of sales tax by  
22 ~~remote sellers~~ RETAILERS WITHOUT PHYSICAL PRESENCE as set forth in  
23 ~~paragraph (a) of this subsection (2)~~ SUBSECTIONS (2)(a) AND (2)(b) OF  
24 THIS SECTION:

25 (I) Direct mail advertising materials as defined in section  
26 39-26-102 (2.8);

27 (II) Candy as defined in section 39-26-707 (1.5)(b)(I);

- 1 (III) Soft drinks as defined in section 39-26-707 (1.5)(b)(II);  
2 (IV) Nonessential articles as described in section 39-26-707  
3 (1)(c); and  
4 (V) Nonessential containers or bags as described in section  
5 39-26-707 (1)(d).

6 (3) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (3)(b) AND (3)(c) OF  
7 THIS SECTION, FOR PURPOSES OF DETERMINING WHERE A SALE OF  
8 TANGIBLE PERSONAL PROPERTY OR SERVICES IS MADE IN THE STATE,  
9 INCLUDING IN A LOCAL TAXING JURISDICTION AS DEFINED IN SECTION  
10 39-26-102 (5.7), BY A RETAILER, THE FOLLOWING RULES APPLY:

11 (I) WHEN TANGIBLE PERSONAL PROPERTY OR SERVICES ARE  
12 RECEIVED BY THE PURCHASER AT A BUSINESS LOCATION OF THE RETAILER,  
13 THE SALE IS SOURCED TO THAT BUSINESS LOCATION;

14 (II) WHEN TANGIBLE PERSONAL PROPERTY OR SERVICES ARE NOT  
15 RECEIVED BY THE PURCHASER AT A BUSINESS LOCATION OF THE RETAILER,  
16 THE SALE IS SOURCED TO THE LOCATION WHERE RECEIPT BY THE  
17 PURCHASER OCCURS, INCLUDING THE LOCATION INDICATED BY  
18 INSTRUCTIONS FOR DELIVERY TO THE PURCHASER, IF THAT LOCATION IS  
19 KNOWN TO THE RETAILER;

20 (III) WHEN SUBSECTION (3)(a)(I) OR (3)(a)(II) OF THIS SECTION  
21 DOES NOT APPLY, THE SALE IS SOURCED TO THE LOCATION INDICATED BY  
22 AN ADDRESS FOR THE PURCHASER THAT IS AVAILABLE FROM THE BUSINESS  
23 RECORDS OF THE RETAILER THAT ARE MAINTAINED IN THE ORDINARY  
24 COURSE OF THE RETAILER'S BUSINESS WHEN USE OF THIS ADDRESS DOES  
25 NOT CONSTITUTE BAD FAITH;

26 (IV) WHEN SUBSECTION (3)(a)(I), (3)(a)(II), OR (3)(a)(III) OF THIS  
27 SECTION DOES NOT APPLY, THE SALE IS SOURCED TO THE LOCATION

1 INDICATED BY AN ADDRESS FOR THE PURCHASER OBTAINED DURING THE  
2 CONSUMMATION OF THE SALE, INCLUDING THE ADDRESS OF A PURCHASER'S  
3 PAYMENT INSTRUMENT, IF NO OTHER ADDRESS IS AVAILABLE, WHEN USE  
4 OF THIS ADDRESS DOES NOT CONSTITUTE BAD FAITH; OR

5 (V) WHEN SUBSECTION (3)(a)(I), (3)(a)(II), (3)(a)(III), OR  
6 (3)(a)(IV) OF THIS SECTION DOES NOT APPLY, INCLUDING THE  
7 CIRCUMSTANCE IN WHICH THE RETAILER IS WITHOUT SUFFICIENT  
8 INFORMATION TO APPLY THE RULES SET FORTH IN SUBSECTION (3)(a)(I),  
9 (3)(a)(II), (3)(a)(III), OR (3)(a)(IV) OF THIS SECTION, THEN THE LOCATION  
10 WILL BE DETERMINED BY THE ADDRESS FROM WHICH TANGIBLE PERSONAL  
11 PROPERTY WAS SHIPPED.

12 (b) (I) THE LEASE OR RENTAL OF TANGIBLE PERSONAL PROPERTY,  
13 BUT NOT PROPERTY IDENTIFIED IN SUBSECTION (3)(b)(II) OR (3)(b)(III) OF  
14 THIS SECTION, NOT LEASES OR RENTALS BASED ON A LUMP SUM OR  
15 ACCELERATED BASIS, AND NOT ON THE ACQUISITION OF PROPERTY FOR  
16 LEASE, ARE SOURCED AS FOLLOWS:

17 (A) FOR A LEASE OR RENTAL THAT REQUIRES RECURRING PERIODIC  
18 PAYMENTS, THE FIRST PERIODIC PAYMENT IS SOURCED THE SAME AS A  
19 RETAIL SALE IN ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION.  
20 PERIODIC PAYMENTS MADE SUBSEQUENT TO THE FIRST PAYMENT ARE  
21 SOURCED TO THE PRIMARY PROPERTY LOCATION FOR EACH PERIOD  
22 COVERED BY THE PAYMENT. THE PRIMARY PROPERTY LOCATION IS AS  
23 INDICATED BY AN ADDRESS FOR THE PROPERTY PROVIDED BY THE LESSEE  
24 THAT IS AVAILABLE TO THE LESSOR FROM ITS RECORDS MAINTAINED IN  
25 THE ORDINARY COURSE OF BUSINESS, WHEN USE OF THIS ADDRESS DOES  
26 NOT CONSTITUTE BAD FAITH. THE PROPERTY LOCATION IS NOT ALTERED BY  
27 INTERMITTENT USE AT DIFFERENT LOCATIONS, SUCH AS USE OF BUSINESS

1 PROPERTY THAT ACCOMPANIES EMPLOYEES ON BUSINESS TRIPS AND  
2 SERVICE CALLS.

3 (B) FOR A LEASE OR RENTAL THAT DOES NOT REQUIRE PERIODIC  
4 PAYMENTS, THE PAYMENT IS SOURCED THE SAME AS A RETAIL SALE IN  
5 ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION.

6 (II) THE LEASE OR RENTAL OF MOTOR VEHICLES, TRAILERS,  
7 SEMI-TRAILERS, OR AIRCRAFT THAT DO NOT QUALIFY AS TRANSPORTATION  
8 EQUIPMENT IS SOURCED AS FOLLOWS:

9 (A) FOR A LEASE OR RENTAL THAT REQUIRES RECURRING PERIODIC  
10 PAYMENTS, EACH PERIODIC PAYMENT IS SOURCED TO THE PRIMARY  
11 PROPERTY LOCATION. THE PRIMARY PROPERTY LOCATION IS AS INDICATED  
12 BY AN ADDRESS FOR THE PROPERTY PROVIDED BY THE LESSEE THAT IS  
13 AVAILABLE TO THE LESSOR FROM ITS RECORDS MAINTAINED IN THE  
14 ORDINARY COURSE OF BUSINESS, WHEN USE OF THIS ADDRESS DOES NOT  
15 CONSTITUTE BAD FAITH. THE LOCATION DOES NOT CHANGE BY  
16 INTERMITTENT USE AT DIFFERENT LOCATIONS.

17 (B) FOR A LEASE OR RENTAL THAT DOES NOT REQUIRE RECURRING  
18 PERIODIC PAYMENTS, THE PAYMENT IS SOURCED THE SAME AS A RETAIL  
19 SALE IN ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION.

20 (III) NOTWITHSTANDING SUBSECTION (3)(b)(II) OF THIS SECTION,  
21 THE RETAIL SALE, INCLUDING THE LEASE OR RENTAL, OF TRANSPORTATION  
22 EQUIPMENT IS SOURCED IN THE SAME MANNER AS A RETAIL SALE IN  
23 ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION.

24 (c) (I) THE RULES SET FORTH IN SUBSECTIONS (3)(a) AND (3)(b) OF  
25 THIS SECTION APPLY ONLY TO A RETAILER WITHOUT PHYSICAL PRESENCE.

26 (II) FOR A RETAILER WITH PHYSICAL PRESENCE AS DESCRIBED IN  
27 SECTION 39-26-102(3)(a), A SALE IS SOURCED TO THE BUSINESS' LOCATION

1 REGARDLESS OF WHERE THE PURCHASER RECEIVES THE TANGIBLE  
2 PERSONAL PROPERTY OR SERVICE.

3 (d) AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT  
4 OTHERWISE REQUIRES:

5 (I) "PURCHASER" MAY INCLUDE A DONEE WHO IS DESIGNATED AS  
6 SUCH BY THE PURCHASER.

7 (II) "RECEIPT" OR "RECEIVE" MEANS TAKING POSSESSION OF  
8 TANGIBLE PERSONAL PROPERTY OR MAKING FIRST USE OF SERVICES, BUT  
9 DOES NOT INCLUDE POSSESSION BY A SHIPPING COMPANY ON BEHALF OF  
10 THE PURCHASER.

11 (III) "TRANSPORTATION EQUIPMENT" MEANS:

12 (A) LOCOMOTIVES AND RAILCARS THAT ARE UTILIZED FOR THE  
13 CARRIAGE OF PERSONS OR PROPERTY IN INTERSTATE COMMERCE;

14 (B) TRUCKS AND TRUCK-TRACTORS WITH A GROSS VEHICLE  
15 WEIGHT RATING OF TEN THOUSAND ONE POUNDS OR GREATER, TRAILERS,  
16 SEMI-TRAILERS, OR PASSENGER BUSES THAT ARE REGISTERED UNDER THE  
17 INTERNATIONAL REGISTRATION PLAN AND OPERATED UNDER AUTHORITY  
18 OF A CARRIER AUTHORIZED AND CERTIFICATED BY THE UNITED STATES  
19 DEPARTMENT OF TRANSPORTATION OR ANOTHER FEDERAL OR FOREIGN  
20 AUTHORITY TO ENGAGE IN THE CARRIAGE OF PERSONS OR PROPERTY IN  
21 INTERSTATE OR FOREIGN COMMERCE;

22 (C) AIRCRAFT THAT ARE OPERATED BY AIR CARRIERS AUTHORIZED  
23 AND CERTIFICATED BY THE UNITED STATES DEPARTMENT OF  
24 TRANSPORTATION OR ANOTHER FEDERAL OR FOREIGN AUTHORITY TO  
25 ENGAGE IN THE CARRIAGE OF PERSONS OR PROPERTY IN INTERSTATE OR  
26 FOREIGN COMMERCE; AND

27 (D) CONTAINERS DESIGNED FOR USE ON AND COMPONENT PARTS

1 ATTACHED OR SECURED ON THE ITEMS SET FORTH IN SUBSECTIONS  
2 (3)(d)(III)(A) TO (3)(d)(III)(C) OF THIS SECTION.

3 **SECTION 6.** In Colorado Revised Statutes, 39-26-105, **amend**  
4 (1), (5)(b), and (5)(c) as follows:

5 **39-26-105. Vendor liable for tax - repeal.** (1) (a) (I) (A) Except  
6 as provided in ~~sub-subparagraph (B) of this subparagraph (I) and in~~  
7 ~~subparagraph (H) of this paragraph (a)~~ SUBSECTIONS (1)(a)(I)(B) AND  
8 (1)(a)(II) OF THIS SECTION, every retailer shall, irrespective of the  
9 provisions of section 39-26-106, be liable and responsible for the  
10 payment of an amount equivalent to two and ninety one-hundredths  
11 percent of all sales made on or after January 1, 2001, by the retailer of  
12 commodities or services as specified in section 39-26-104.

13 (B) A retailer who has received in good faith from a qualified  
14 purchaser a direct payment permit number issued pursuant to section  
15 39-26-103.5 shall not be liable or responsible for the collection and  
16 remittance of the tax imposed by this ~~article~~ ARTICLE 26 on any sale made  
17 to the qualified purchaser that is paid for directly from such qualified  
18 purchaser's funds and not the personal funds of any individual.

19 (II) A ~~remote seller~~ RETAILER WITHOUT PHYSICAL PRESENCE shall  
20 be liable and responsible for the payment of the amounts specified in  
21 section 39-26-104 (2)(a).

22 (b) (I) Except as provided in ~~subparagraph (H) of this paragraph~~  
23 ~~(b)~~ SUBSECTION (1)(b)(II) OF THIS SECTION, every retailer shall, before the  
24 twentieth day of each month, make a return to the executive director of  
25 the department of revenue for the preceding calendar month. The  
26 executive director shall determine what information the returns must  
27 contain, how the returns must be made, and the type of forms that must

1 be used.

2 (II) Every ~~remote seller~~ RETAILER WITHOUT PHYSICAL PRESENCE  
3 shall make a return to the executive director of the department of revenue  
4 as specified in section 39-26-122.7.

5 (c) (I) (A) Except as provided in ~~sub-subparagraph (B) of this~~  
6 ~~subparagraph (I)~~ SUBSECTION (1)(c)(I)(B) OF THIS SECTION, every retailer  
7 shall remit, along with the return required in ~~paragraph (b) of this~~  
8 ~~subsection (I)~~ SUBSECTION (1)(b) OF THIS SECTION, an amount equivalent  
9 to the percentage on sales as specified in ~~subparagraph (I) of paragraph~~  
10 ~~(a) of this subsection (I)~~ SUBSECTION (1)(a)(I) OF THIS SECTION to the  
11 executive director of the department of revenue, less an amount as set  
12 forth in ~~subparagraph (H) of this paragraph (c)~~ SUBSECTION (1)(c)(II) OF  
13 THIS SECTION to cover the retailer's expense in the collection and  
14 remittance of said tax.

15 (B) Every ~~remote seller~~ RETAILER WITHOUT PHYSICAL PRESENCE  
16 shall remit, along with the return required in ~~paragraph (b) of this~~  
17 ~~subsection (I)~~ SUBSECTION (1)(b) OF THIS SECTION, the amounts specified  
18 in section 39-26-104 (2)(a), less an amount as set forth in ~~subparagraph~~  
19 ~~(H) of this paragraph (c)~~ SUBSECTION (1)(c)(II) OF THIS SECTION to cover  
20 the retailer's expense in the collection and remittance of said tax.

21 (II) Except as provided in section 39-26-105.3 (8)(b)(III):

22 (A) Except as provided in ~~sub-subparagraph (B)~~ SUBSECTION  
23 (1)(c)(II)(B) OF THIS SECTION, the amount retained by a retailer to cover  
24 the retailer's expense in collecting and remitting tax pursuant to this  
25 section shall be three and one-third percent of all sales tax reported.

26 (B) For a twelve-month period commencing upon the ~~first day of~~  
27 ~~the third month following the~~ effective date of ~~any act of congress~~

1 ~~authorizing states to require certain retailers to pay, collect, or remit state~~  
2 ~~or local sales tax~~ THIS SUBSECTION (1)(c)(II)(B), AS AMENDED, the  
3 percentage of all sales tax reported as specified in ~~sub-subparagraph (A)~~  
4 ~~of this subparagraph (H)~~ SUBSECTION (1)(c)(II)(A) OF THIS SECTION shall  
5 be reduced by one hundred five one-thousandths percentage points.

6 (III) If any retailer is delinquent in remitting said tax, other than  
7 in unusual circumstances shown to the satisfaction of the executive  
8 director of the department of revenue, the retailer shall not be allowed to  
9 retain any amounts to cover such retailer's expense in collecting and  
10 remitting said tax, and an amount equivalent to the said percentage, plus  
11 the amount of any local vendor expense that may be allowed by the local  
12 government to the vendor, shall be remitted to the executive director by  
13 any such delinquent vendor. Any local vendor expense remitted to the  
14 executive director shall be deposited to the state general fund.

15 (5) (b) Notwithstanding the provisions of section 39-21-113 (4),  
16 the department of revenue shall make available to all qualified purchasers  
17 an electronic list of all ~~remote sellers~~ RETAILERS WITHOUT PHYSICAL  
18 PRESENCE and their Colorado account numbers in order to facilitate the  
19 qualified purchaser's appropriate remittance of tax pursuant to ~~paragraph~~  
20 ~~(a) of this subsection (5)~~ SUBSECTION (5)(a) OF THIS SECTION. Such list  
21 must remain confidential in the hands of the qualified purchaser, and the  
22 qualified purchaser is subject to the same limitations specified in section  
23 39-21-113 (4) that apply to the department of revenue, including the  
24 requirement that such list be used only for the purpose of proper  
25 administration of the tax.

26 (c) From the amount of the tax required to be remitted pursuant  
27 to ~~paragraph (a) of this subsection (5)~~ SUBSECTION (5)(a) OF THIS SECTION,

1 a qualified purchaser shall be entitled to retain the amount specified in  
2 ~~subparagraph (H) of paragraph (c) of subsection (1)~~ SUBSECTION (1)(c)(II)  
3 of this section that a retailer would otherwise be entitled to retain to cover  
4 the retailer's expense in collecting and remitting the tax imposed by this  
5 ~~article~~ ARTICLE 26 if the qualified purchaser had not provided a direct  
6 payment permit number to the retailer.

7 **SECTION 7.** In Colorado Revised Statutes, 39-26-105.3, **amend**  
8 (7); and **add** (8), (9), and (10) as follows:

9 **39-26-105.3. Remittance of tax - electronic database - vendor**  
10 **held harmless - rules.** (7) ~~The executive director of the department of~~  
11 ~~revenue shall promulgate rules for the administration of this section. Such~~  
12 ~~rules shall be promulgated in accordance with article 4 of title 24, C.R.S.~~

13 THE DEPARTMENT OF REVENUE SHALL PROVIDE INFORMATION TO  
14 RETAILERS WITHOUT PHYSICAL PRESENCE THAT INDICATES THE  
15 TAXABILITY OF PRODUCTS AND SERVICES ALONG WITH ANY PRODUCT AND  
16 SERVICE EXEMPTIONS FROM SALES TAX IN THE STATE. THE DEPARTMENT  
17 OF REVENUE SHALL ALSO PROVIDE TO RETAILERS WITHOUT PHYSICAL  
18 PRESENCE A SALES TAX RATE DATABASE AND A DATABASE OF LOCAL  
19 TAXING JURISDICTION BOUNDARIES. THE DEPARTMENT OF REVENUE SHALL  
20 NOTIFY RETAILERS WITHOUT PHYSICAL PRESENCE AND CERTIFIED  
21 SOFTWARE PROVIDERS OF ANY STATE OR LOCAL SALES TAX RATE CHANGE  
22 AT LEAST NINETY DAYS BEFORE THE EFFECTIVE DATE OF SUCH A CHANGE.  
23 SUBSEQUENT TO ANY SALES TAX RATE CHANGE, THE DEPARTMENT OF  
24 REVENUE SHALL UPDATE THE INFORMATION DESCRIBED IN THIS  
25 SUBSECTION (7) ACCORDINGLY.

26 (8) (a) THE DEPARTMENT OF REVENUE SHALL MAKE AVAILABLE  
27 FREE-OF-CHARGE SOFTWARE TO RETAILERS THAT:

1 (I) CALCULATES SALES TAXES DUE ON EACH TRANSACTION AT THE  
2 TIME THE TRANSACTION IS COMPLETED;

3 (II) FILES SALES TAX RETURNS; AND

4 (III) UPDATES TO REFLECT ANY TAX RATE CHANGES FOR THE STATE  
5 OR ANY LOCAL TAXING JURISDICTION.

6 (b) (I) THE DEPARTMENT OF REVENUE MAY CONTRACT WITH ONE  
7 OR MORE CERTIFIED SOFTWARE PROVIDERS DESCRIBED IN SUBSECTION  
8 (8)(c) OF THIS SECTION, WITHOUT REGARD TO THE REQUIREMENTS IN THE  
9 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, TO PROVIDE  
10 THE SOFTWARE OR PROVIDE ACCESS TO THE SOFTWARE DESCRIBED IN  
11 SUBSECTION (8)(c) OF THIS SECTION.

12 (II) A RETAILER MAY ELECT TO COLLECT AND REMIT SALES TAX ON  
13 ITS OWN, WITHOUT USING THE SERVICES OF A CERTIFIED SOFTWARE  
14 PROVIDER DESCRIBED IN SUBSECTION (8)(c) OF THIS SECTION, OR MAY  
15 ELECT TO USE THE SERVICES OF A CERTIFIED SOFTWARE PROVIDER.

16 (III) IN PROVIDING SOFTWARE FREE OF CHARGE AS DESCRIBED IN  
17 SUBSECTION (8)(b)(I) OF THIS SECTION, THE CONTRACT NEGOTIATED  
18 BETWEEN THE DEPARTMENT OF REVENUE AND THE CERTIFIED SOFTWARE  
19 PROVIDERS DESCRIBED IN SUBSECTION (8)(c) OF THIS SECTION MUST  
20 PROVIDE THAT ALL OR A PORTION OF THE AMOUNT DESCRIBED IN SECTION  
21 39-26-105 (1)(c)(II) MAY NOT BE RETAINED BY THE RETAILER ELECTING  
22 TO UTILIZE THE SERVICES OF A CERTIFIED SOFTWARE PROVIDER BUT WILL  
23 INSTEAD BE RETAINED BY THE CERTIFIED SOFTWARE PROVIDER AS  
24 PAYMENT FOR ITS SERVICES.

25 (c) THE DEPARTMENT OF REVENUE SHALL ESTABLISH  
26 CERTIFICATION PROCEDURES FOR PERSONS TO BE APPROVED AS CERTIFIED  
27 SOFTWARE PROVIDERS, WHICH PROCEDURES SHALL INCLUDE A

1 REQUIREMENT THAT SOFTWARE PROVIDED BY CERTIFIED SOFTWARE  
2 PROVIDERS BE CAPABLE OF CALCULATING AND FILING SALES AND USE  
3 TAXES IN ALL STATES.

4 (9)(a) RETAILERS ARE RELIEVED FROM LIABILITY TO THE STATE OR  
5 LOCAL TAXING JURISDICTION FOR THE INCORRECT COLLECTION,  
6 REMITTANCE, OR NONCOLLECTION OF SALES TAXES, INCLUDING ANY  
7 PENALTIES OR INTEREST, IF THE LIABILITY IS THE RESULT OF AN ERROR OR  
8 OMISSION MADE BY A CERTIFIED SOFTWARE PROVIDER DESCRIBED IN  
9 SUBSECTION (8)(c) OF THIS SECTION.

10 (b) CERTIFIED SOFTWARE PROVIDERS DESCRIBED IN SUBSECTION  
11 (8)(c) OF THIS SECTION ARE RELIEVED FROM LIABILITY TO THE STATE OR  
12 ANY LOCAL TAXING JURISDICTION FOR THE INCORRECT COLLECTION,  
13 REMITTANCE, OR NONCOLLECTION OF SALES TAXES, INCLUDING ANY  
14 PENALTIES OR INTEREST, IF THE LIABILITY IS THE RESULT OF MISLEADING  
15 OR INACCURATE INFORMATION PROVIDED BY A RETAILER.

16 (c) RETAILERS AND CERTIFIED SOFTWARE PROVIDERS DESCRIBED  
17 IN SUBSECTION (8)(c) OF THIS SECTION ARE RELIEVED FROM LIABILITY TO  
18 THE STATE OR ANY LOCAL TAXING JURISDICTION FOR INCORRECT  
19 COLLECTION, REMITTANCE, OR NONCOLLECTION OF SALES TAXES,  
20 INCLUDING ANY PENALTIES OR INTEREST, IF THE LIABILITY IS THE RESULT  
21 OF INCORRECT INFORMATION OR SOFTWARE PROVIDED BY THE  
22 DEPARTMENT OF REVENUE.

23 (d) RETAILERS AND CERTIFIED SOFTWARE PROVIDERS DESCRIBED  
24 IN SUBSECTION (8)(c) OF THIS SECTION ARE RELIEVED FROM LIABILITY FOR  
25 COLLECTING SALES TAXES AT THE IMMEDIATELY PRECEDING EFFECTIVE  
26 STATE AND LOCAL RATES DURING THE NINETY-DAY NOTICE PERIOD  
27 DESCRIBED IN SUBSECTION (7) OF THIS SECTION IF THE REQUIRED NOTICE

1 IS NOT PROVIDED.

2 (10) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE  
3 SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION.  
4 SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF  
5 TITLE 24.

6 **SECTION 8.** In Colorado Revised Statutes, **amend** 39-26-122.7  
7 as follows:

8 **39-26-122.7. Filing and remittance of sales tax by retailers**  
9 **without physical presence - standard sales tax reporting form -**  
10 **delayed distributions - central audit bureau - creation.** (1) Every  
11 ~~remote seller~~ RETAILER WITHOUT PHYSICAL PRESENCE shall, on or before  
12 the twentieth day of each month, make an electronic return to the  
13 executive director of the department of revenue for the preceding  
14 calendar month and electronically make ~~such~~ THE remittance as specified  
15 in section 39-26-105 (1)(c)(I)(B). ~~A remote seller's~~ THE returns OF A  
16 RETAILER WITHOUT PHYSICAL PRESENCE, or the returns of a ~~remote seller's~~  
17 duly authorized agent OF A RETAILER WITHOUT PHYSICAL PRESENCE, must  
18 contain ~~such~~ THE information and be made in ~~such~~ THE manner and upon  
19 ~~such~~ THE forms as specified in this section.

20 (2) (a) The collection, administration, and enforcement of the  
21 local taxing jurisdiction sales tax under section 39-26-104 (2) shall be  
22 performed by the executive director of the department of revenue in the  
23 same manner as the collection, administration, and enforcement of the  
24 Colorado state sales tax.

25 (b) (I) The central audit bureau created in ~~subparagraph (H) of this~~  
26 ~~paragraph (b)~~ SUBSECTION (2)(b)(II) OF THIS SECTION shall be the sole  
27 entity within the state that is responsible for auditing ~~remote sellers~~

1 RETAILERS WITHOUT PHYSICAL PRESENCE. Notwithstanding any other  
2 provision of law, no local taxing authority shall have the authority to audit  
3 any ~~remote seller~~ RETAILER WITHOUT PHYSICAL PRESENCE.

4 (II) The department of revenue and local taxing jurisdictions shall  
5 coordinate in the development of the central audit bureau and shall share  
6 in the costs and staffing of the bureau. The funding and staffing of the  
7 central audit bureau shall be sufficient to audit ~~remote sellers~~ RETAILERS  
8 WITHOUT PHYSICAL PRESENCE.

9 (3) The executive director of the department of revenue shall at  
10 no charge administer, collect, and distribute any sales tax imposed by any  
11 local taxing jurisdiction on a ~~remote~~ sale MADE BY A RETAILER WITHOUT  
12 PHYSICAL PRESENCE authorized by section 39-26-104 (2). The executive  
13 director shall make monthly distributions of sales tax collections to the  
14 appropriate official in each local taxing jurisdiction.

15 (4) (a) Notwithstanding the provisions of section 39-21-113, the  
16 executive director of the department of revenue shall report monthly to  
17 each local taxing jurisdiction for which the department of revenue  
18 collects a sales tax information identifying ~~remote sellers~~ RETAILERS  
19 WITHOUT PHYSICAL PRESENCE making sales within the local taxing  
20 jurisdiction and, where the chief administrative officer or his OR HER  
21 designee has executed a memorandum of understanding with the  
22 department of revenue providing for control of confidential data, the  
23 status of each ~~remote seller's~~ account OF A RETAILER WITHOUT PHYSICAL  
24 PRESENCE including the amount of ~~such~~ THE local taxing jurisdiction's  
25 sales tax collected and paid by each ~~such remote seller~~ RETAILER  
26 WITHOUT PHYSICAL PRESENCE. The executive director of the department  
27 of revenue may, in his or her discretion, provide additional information

1 to a local taxing jurisdiction concerning collection and administration of  
2 ~~such~~ THE local taxing jurisdiction's sales tax if ~~such~~ a memorandum has  
3 been executed.

4 (b) Except in accordance with judicial order or as otherwise  
5 provided by law, no official or employee of a local taxing jurisdiction  
6 receiving sales tax information from the department of revenue pursuant  
7 to this subsection (4) shall divulge or make known to any person not an  
8 official or employee of ~~such~~ THE local taxing jurisdiction any information  
9 that identifies or permits the identification of the amount of sales taxes  
10 collected or paid by any individual ~~remote seller~~ RETAILER WITHOUT  
11 PHYSICAL PRESENCE. The officials or employees of any local taxing  
12 jurisdiction charged with the custody of ~~such~~ THE sales tax information  
13 shall not be required to produce any ~~such~~ OF THE information in any  
14 action or proceeding in any court except in an action or proceeding under  
15 ~~the provisions of this article~~ ARTICLE 26 to which the local taxing  
16 jurisdiction having custody of the information is a party, in which event  
17 the court may require the production of, and may admit in evidence, so  
18 much of said sales tax information as is pertinent to the action or  
19 proceeding. Any official or employee of the local taxing jurisdiction who  
20 willfully violates any of the provisions of this subsection (4) is guilty of  
21 a misdemeanor and, upon conviction thereof, shall be punished by a fine  
22 of not more than one thousand dollars and shall be dismissed from office.

23 (5) The executive director of the department of revenue shall  
24 prescribe a standard electronic sales tax reporting form for ~~remote sales~~  
25 ~~Such~~ MADE BY RETAILERS WITHOUT PHYSICAL PRESENCE. THE form shall  
26 MUST be separate from the state form and ~~shall be~~ IS the only sales tax  
27 reporting form required to be used by ~~any remote seller~~. ~~Such~~ A RETAILER

1 WITHOUT PHYSICAL PRESENCE. THE form ~~shall~~ MUST allow a ~~remote seller~~  
2 RETAILER WITHOUT PHYSICAL PRESENCE to report all sales and use taxes  
3 collected for a local government on ~~such~~ THE form.

4 (6) If any sales tax to be distributed pursuant to this section is not  
5 distributed within sixty days after the processing date, interest ~~shall~~ WILL  
6 be added to the undistributed amount from the sixtieth day after the  
7 processing date until the date ~~such~~ THE sales tax is distributed. The rate  
8 of ~~said~~ interest ~~shall be~~ IS equal to the average rate, rounded to one  
9 one-thousandth of a percent, being earned by the investment of ~~moneys~~  
10 MONEY in the state treasury for the same period.

11 **SECTION 9.** In Colorado Revised Statutes, 39-26-204, **amend**  
12 (2) as follows:

13 **39-26-204. Periodic return - collection.** (2) (a) Every retailer,  
14 EXCEPT THOSE RETAILERS DESCRIBED IN SUBSECTION (2)(b) OF THIS  
15 SECTION, doing business in this state and making sales of tangible  
16 personal property for storage, use, or consumption in the state, and not  
17 exempted as provided in part 7 of this ~~article~~ ARTICLE 26, at the time of  
18 making such sales or taking the orders therefor, or, if the storage, use, or  
19 consumption of such tangible personal property is not then taxable under  
20 this part 2, then at the time such storage, use, or consumption becomes  
21 taxable under this part 2, shall collect the tax imposed by section  
22 39-26-202 from the purchaser and give to the purchaser a receipt therefor,  
23 which receipt shall identify the property, the date sold or the date ordered,  
24 and the tax collected and paid. The tax required to be collected by such  
25 retailer from such purchaser shall be displayed separately from the  
26 advertised price listed on the forms or advertising matter on all sales  
27 checks, orders, sales slips, or other proof of sales.

1 (b) SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO A  
2 RETAILER WITH PHYSICAL PRESENCE AS DESCRIBED IN SECTION 39-26-102  
3 (3)(a).

4 **SECTION 10.** In Colorado Revised Statutes, 24-46-303, **amend**  
5 (12) as follows:

6 **24-46-303. Definitions.** As used in this part 3, unless the context  
7 otherwise requires:

8 (12) "State sales tax increment revenue" means the portion of the  
9 revenue derived from state sales taxes, including any revenue attributable  
10 to the baseline growth rate and not including any sales taxes for ~~remote~~  
11 sales MADE BY RETAILERS WITHOUT PHYSICAL PRESENCE as specified in  
12 section 39-26-104 (2), ~~C.R.S.~~, collected within a designated regional  
13 tourism zone in excess of the amount of base year revenue.

14 **SECTION 11.** In Colorado Revised Statutes, 29-2-106, **amend**  
15 **the first version of (2)** as follows:

16 **29-2-106. Collection - administration - enforcement.** (2) The  
17 effective date of any countywide sales tax or city or town sales tax  
18 adopted under ~~the provisions of this article~~ ARTICLE 2 shall be either  
19 January 1 or July 1 following the date of the election in which such  
20 county sales tax proposal is approved; and notice of the adoption of any  
21 county sales tax proposal shall be submitted by the county clerk and  
22 recorder or by the clerk of the city council or board of trustees of a city or  
23 town to the executive director of the department of revenue at least  
24 forty-five days prior to the effective date of such tax. If such a sales tax  
25 proposal is approved at an election held less than forty-five days prior to  
26 the January 1 or July 1 following the date of election, such tax shall not  
27 be effective until the next succeeding January 1 or July 1 AS SET FORTH

1 IN SECTION 39-26-104 (2)(c).

2 **SECTION 12.** In Colorado Revised Statutes, 30-20-604.5,  
3 **amend** (1) as follows:

4 **30-20-604.5. District sales tax.** (1) The board of any county or  
5 of any city that has been authorized to become a city and county pursuant  
6 to an amendment to the state constitution that has been approved by the  
7 registered electors of the state of Colorado and that subsequently becomes  
8 a city and county for the purpose of funding all or a portion of the cost of  
9 any improvements constructed or transportation services provided  
10 pursuant to section 30-20-603 (1)(a), (1)(a.5), and (1)(c), may levy a sales  
11 tax throughout the district upon every transaction or other incident with  
12 respect to which a sales tax is authorized pursuant to section 29-2-105;  
13 ~~C.R.S.~~; except that such tax may be levied only upon those transactions  
14 specified in section 39-26-104 (1)(a), (1)(b), (1)(e), and (1)(f) ~~C.R.S.~~; and  
15 may not include any sales taxes for ~~remote~~ sales MADE BY RETAILERS  
16 WITHOUT PHYSICAL PRESENCE as specified in section 39-26-104 (2).  
17 ~~C.R.S.~~ The board may, in its discretion, levy or continue to levy a sales  
18 tax on the sales of low-emitting motor vehicles, power sources, or parts  
19 used for converting such power sources as specified in section 39-26-719  
20 (1). ~~C.R.S.~~

21 **SECTION 13.** In Colorado Revised Statutes, 31-25-107, **amend**  
22 (9)(a)(I) as follows:

23 **31-25-107. Approval of urban renewal plans by local**  
24 **governing body - definitions.** (9) (a) Notwithstanding any law to the  
25 contrary, any urban renewal plan, as originally approved or as later  
26 modified pursuant to this part 1, may contain a provision that the property  
27 taxes of specifically designated public bodies, if any, levied after the

1 effective date of the approval of such urban renewal plan upon taxable  
2 property in an urban renewal area each year or that municipal sales taxes  
3 collected within said area, or both such taxes, by or for the benefit of the  
4 designated public body must be divided for a period not to exceed  
5 twenty-five years after the effective date of adoption of such a provision,  
6 as follows:

7 (I) That portion of the taxes which are produced by the levy at the  
8 rate fixed each year by or for each such public body upon the valuation  
9 for assessment of taxable property in the urban renewal area last certified  
10 prior to the effective date of approval of the urban renewal plan or, as to  
11 an area later added to the urban renewal area, the effective date of the  
12 modification of the plan, or that portion of municipal sales taxes, not  
13 including any sales taxes for ~~remote~~ sales MADE BY RETAILERS WITHOUT  
14 PHYSICAL PRESENCE as specified in section 39-26-104 (2), ~~C.R.S.~~,  
15 collected within the boundaries of said urban renewal area in the  
16 twelve-month period ending on the last day of the month prior to the  
17 effective date of approval of said plan, or both such portions, shall be  
18 paid into the funds of each such public body as are all other taxes  
19 collected by or for said public body.

20 **SECTION 14.** In Colorado Revised Statutes, 31-25-807, **amend**  
21 (3)(a) introductory portion as follows:

22 **31-25-807. Powers - duties.** (3) (a) Notwithstanding any law to  
23 the contrary and subject to the provisions of subparagraph (IV) of this  
24 ~~paragraph (a)~~ SUBSECTION (3)(a)(IV) OF THIS SECTION, any such plan of  
25 development as originally adopted by the board or as later modified  
26 pursuant to this part 8 may, after approval by the governing body of the  
27 municipality, contain a provision that taxes, if any, levied after the

1 effective date of the approval of such plan of development by said  
2 governing body upon taxable property within the boundaries of the plan  
3 of development area each year or that municipal sales taxes, not including  
4 any sales taxes for remote sales MADE BY RETAILERS WITHOUT PHYSICAL  
5 PRESENCE as specified in section 39-26-104 (2), ~~C.R.S.~~, collected within  
6 said area, or both such taxes, by or for the benefit of any public body shall  
7 be divided for a period not to exceed thirty years or such longer period as  
8 provided for in ~~subparagraph (IV) of this paragraph (a)~~ SUBSECTION  
9 (3)(a)(IV) OF THIS SECTION after the effective date of approval by said  
10 governing body of such a provision, as follows:

11 **SECTION 15.** In Session Laws of Colorado 2013, section 2 of  
12 chapter 314, **amend** (9) as follows:

13 Section 2. In Colorado Revised Statutes, 39-26-102, **amend** (5.7),  
14 (8), and (9); and **add** (5.6), (7.6), and (7.7) as follows:

15 **39-26-102. Definitions.** As used in this article, unless the context  
16 otherwise requires:

17 (9) "Retail sale" includes all sales made within the state except  
18 wholesale sales. ~~FOR ITEMS DELIVERED BY THE RETAILER, A RETAIL SALE~~  
19 ~~IS MADE AT THE LOCATION WHERE THE ITEM SOLD IS RECEIVED BY THE~~  
20 ~~PURCHASER, BASED ON THE LOCATION INDICATED BY INSTRUCTIONS FOR~~  
21 ~~DELIVERY THAT THE PURCHASER FURNISHES TO THE RETAILER. WHEN NO~~  
22 ~~DELIVERY LOCATION IS SPECIFIED, THE REMOTE SALE IS SOURCED TO THE~~  
23 ~~CUSTOMER'S ADDRESS THAT IS EITHER KNOWN TO THE RETAILER OR, IF NOT~~  
24 ~~KNOWN, OBTAINED BY THE RETAILER DURING THE CONSUMMATION OF THE~~  
25 ~~TRANSACTION, INCLUDING THE ADDRESS OF THE CUSTOMER'S PAYMENT~~  
26 ~~INSTRUMENT IF NO OTHER ADDRESS IS AVAILABLE. IF AN ADDRESS IS~~  
27 ~~UNKNOWN AND A BILLING ADDRESS CANNOT BE OBTAINED, THE REMOTE~~

1     ~~SALE IS SOURCED TO THE ADDRESS OF THE RETAILER FROM WHICH THE~~  
2     ~~REMOTE SALE WAS MADE.~~

3             **SECTION 16.** In Session Laws of Colorado 2013, **repeal** section  
4     10 of chapter 314.

5             **SECTION 17.** In Session Laws of Colorado 2013, section 16 of  
6     chapter 314, **repeal** (3).

7             **SECTION 18.** In Session Laws of Colorado 2014, **repeal**  
8     sections 1 and 2 of chapter 300.

9             **SECTION 19. Effective date.** (1) Except as otherwise provided  
10    in subsection (2) of this section, this act takes effect upon passage.

11            (2) Section 2 of this act, amending section 39-26-102 (3),  
12    Colorado Revised Statutes, takes effect December 1, 2021.

13            **SECTION 20. Safety clause.** The general assembly hereby finds,  
14    determines, and declares that this act is necessary for the immediate  
15    preservation of the public peace, health, and safety.