

CHAPTER 277

TAXATION

SENATE BILL 04-087

BY SENATOR(S) Owen;
also REPRESENTATIVE(S) Hall, Hoppe, and Weddig.

AN ACT

CONCERNING THE NONSUBSTANTIVE RECODIFICATION OF STATUTORY PROVISIONS THAT ADDRESS SALES AND USE TAX EXEMPTIONS.

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

SECTION 1. Repeal of provisions being relocated in this act. 39-26-114 and 39-26-203, Colorado Revised Statutes, are repealed.

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

**PART 7
SALES AND USE TAX EXEMPTIONS**

39-26-701. Definitions. IN ADDITION TO THE DEFINITIONS IN SECTION 39-26-102, AS USED IN THIS PART 7, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "STORAGE" OR "STORING" MEANS ANY KEEPING OR RETENTION OF, OR EXERCISE OF DOMINION OR CONTROL OVER, TANGIBLE PERSONAL PROPERTY IN THIS STATE.

39-26-702. [Formerly 39-26-114 (1) (c)] General provisions - department of revenue. The department of revenue shall adopt rules ~~and regulations~~ for the administration and enforcement of this ~~section~~ PART 7.

39-26-703. Disputes and refunds. (1) **[Formerly 39-26-114 (1) (b)]** Should a dispute arise between the purchaser and seller as to whether or not any sale, service, or commodity is exempt from taxation ~~under this section~~ PURSUANT TO THIS PART 7, nevertheless the seller shall collect and the purchaser shall pay the tax, and the seller

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

shall thereupon issue to the purchaser a receipt or certificate, on forms prescribed by the executive director of the department of revenue, showing the names of the seller and the purchaser, the items purchased, the date, price, and amount of tax paid, and a brief statement of the claim of exemption. The purchaser thereafter may apply to ~~said~~ THE executive director for a refund of ~~such~~ THE taxes, and it is then the duty of the executive director to determine the question of exemption. The purchaser may request a hearing pursuant to section 39-21-103, and the final determination of the executive director may be appealed to the district court pursuant to section 39-21-105.

(2) [Formerly 39-26-114 (2)] (a) A refund shall be made, or a credit allowed, for the tax so paid under dispute by any purchaser who has an exemption as provided in this ~~article~~ PART 7. Such refund shall be made by the executive director OF THE DEPARTMENT OF REVENUE after compliance with the following conditions precedent: Applications for refund ~~must~~ SHALL be made within sixty days after the purchase of the goods whereon an exemption is claimed, ~~and must~~ SHALL be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and certificate issued by the seller, and ~~must~~ SHALL be made upon such forms as shall be prescribed and furnished by the executive director, which forms shall contain such information as the executive director prescribes.

(b) Upon receipt of an application, the executive director OF THE DEPARTMENT OF REVENUE shall examine the same with due speed and shall give notice to the applicant by order in writing of ~~his~~ THE EXECUTIVE DIRECTOR'S decision. ~~thereon~~. Aggrieved applicants, within thirty days after ~~such~~ THE decision is mailed to them, may petition the executive director for a hearing on the claim in the manner provided in section 39-21-103 and may appeal to the district courts in the manner provided in section 39-21-105. The right of any person to a refund under this ~~article~~ PART 7 shall not be assignable, and, except as provided in paragraph (d) of this subsection (2), such application for refund ~~must~~ SHALL be made by the same person who purchased the goods and paid the tax thereon as shown in the invoice of the sale. ~~thereof~~. Any applicant for refund under the provisions of this section, or any other person, who willfully makes any false statement in connection with an application for a refund of any taxes shall be punished as provided by section 39-21-118.

(c) A refund shall be made or a credit allowed by the executive director OF THE DEPARTMENT OF REVENUE to any person entitled to an exemption where ~~such~~ THE person establishes: That a tax was paid by another on a purchase made on behalf of such person or that a tax was paid by an independent contractor on or before July 1, 1979, on tangible personal property incorporated into realty for the sole use, benefit, and ownership of any person entitled to an exemption; ~~and~~ that a refund has not been granted to the person making the purchase; and that the person entitled to exemption paid or reimbursed the purchaser for such tax. No such refund shall be made or credit allowed in an amount greater than the tax paid less the expense allowance on ~~such~~ THE purchase retained by the vendor pursuant to section 39-26-105 (1). No assessment ~~may~~ SHALL be made of validly issued refunds made under the rules ~~and~~ ~~regulations~~ governing this paragraph (c) in effect on June 7, 1979.

(d) ~~Such~~ AN application for refund under paragraph (c) of this subsection (2) shall be made within three years after the date of purchase and shall be made on forms prescribed and furnished by the executive director of the department of revenue,

which form shall contain, in addition to the foregoing information, such pertinent data as ~~said~~ THE executive director prescribes. Upon receipt of ~~such~~ THE application and proof of the matters contained therein, the executive director shall give notice to the applicant by order in writing of ~~his~~ THE EXECUTIVE DIRECTOR'S decision. ~~thereon~~. Aggrieved applicants, within thirty days after such decision is mailed to them, may petition the executive director for a hearing on the claim in the manner provided in section 39-21-103 and may appeal to the district courts in the manner provided in section 39-21-105. Any applicant for refund under the provisions of this paragraph (d), or any other person, who makes any false statement in connection with an application for refund of any taxes is guilty of a misdemeanor and, upon conviction, ~~thereof~~, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(e) Claims for tax moneys paid in error or by mistake may be processed for refund in accordance with departmental ~~regulations~~ RULES under paragraph (c) of this subsection (2); except that the proceeds of any ~~such~~ claim for refund shall first be applied by the department of revenue to any tax deficiencies or liabilities existing against the claimant before allowance of ~~such~~ THE claim by the department; and further except that, if such excess payment of tax moneys in any period is discovered as a result of audit by the department and deficiencies are discovered and assessed against the taxpayer as a result of ~~such~~ THE audit, ~~such~~ THE excess moneys shall be first applied against any deficiencies outstanding to the date of the assessment but shall not be applied to any future tax liabilities.

(3) [**Formerly 39-26-114 (3)**] If any person is convicted under the provisions of this section, ~~such~~ THE convictions shall be prima facie evidence that all refunds received by ~~such~~ THE person during the current year were obtained unlawfully, and the executive director OF THE DEPARTMENT OF REVENUE is empowered to bring appropriate action for recovery of such refunds. A brief summary statement of the above mentioned penalties shall be printed on each form application for refund.

(4) [**Formerly 39-26-114 (4)**] The burden of proving that sales, services, and commodities on which tax refunds are claimed are exempt from taxation under this ~~part~~ PART 7, or were not at retail, shall be on the one making such claim under such reasonable requirements of proof as the executive director OF THE DEPARTMENT OF REVENUE prescribes. Should the applicant for refund be aggrieved at the final decision of the executive director, ~~he~~ THE APPLICANT may proceed to have the same reviewed by the district courts in the manner provided for review of other decisions of the executive director as provided in section 39-21-105.

39-26-704. Miscellaneous sales tax exemptions - governmental entities - hotel residents - schools - exchange of property. (1) [**Formerly 39-26-114 (1) (a) (I)**] ~~There shall be exempt from taxation under the provisions of this part 1 the following:~~ All sales to the United States government and to the state of Colorado, its departments and institutions, and the political subdivisions thereof in their governmental capacities only SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE.

(2) [**Formerly 39-26-114 (1) (a) (III)**] THERE SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE all sales ~~which~~ THAT the state of

Colorado is prohibited from taxing under the constitution or laws of the United States or the state of Colorado and all retail sales within a distance of twenty miles within the boundaries of this state to persons resident, excluding corporations, of adjoining states, which adjoining states do not impose or levy a retail sales tax on such sales, if ~~such~~ THE residents of ~~such~~ THE adjoining states are in this state for the express purpose of making purchases and not as tourists.

(3) **[Formerly 39-26-114 (1) (a) (VI)]** THERE SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE all sales and purchases of commodities and services under the provisions of section 39-26-102 (11) to any occupant who is a permanent resident of any hotel, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court or park and who enters into or has entered into a written agreement for occupancy of a room or accommodations for a period of at least thirty consecutive days during the calendar year or preceding year.

(4) **[Formerly 39-26-114 (1) (a) (VIII)]** All sales made to schools, other than schools held or conducted for private or corporate profit, SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE.

(5) **[Formerly 39-26-114 (1) (a) (XVIII)]** THERE SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE all transactions specified in section 39-26-104 (1) (b) (I) in which the fair market value of the exchanged property is excluded from the consideration or purchase price because ~~such~~ THE exchanged property is covered by section 39-26-104 (1) (b) (I) (A) or (1) (b) (I) (B), and in which, because there is no additional consideration involved in the transaction, there is no purchase price within the meaning of section 39-26-102 (7).

39-26-705. Miscellaneous use tax exemptions - printers ink and newsprint - manufactured goods. (1) **[Formerly 39-26-203 (1) (i)]** ~~This part 2 is declared to be supplementary to the "Emergency Retail Sales Tax Act of 1935", part 1 of this article, and shall not apply. To~~ The storage, use, or consumption of printers ink and newsprint SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE.

(2) **[Formerly 39-26-203 (1) (ff)]** ~~To~~ THERE SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE the storage, use, or consumption of manufactured goods, including, but not limited to, high technology goods, donated by the manufacturer of such goods to the United States government; the state of Colorado or any department, institution, or political subdivision thereof; or any organization exempt from federal income taxes pursuant to section 501 (c) (3) of the "Internal Revenue Code of 1986", as amended, to the extent that the aggregate value of all such goods included in a single donation exceeds one thousand dollars.

39-26-706. Miscellaneous sales and use tax exemptions - cigarettes - internet access - refractory materials - precious metal bullion and coins. (1) **[Formerly 39-26-114 (1) (a) (IV)]** (a) All sales of cigarettes SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE.

(b) **[Formerly 39-26-203 (1) (j)]** ~~To~~ The storage, use, or consumption of cigarettes SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF

THIS ARTICLE.

(2) **[Formerly 39-26-114 (1) (a) (XXVI)]** (a) ~~From~~ ON AND AFTER May 1, 1998, ~~to and including April 30, 2001, and after April 30, 2001,~~ internet access services, as defined in section 24-79-102 (2) (b), C.R.S., SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE.

(b) **[Formerly 39-26-203 (1) (gg)]** From May 1, 1998, ~~to and including April 30, 2001, and after April 30, 2001,~~ to internet access services, as defined in ~~section 24-79-102 (2)~~ SECTION 24-79-102 (2) (b), C.R.S., SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE.

(3) **[Formerly 39-26-114 (14)]** All sales and purchases of AND THE STORAGE, USE, OR CONSUMPTION OF refractory materials and carbon electrodes used by a person manufacturing iron and steel for sale or profit and all sales and purchases of AND THE STORAGE, USE, OR CONSUMPTION OF inorganic chemicals used in the processing of vanadium-uranium ores shall be exempt from taxation under PARTS 1 AND 2 OF this part 1, and the storage, use, or consumption of such property shall be exempt from ~~taxation under part 2 of this~~ article.

(4) **[Formerly 39-26-114 (17)]** (a) All sales of precious metal bullion and coins, as defined in section 39-26-102 (2.6) and (6.5), shall be exempt from taxation under the provisions of PART 1 OF this ~~part 1~~ ARTICLE.

(b) **[Formerly 39-26-203 (1) (bb)]** ~~To~~ The storage, use, or consumption of precious metal bullion and coins, as defined in section 39-26-102 (2.6) and (6.5), SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE.

39-26-707. Food, meals, and beverages. (1) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(a) **[Formerly 39-26-114 (15)]** All sales of food purchased with food stamps. ~~shall be exempt from taxation under this part 1.~~ For the purposes of this ~~subsection (15)~~ PARAGRAPH (a), "food" shall have the same meaning as provided in 7 U.S.C. ~~section~~ SEC. 2012 (g), as such section exists on October 1, 1987, or is thereafter amended.

(b) **[Formerly 39-26-114 (16)]** All sales of food purchased with funds provided by the special supplemental food program for women, infants, and children, as provided for in 42 U.S.C. ~~section~~ SEC. 1786. ~~shall be exempt from taxation under this part 1.~~ For the purposes of this ~~subsection (16)~~ PARAGRAPH (b), "food" shall have the same meaning as provided in 42 U.S.C. ~~section~~ SEC. 1786, as such section exists on October 1, 1987, or is thereafter amended.

(c) **[Formerly 39-26-114 (1) (a) (XVI)]** Any sale of any article to a retailer or vendor of food, meals, or beverages, which article is to be furnished to a consumer or user for use with articles of tangible personal property purchased at retail, if a separate charge is not made for the article to the consumer or user, if such article becomes the property of the consumer or user, together with the food, meals, or beverages purchased, and if a tax is paid on the retail sale as required by section

39-26-104 (1) (a) or (1) (e);

(d) **[Formerly 39-26-114 (1) (a) (XVII)]** Any sale of any container or bag to a retailer or vendor of food, meals, or beverages, which container or bag is to be furnished to a consumer or user for the purpose of packaging or bagging articles of tangible personal property purchased at retail, if a separate charge is not made for the container or bag to the consumer or user, if such container or bag becomes the property of the consumer or user, together with the food, meals, or beverages purchased, and if a tax is paid on the retail sale as required by section 39-26-104 (1) (a) or (1) (e); AND

(e) **[Formerly 39-26-114 (1) (a) (XX)]** Commencing January 1, 1980, all sales of food.

(2) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE:

(a) **[Formerly 39-26-203 (1) (v.1)]** Effective January 1, 1980, ~~to~~ the storage, use, or consumption of food or meals ~~which~~ THAT are provided to employees of the places described in section 39-26-104 (1) (e), if such are provided to such employees at no charge or at a reduced charge and are considered as part of their salary, wages, or income;

(b) **[Formerly 39-26-203 (1) (t)]** ~~To~~ The storage, use, or consumption of any article by a retailer or vendor of food, meals, or beverages, which article is to be furnished to a consumer or user for use with articles of tangible personal property purchased at retail, if a separate charge is not made for the article to the consumer or user, if ~~such~~ THE article becomes the property of the consumer or user, together with the food, meals, or beverages purchased, and if a tax is paid on the retail sale as required by section 39-26-104 (1) (a) or (1) (e);

(c) **[Formerly 39-26-203 (1) (u)]** ~~To~~ The storage, use, or consumption of any container or bag by a retailer or vendor of food, meals, or beverages, which container or bag is to be furnished to a consumer or user for the purpose of packaging or bagging articles of tangible personal property purchased at retail, if a separate charge is not made for the container or bag to the consumer or user, if ~~such~~ THE container or bag becomes the property of the consumer or user, together with the food, meals, or beverages purchased, and if a tax is paid on the retail sale as required by section 39-26-104 (1) (a) or (1) (e); AND

(d) **[Formerly 39-26-203 (1) (x)]** Effective January 1, 1980, ~~to~~ the storage, use, or consumption of food as defined in section 39-26-102 (4.5).

39-26-708. Construction and building materials. (1) **[Formerly 39-26-114 (1) (a) (XIX)]** THERE SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE all sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned and used by:

(a) The United States government, the state of Colorado, its departments and institutions, and the political subdivisions thereof in their governmental capacities

only;

(b) Charitable organizations in the conduct of their regular charitable functions and activities; or

(c) Schools, other than schools held or conducted for private or corporate profit.

(2) **[Formerly 39-26-203 (1) (w)]** ~~To~~ THERE SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE the storage, use, or consumption by a contractor or subcontractor of construction and building materials for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned and used by:

(a) The United States government, the state of Colorado, its departments and institutions, and the political subdivisions thereof in their governmental capacities only;

(b) Charitable organizations in the conduct of their regular charitable functions and activities; or

(c) Schools, other than schools held or conducted for private or corporate profit.

(3) **[Formerly 39-26-114 (1) (d)]** On application by a purchaser or seller, the department of revenue shall issue to a contractor or subcontractor a certificate ~~or certificates~~ of exemption indicating that the contractor's or subcontractor's purchase of construction or building materials is for a purpose stated in ~~subparagraph (XIX) of paragraph (a) of this subsection (1) OF THIS SECTION~~ and is, therefore, free from sales tax. ~~Said~~ THE department shall provide forms for ~~such~~ THE application and ~~for such~~ certificate and shall have the authority to verify that the contractor or subcontractor is, in fact, entitled to the issuance of ~~such~~ THE certificate prior to such issuance.

39-26-709. [Formerly 39-26-114 (11)] Machinery and machine tools.

(1) (a) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(I) ~~Except as allowed in section 39-30-106, effective July 1, 1979, but prior to January 1, 1988, purchases of machinery or machine tools in excess of one thousand dollars by a person engaged in manufacturing to be used in Colorado directly and exclusively by such person in manufacturing tangible personal property, for sale or profit, are exempt from taxation under this part 1 to the extent such purchases do not exceed one hundred thousand dollars in calendar year 1979, two hundred thousand dollars in calendar year 1980, three hundred thousand dollars in calendar year 1981, four hundred thousand dollars in calendar year 1982, or five hundred thousand dollars in calendar year 1983, and in each calendar year thereafter.~~

(II) EXCEPT AS ALLOWED IN SECTION 39-30-106, on or after July 1, 1996, purchases of machinery or machine tools, or parts thereof, in excess of five hundred dollars to be used in Colorado directly and predominantly in manufacturing tangible personal property, for sale or profit. ~~are exempt from taxation under this part 1.~~

(b) A parent corporation and all closely held subsidiary corporations, as defined in section 39-26-102 (10) (k), shall be considered one person for the purposes of this section and, as a group, shall be subject to the provisions of paragraph (a) of this ~~subsection (11)~~ SUBSECTION (1).

(c) As used in this ~~subsection (11)~~ SUBSECTION (1):

(I) "Machinery" means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.

(II) "Manufacturing" means the operation of producing a new product, article, substance, or commodity different from and having a distinctive name, character, or use from raw or prepared materials.

(d) For purposes of this ~~subsection (11)~~ SUBSECTION (1), direct use in manufacturing is deemed to begin for items normally manufactured from inventoried raw material at the point at which raw material is moved from plant inventory on a contiguous plant site and to end at a point at which manufacturing has altered the raw material to its completed form, including packaging, if required. Machinery used during the manufacturing process to move material from one direct production step to another in a continuous flow and machinery used in testing during the manufacturing process is deemed to be directly used in manufacturing.

(e) In order to qualify for the exemption provided in this ~~subsection (11)~~ SUBSECTION (1), a purchase ~~must~~ SHALL be of such nature that it would have qualified for the investment tax credit against federal income tax as was provided by section 38 of the FEDERAL "Internal Revenue Code of 1954", as amended.

(f) An exemption may not be claimed under this ~~subsection (11)~~ SECTION for sales tax paid in another state ~~which~~ THAT is credited against Colorado sales tax or use tax or both.

(g) To receive an exemption under this ~~subsection (11)~~ SUBSECTION (1), a declaration of entitlement ~~must~~ SHALL be filed by the purchaser with the vendor of the machinery or machine tools, OR PARTS THEREOF, and with the executive director of the department of revenue.

(2) [Formerly 39-26-203 (1) (y)] Effective July 1, 1979, ~~to~~ the storage, use, or consumption of machinery or machine tools, OR PARTS THEREOF, exempt from sales tax by ~~section 39-26-114 (11)~~; SUBSECTION (1) OF THIS SECTION SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE.

39-26-710. Railroads - construction and building materials - tangible personal property - work equipment - rolling stock. (1) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(a) [Formerly 39-26-114 (1) (a) (XI)] ~~All sales~~ THE SALE of construction and building materials to a common carrier by rail operating in interstate or foreign commerce for use by ~~such~~ THE common carrier in construction and maintenance of

its railroad tracks; however, any actual use of such construction and building materials shall, at the time of ~~such~~ THE actual use, be subject to the tax imposed by part 2 of this article and any use tax imposed pursuant to article 2 of title 29, C.R.S.;

(b) **[Formerly 39-26-114 (1) (a) (XXIV)]** The sale of tangible personal property that is to be affixed or attached as a component part of a locomotive, a freight car, railroad work equipment, or other railroad rolling stock; AND

(c) **[Formerly 39-26-114 (1) (a) (XXV)]** ~~All sales~~ THE SALE of locomotives, freight cars, railroad work equipment, and other railroad rolling stock used or purchased for use in interstate commerce by a railroad company.

(2) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE:

(a) **[Formerly 39-26-203 (1) (dd)]** ~~To~~ The storage, use, or consumption of any tangible personal property ~~which~~ THAT is to be affixed or attached as a component part of a locomotive, a freight car, railroad work equipment, or other railroad rolling stock; AND

(b) **[Formerly 39-26-203 (1) (ee)]** ~~To~~ The storage, use, or consumption of locomotives, freight cars, railroad work equipment, and other railroad rolling stock used or purchased for use in interstate commerce by a railroad company.

39-26-711. Aircraft - tangible personal property. (1) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(a) **[39-26-114 (1) (a) (XXII)]** Effective July 1, 1984, ~~all sales~~ THE SALE of aircraft used or purchased for use in interstate commerce by a commercial airline; AND

(b) **[Formerly 39-26-114 (1) (a) (XXIII)]** The sale of tangible personal property that is to be permanently affixed or attached as a component part of an aircraft.

(2) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE:

(a) **[Formerly 39-26-203 (1) (aa)]** Effective July 1, 1984, ~~to~~ the storage, use, or consumption of aircraft used or purchased for use in interstate commerce by a commercial airline; AND

(b) **[Formerly 39-26-203 (1) (cc)]** ~~To~~ The storage, use, or consumption of any tangible personal property ~~which~~ THAT is to be permanently affixed or attached as a component part of an aircraft.

39-26-712. Trailers and trucks. (1) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(a) **[39-26-114 (1) (a) (IX)]** ~~Any~~ THE sale of a new or used trailer, semitrailer, truck, truck tractor, or truck body manufactured within this state if such vehicle is purchased from the manufacturer for use exclusively outside this state or in interstate

commerce and is delivered by the manufacturer to the purchaser within this state, if the purchaser drives or moves such vehicle to any point outside this state within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the manufacturer that such vehicle will be permanently licensed and registered outside this state and will be removed from this state within thirty days after the date of delivery; AND

(b) **[Formerly 39-26-114 (1) (a) (X)]** ~~Any~~ THE sale of a new or used trailer, semitrailer, truck, truck tractor, or truck body if such vehicle is purchased for use exclusively outside this state or in interstate commerce and is delivered by the manufacturer or licensed Colorado dealer to the purchaser within this state, if the purchaser drives or moves such vehicle to any point outside this state within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the seller that such vehicle will be permanently licensed and registered outside this state and will be removed from this state within thirty days after the date of delivery.

(2) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE:

(a) **[Formerly 39-26-203 (1) (p)]** ~~For~~ The storage or use of a new or used trailer, semitrailer, truck, truck tractor, or truck body manufactured within this state if such vehicle is purchased from the manufacturer for use exclusively outside this state or in interstate commerce and is delivered by the manufacturer to the purchaser within this state, if the purchaser drives or moves such vehicle to any point outside this state within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the manufacturer that such vehicle will be permanently licensed and registered outside this state and will be removed from this state within thirty days after the date of delivery; AND

(b) **[Formerly 39-26-203 (1) (q)]** ~~For~~ The storage or use of a new or used trailer, semitrailer, truck, truck tractor, or truck body if such vehicle is purchased for use exclusively outside this state or in interstate commerce and is delivered by the manufacturer or licensed Colorado dealer to the purchaser within this state, if the purchaser drives or moves such vehicle to any point outside this state within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the seller that such vehicle will be permanently licensed and registered outside this state and will be removed from this state within thirty days after the date of delivery.

39-26-713. Tangible personal property. (1) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(a) **[Formerly 39-26-114 (1) (a) (XII)]** Any right to the continuous possession or use for three years or less of any article of tangible personal property under a lease or contract, if the lessor has paid to the state of Colorado a sales or use tax on such tangible personal property upon its acquisition. The department of revenue may permit a lessor of tangible personal property leased for a period of three years or less to acquire ~~such~~ THE property free of sales or use tax if the lessor agrees to collect sales tax on all lease payments received on ~~such~~ THE property.

(b) **[Formerly 39-26-114 (1) (a) (XIII)]** The transfer of tangible personal property without consideration, other than the purchase, sale, or promotion of the

transferor's product, to an out-of-state vendee for use outside of this state in selling products normally sold at wholesale by the transferor;

(c) **[Formerly 39-26-114 (1) (a) (XIV)]** The sale of tangible personal property for testing, modification, inspection, or similar type of activities in this state if the ultimate use of ~~such~~ THE property in manufacturing or similar type of activities occurs outside of this state and if the test, modification, or inspection period does not exceed ninety days; AND

(d) **[Formerly 39-26-114 (19)]** All sales and purchases of tangible personal property by a manufacturer that uses ~~such~~ THE property as a component part of goods that it manufactures, including, but not limited to, high technology goods, and that donates such goods to the United States government; the state of Colorado or any department, institution, or political subdivision thereof; or any organization exempt from federal income taxes pursuant to section 501 (c) (3) of the "Internal Revenue Code of 1986", as amended, to the extent that the aggregate value of the goods included in a single donation exceeds one thousand dollars. ~~shall be exempt from taxation under this part 1.~~

(2) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE:

(a) **[Formerly 39-26-203 (1) (a)]** ~~For~~ The storage, use, or consumption of any tangible personal property the sale of which is subject to the retail sales tax imposed by the "~~Emergency Retail Sales Tax Act of 1935~~" and ~~any amendments thereto~~ PART 1 OF THIS ARTICLE, including transactions ~~which~~ THAT are exempt from taxation under ~~section 39-26-114 (1) (a) (XVIII)~~ SECTION 39-26-704 (5);

(b) **[Formerly 39-26-203 (1) (b)]** ~~For~~ The storage, use, or consumption of any tangible personal property purchased for resale in this state, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

(c) **[Formerly 39-26-203 (1) (d)]** ~~For~~ The storage, use, or consumption of tangible personal property brought into this state by a nonresident ~~thereof~~ for his OR HER own storage, use, or consumption while temporarily within this state;

(d) **[Formerly 39-26-203 (1) (e)]** ~~For~~ The storage, use, consumption, or loan of tangible personal property by or to the United States government, the state of Colorado or its institutions or ~~its~~ political subdivisions in their governmental capacities only, or any charitable organization in the conduct of its regular charitable functions and activities; except that any veterans' organization that qualifies as a charitable organization pursuant to section 39-26-102 (2.5) shall be exempt from taxation under the provisions of ~~this~~ part 2 OF THIS ARTICLE only for the purpose of sponsoring a special event, meeting, or other function in the state of Colorado that is not part of such organization's regular activities in the state;

(e) **[Formerly 39-26-203 (1) (f)]** (I) ~~For~~ The storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance, or commodity, which tangible personal property enters into the processing of or becomes an ingredient or

component part of the product or service ~~which~~ THAT is manufactured, compounded, or furnished, and the container, label, or the furnished shipping case.

(II) As used in subparagraph (I) of this ~~paragraph (f)~~ PARAGRAPH (e) with regard to food products, tangible personal property enters into the processing of such products and is therefore exempt from taxation when:

(A) It is intended that such property become an integral or constituent part of a food product ~~which~~ THAT is intended to be sold ultimately at retail for human consumption; or

(B) Such property, whether or not it becomes an integral or constituent part of a food product, is a chemical, solvent, agent, mold, skin casing, or other material; is used for the purpose of producing or inducing a chemical or physical change in a food product or is used for the purpose of placing a food product in a more marketable condition; and is directly utilized and consumed, dissipated, or destroyed, to the extent it is rendered unfit for further use, in the processing of a food product ~~which~~ THAT is intended to be sold ultimately at retail for human consumption.

(f) **[Formerly 39-26-203 (1) (k)]** ~~¶~~ The storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a tax equal to or in excess of that imposed by ~~this~~ part 2 OF THIS ARTICLE. A credit shall be granted against the use tax imposed by ~~this~~ part 2 OF THIS ARTICLE with respect to a person's storage, use, or consumption in this state of tangible personal property purchased by ~~him~~ THE PERSON in another state. The amount of the credit shall be equal to the tax paid by ~~him~~ THE PERSON to another state by reason of the imposition of a similar tax on ~~his~~ THE purchase or use of the property. The amount of the credit shall not exceed the tax imposed by ~~this~~ part 2 OF THIS ARTICLE.

(g) **[Formerly 39-26-203 (1) (l)]** ~~¶~~ The storage, use, or consumption of tangible personal property and household effects acquired outside of this state and brought into it by a nonresident acquiring residency;

(h) **[Formerly 39-26-203 (1) (n)]** ~~¶~~ The storage, use, or consumption of tangible personal property purchased by a resident of Colorado while outside the state in amounts of one hundred dollars or less;

(i) **[Formerly 39-26-203 (1) (r)]** ~~¶~~ The storage, use, or consumption of tangible personal property ~~which~~ THAT is thereafter transferred to an out-of-state vendee without consideration, other than the purchase, sale, or promotion of the transferor's product, for use outside of this state in selling products normally sold at wholesale by the corporation or person storing, using, or consuming said property; AND

(j) **[Formerly 39-26-203 (1) (s)]** ~~¶~~ The testing, modification, inspection, or similar type activities of tangible personal property acquired for ultimate use outside of this state in manufacturing or similar type of activities if the test, modification, or inspection period does not exceed ninety days.

39-26-714. Vending machines. (1) **[Formerly 39-26-114 (7)]** (a) Every vendor selling individual items of personal property through ~~coin-operated~~ vending machines

shall pay a sales tax pursuant to section 39-26-106 (2) (b) on the personal property sold in excess of fifteen cents through ~~such coin-operated~~ THE vending machines unless the sale is otherwise exempt under the provisions of this ~~article~~ PART 7.

(b) To be eligible for the exemption provided for in this ~~subsection (7)~~ SUBSECTION (1), each vendor shall:

(I) Be licensed under section 39-26-103;

(II) Maintain a record of the identification number, ownership, location, and disposition of every ~~coin-operated~~ vending machine used by ~~him~~ THE VENDOR in his OR HER operation as a vendor;

(III) Within sixty days after commencing business as such vendor, submit to the department of revenue an accurate list containing the information required under subparagraph (II) of this paragraph (b) and submit such list annually thereafter on January 1, commencing in 1971;

(IV) Make application to the department of revenue for identification numbers to be affixed to every such ~~coin-operated~~ vending machine, in accordance with rules ~~and regulations~~ promulgated by the executive director of the department of revenue;

(V) Remit a fee of ten cents per machine with the application submitted under SUBPARAGRAPH (IV) OF this paragraph (b), to defray the expenses of the department of revenue in furnishing ~~such~~ THE identification numbers; except that the executive director of the department of revenue by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the executive director by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.

(c) Any unregistered ~~coin-operated~~ vending machine found being used for retail sales at any place in this state without the prescribed identification number affixed thereto may be seized without warrant by the department of revenue, its agents, or employees or by any peace officer when directed or requested by the department. ~~of revenue~~. At the time of seizure, written notice of seizure shall be given to the proprietor or person in charge of the business, or to the agents or employees of the proprietor or person in charge of the business, where the vending machine is seized. The department shall also give notice by first-class mail as set forth in section 39-21-105.5 to the person whose name and mailing address appear on the machine. The department shall not be required to seize and confiscate any unregistered vending machine or assess a penalty when there is reason to believe that the owner ~~thereof~~ is not intentionally evading the tax imposed by this article.

(d) In addition to any other penalty provided by law, the department of revenue is authorized to assess and collect a penalty of twenty-five dollars for each unregistered vending machine being operated in this state.

(e) Upon proof of ownership, the department of revenue shall deliver to the owner ~~thereof~~ any vending machine seized under paragraph (c) of this ~~subsection (7)~~

SUBSECTION (1) after payment of the twenty-five-dollar penalty and seizure costs, if the owner is liable therefor, and upon registration of the machine. At the expiration of sixty days after the date of notice, any unregistered vending machine and the contents therein still in the possession of the department of revenue may be sold at public sale to the highest bidder, but, prior to any such sale, ten days' notice of the sale shall be given by first-class mail as set forth in section 39-21-105.5 to those entitled to notice under paragraph (c) of this ~~subsection (7)~~ SUBSECTION (1).

(2) **[Formerly 39-26-114 (7.5)]** On ~~or~~ AND after January 1, 2000, all sales and purchases of food, as defined in section 39-26-102 (4.5), by or through vending machines shall be exempt from taxation under THE PROVISIONS OF PART 1 OF THIS ~~part~~ ~~+~~ ARTICLE.

(3) **[Formerly 39-26-203 (1) (jj)]** On ~~or~~ AND after January 1, 2000, ~~to~~ the storage, use, or consumption of food, as defined in section 39-26-102 (4.5), purchased by or through vending machines SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE.

39-26-715. Fuel and oil. (1) (a) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(I) **[Formerly 39-26-114 (1) (a) (VII)]** All commodities ~~which~~ THAT are taxed under the provisions of article 27 of this title; and all commodities ~~which~~ THAT are taxed under said provisions and the tax is refunded; and all sales and purchases of aviation fuel upon which no Colorado sales tax was in fact collected and retained prior to July 1, 1963; except that aviation fuel used in turbo-propeller or jet engine aircraft and upon which a sales tax was collected prior to January 1, 1989, shall not be exempt.

(II) **[Formerly 39-26-114 (1) (a) (XXI)]** Effective July 1, 1980, all sales and purchases of electricity, coal, wood, gas, fuel oil, or coke sold, but not for resale, to occupants of residences, whether owned, leased, or rented by said occupants, for the purpose of operating residential fixtures and appliances ~~which~~ THAT provide light, heat, and power for such residences. For ~~the~~ purposes of this ~~subparagraph (XXI)~~ SUBPARAGRAPH (II), "gas" includes natural, manufactured, and liquefied petroleum gas.

(b) **[Formerly 39-26-114 (1) (a) (VII)]** Based upon reports submitted by retailers pursuant to the provisions of ~~this~~ part 1 OF THIS ARTICLE, the department of revenue shall compile a monthly report showing the amount of sales taxes collected on aviation fuel used in turbo-propeller or jet engine aircraft during the previous month by each retailer. ~~Such~~ THE monthly report shall be transmitted to the AERONAUTICS division ~~of aeronautics~~ created in section 43-10-103, C.R.S., for use by the division in distributing moneys in the aviation fund in accordance with section 43-10-110, C.R.S.

(2) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE:

(a) **[Formerly 39-26-203 (1) (c)]** (I) ~~To~~ The storage, use, or consumption of gasoline that is taxed under the provisions of part 1 of article 27 of this title and ~~to~~ all

gasoline that is taxed under said provisions and the tax on which is refunded and ~~to~~ special fuel, as defined in section 39-27-101 (29), used for the operation of farm vehicles when the same are being used on farms or ranches; except that aviation fuel used in turbo-propeller or jet engine aircraft and upon which a tax was collected pursuant to the provisions of ~~this~~ part 2 OF THIS ARTICLE prior to January 1, 1989, shall not be exempt.

(II) Based upon reports submitted by users or consumers pursuant to the provisions of ~~this~~ part 2 OF THIS ARTICLE, the department of revenue shall compile a monthly report showing the amount of use taxes collected on aviation fuel used in turbo-propeller or jet engine aircraft during the previous month by each user or consumer. ~~Such~~ THE monthly report shall be transmitted to the AERONAUTICS division ~~of aeronautics~~ created in section 43-10-103, C.R.S., for use by the division in distributing moneys in the aviation fund in accordance with section 43-10-110, C.R.S.

(b) [**Formerly 39-26-203 (1) (g)**] ~~To~~ The storage, use, or consumption of electricity, coal, coke, fuel oil, steam, nuclear fuel, or gas for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone, and radio communication, street and railroad transportation services, and all industrial uses.

(c) [**Formerly 39-26-203 (1) (z)**] Effective July 1, 1980, ~~to~~ the storage, use, or consumption of electricity, coal, wood, gas, fuel oil, or coke sold, but not for resale, to any occupant of a residence, whether owned, leased, or rented by the occupant, for the purpose of operating fixtures or appliances ~~which~~ THAT provide light, heat, or power for the residence. For the purposes of this ~~paragraph (z)~~ PARAGRAPH (c), "gas" includes natural, manufactured, and liquefied petroleum gas.

(3) [**Formerly 39-26-114 (13)**] In any case in which a sales tax has been imposed under ~~this~~ part 1 OF THIS ARTICLE on lubricating oil used other than in motor vehicles, the purchaser ~~thereof~~ shall be entitled to a refund equal to the amount of the state sales tax paid on that portion of the sale price ~~thereof which~~ THAT is attributable to the federal excise tax imposed on the sale of such lubricating oil. In any case in which a use tax has been imposed under part 2 of this article on lubricating oil used other than in motor vehicles, the payer of such tax is entitled to a refund equal to the amount of such use tax paid on that portion of the amount upon which the use tax was imposed ~~which~~ THAT is attributable to the federal excise tax paid on such lubricating oil. The refund allowed under this ~~subsection (13)~~ SUBSECTION (3) shall be paid by the executive director OF THE DEPARTMENT OF REVENUE upon receiving evidence that the purchaser has received under section 6424 of the federal "Internal Revenue Code of 1986", as ~~from time to time~~ amended, a refund of the federal excise tax paid on the sale of such lubricating oil. The claim for a refund shall be made upon such forms as shall be prescribed and furnished by the executive director, which forms shall contain such information as the executive director may prescribe.

39-26-716. Agriculture and livestock - special fuels - definitions.

(1) [**Formerly 39-26-114 (21) (b) and 39-26-203 (1) (kk) (II)**] For purposes of this ~~subsection (21)~~ SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "Agricultural compounds" means:

(I) Insecticides, fungicides, growth-regulating chemicals, enhancing compounds, vaccines, and hormones;

(II) Drugs, whether dispensed in accordance with a prescription or not, that are used for the prevention or treatment of disease or injury in livestock; and

(III) Animal pharmaceuticals that have been approved by the food and drug administration.

(b) [Formerly 39-26-114 (20) (b) (I) and 39-26-203 (1) (hh) (I)] ~~For purposes of this subsection (20):~~ "Attachments" means any equipment or machinery added to an exempt farm tractor or implement of husbandry that aids or enhances the performance of such tractor or implement.

(c) [Formerly 39-26-114 (20) (b) (II) and 39-26-203 (1) (hh) (II)] "Farm equipment" means ANY farm ~~tractors~~ TRACTOR, as defined in section 42-1-102 (33), C.R.S., ~~implements~~ ANY IMPLEMENT of husbandry, as defined in section 42-1-102 (44), C.R.S., and irrigation equipment having a per unit purchase price of at least one thousand dollars. "Farm equipment" also includes, regardless of purchase price, attachments and baling wire, binders twine, and surface wrap used primarily and directly in any farm operation. On and after July 1, 2000, "farm equipment" also includes, regardless of purchase price, parts that are used in the repair or maintenance of the farm equipment described in this ~~subparagraph (H)~~ PARAGRAPH (c), all shipping pallets, crates, or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. On and after July 1, 2001, "farm equipment" also includes, regardless of purchase price, dairy equipment. ~~For purposes of this subsection (20) EXCEPT FOR SHIPPING PALLETS, CRATES, OR AIDS USED IN THE TRANSFER OR SHIPPING OF AGRICULTURAL PRODUCTS, "FARM EQUIPMENT" DOES NOT INCLUDE:~~

(I) VEHICLES SUBJECT TO THE REGISTRATION REQUIREMENTS OF SECTION 42-3-103, C.R.S., REGARDLESS OF THE PURPOSE FOR WHICH SUCH VEHICLES ARE USED;

(II) MACHINERY, EQUIPMENT, MATERIALS, AND SUPPLIES USED IN A MANNER THAT IS INCIDENTAL TO A FARM OPERATION;

(III) MAINTENANCE AND JANITORIAL EQUIPMENT AND SUPPLIES; AND

(IV) TANGIBLE PERSONAL PROPERTY USED IN ANY ACTIVITY OTHER THAN FARMING, SUCH AS OFFICE EQUIPMENT AND SUPPLIES AND EQUIPMENT AND SUPPLIES USED IN THE SALE OR DISTRIBUTION OF FARM PRODUCTS, RESEARCH, OR TRANSPORTATION.

(d) [Formerly 39-26-114 (20) (b) (II) and 39-26-203 (1) (hh) (II)] "Dairy equipment" means any item that is used at a farm dairy in connection with the production of raw milk and not at a commercial dairy in connection with the production of pasturized, separated milk products for retail sale, including, without limitation, milking claws, shells, inflators, pulsators, meters, cow identification systems, transponders, automatic takeoffs, piping, receiver jars, pumps, filter assemblies, milk containment tanks, cooling compressors, wash vats, clean in place assemblies, wash lines, wash control units, pulsator controls, milking system controls,

programmable logical control systems, vacuum pumps, vacuum distribution tanks, backflush and related valves, rubber and similar hoses, rubber and similar gaskets, and any other similar or related item used in any farm dairy facility or farm dairy operation or in the production of raw milk, regardless of whether or not the item has become a fixture. To the extent the farm dairy is also involved in the production of pasturized, separated milk products for retail sale, only the equipment used exclusively in the production of raw milk constitutes dairy equipment for purposes of this subsection (20) ~~Except for shipping pallets, crates, or aids used in the transfer or shipping of agricultural products, "farm equipment" does not include:~~ SECTION.

~~(A) Vehicles subject to the registration requirements of section 42-3-103, C.R.S., regardless of the purpose for which such vehicles are used;~~

~~(B) Machinery, equipment, materials, and supplies used in a manner that is incidental to a farm operation;~~

~~(C) Maintenance and janitorial equipment and supplies; and~~

~~(D) Tangible personal property used in any activity other than farming, such as office equipment and supplies and equipment and supplies used in the sale or distribution of farm products, research, or transportation.~~

(e) **[Formerly 39-26-114 (20) (b) (III) and 39-26-203 (1) (hh) (III)]** "Farm operation" means the production of any of the following products for profit, including, but not limited to, a business that hires out to produce or harvest such products:

(I) Agricultural, viticultural, fruit, and vegetable products;

(II) Livestock, as defined in section 39-26-102 (5.5);

(III) Milk;

(IV) Honey; and

(V) Poultry and eggs.

(2) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(a) **[Formerly 39-26-114 (1) (a) (XV)]** The sale of special fuel, as defined in section 39-27-101 (29), used for the operation of farm vehicles when such vehicles are being used on farms and ranches.

(b) **[Formerly 39-26-114 (20) (a) (I)]** All sales and purchases of farm equipment; ~~shall be exempt from taxation under this part 1.~~

(c) **[Formerly 39-26-114 (20) (a) (II)]** (I) Any farm equipment under lease or contract, ~~shall be exempt from taxation under this part 1~~ if the fair market value of ~~such~~ THE equipment is at least one thousand dollars and the equipment is rented or leased for use primarily and directly in any farm operation.

(II) The lessor or seller of such farm equipment shall obtain a signed affidavit from the lessee, renter, or purchaser affirming that the farm equipment will be used primarily and directly in a farm operation.

(d) **[Formerly 39-26-114 (21) (a)]** All sales and purchases of agricultural compounds to be consumed by, administered to, or otherwise used in caring for livestock and all sales and purchases of semen for agricultural or ranching purposes; ~~shall be exempt from taxation under this part 1.~~ AND

(e) **[Formerly 39-26-114 (23)]** All sales and purchases of pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products pursuant to the provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides pursuant to section 35-9-115, C.R.S. ~~shall be exempt from taxation under this part 1.~~

(3) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE:

(a) **[Formerly 39-26-203 (1) (h)]** ~~¶~~ The storage and use of neat cattle, sheep, lambs, swine, and goats within this state, or ~~to~~ the storage and use within this state of mares and stallions kept, held, and used for breeding purposes only;

(b) **[Formerly the introductory portion to 39-26-203 (1) (hh)]** ~~¶~~ The storage, use, or consumption of farm equipment;

(c) **[Formerly 39-26-203 (1) (ii)]** (I) ~~¶~~ Any farm equipment under lease or contract if the fair market value of such equipment is at least one thousand dollars and the equipment is rented or leased for storage, use, or consumption primarily and directly in any farm operation.

(II) The lessor shall obtain a signed affidavit from the lessee or renter affirming that the farm equipment will be stored, used, or consumed primarily and directly in a farm operation.

(d) **[Formerly 39-26-203 (1) (kk) (I)]** ~~¶~~ The storage, use, or consumption of agricultural compounds to be consumed by, administered to, or otherwise used in caring for livestock ~~or~~ AND semen used for agricultural or ranching purposes; AND

(e) **[Formerly 39-26-203 (1) (mm)]** ~~¶~~ The storage, use, or consumption of pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products pursuant to the provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides pursuant to section 35-9-115, C.R.S.

(4) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PARTS 1 AND 2 OF THIS ARTICLE:

(a) **[Formerly 39-26-114 (5)]** All sales and purchases of livestock, all sales and purchases of live fish for stocking purposes, and all farm close-out sales ~~shall be exempt from taxation under this part 1,~~ and the storage, use, or consumption of such

property; ~~shall be exempt from taxation under part 2 of this article.~~

(b) **[Formerly 39-26-114 (6)]** All sales and purchases of feed for livestock, all sales and purchases of seeds, and all sales and purchases of orchard trees ~~shall be exempt from taxation under this part 1;~~ and the storage, use, or consumption of such property; ~~shall be exempt from taxation under part 2 of this article.~~ AND

(c) **[Formerly 39-26-114 (8)]** All sales and purchases of straw and other bedding for use in the care of livestock or poultry ~~shall be exempt from taxation under this part 1;~~ and the storage, use, or consumption of straw and other bedding for use in the care of livestock or poultry. ~~shall be exempt from taxation under part 2 of this article.~~

39-26-717. Drugs and medical and therapeutic devices. (1) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(a) **[Formerly 39-26-114 (1) (a) (V) (A)]** All sales of drugs dispensed in accordance with a prescription, all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose useable for treatment of insulin reactions, all sales of urine- and blood-testing kits and materials, all sales of insulin measuring and injecting devices, including hypodermic syringes and needles, all sales of prosthetic devices, all sales of wheelchairs and hospital beds, all sales of drugs or materials when furnished by a doctor as part of professional services provided to a patient, and all sales of corrective eyeglasses, contact lenses, or hearing aids;

(b) **[Formerly 39-26-114 (1) (a) (V) (B)]** When sold in accordance with a written recommendation from a licensed doctor, all sales of therapeutic devices, appliances, or related accessories, with a retail value of more than one hundred dollars, ~~which~~ THAT are sold to correct or treat a human physical disability or surgically created abnormality; AND

(c) **[Formerly 39-26-114 (1) (a) (V) (C)]** All sales of therapeutic devices, appliances, or related accessories, with a retail value of one hundred dollars or less, ~~which~~ THAT are sold to correct or treat a human physical disability or surgically created abnormality.

39-26-718. Charitable organizations. (1) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE:

(a) **[Formerly 39-26-114 (1) (a) (II)]** All sales made to charitable organizations, in the conduct of their regular charitable functions and activities; except that any veterans' organization that qualifies as a charitable organization pursuant to section 39-26-102 (2.5) shall be exempt from taxation under the provisions of ~~this~~ part 1 OF THIS ARTICLE only for the purpose of sponsoring a special event, meeting, or other function in the state of Colorado that is not part of ~~such~~ THE organization's regular activities in the state; AND

(b) **[Formerly 39-26-114 (18)]** (I) Effective July 1, 1995, all occasional sales by a charitable organization. ~~shall be exempt from taxation under this part 1.~~

(II) For purposes of this ~~subsection (18)~~ PARAGRAPH (b), "occasional sales" means retail sales of tangible personal property, including concessions, for fund-raising purposes if:

(A) The sale of tangible personal property or concessions by the charitable organization takes place no more than twelve days, whether consecutive or not, during any one calendar year;

(B) The funds raised by the charitable organization through these sales are retained by the organization to be used in the course of the organization's charitable service; and

(C) The funds raised by the charitable organization through these sales do not exceed twenty-five thousand dollars during any one calendar year.

39-26-719. Motor vehicles. (1) [~~Formerly 39-26-114 (22)~~] (a) THERE SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE the sale of any motor vehicle, power source for any motor vehicle, or parts used for converting the power source for any motor vehicle, if the gross vehicle weight rating of the motor vehicle is greater than ten thousand pounds and if the motor vehicle, power source, or parts used for converting the power source are certified by the federal environmental protection agency or any state as provided in the "Federal Clean Air Act" as meeting an emission standard equal to or more stringent than the low-emitting vehicle emission standard. ~~shall be exempt from taxation under the provisions of this part 1.~~

(b) For purposes of this ~~subsection (22)~~ SUBSECTION (1), unless the context otherwise requires:

(I) "Motor vehicle" shall have the same meaning as set forth in section 39-22-516 (2.5) (a) (III).

(II) "Parts used for converting" shall mean the wiring, fuel lines, engine coolant system, fuel storage containers, fuel control system, and other components associated with reducing the emissions characteristics of an engine or motor.

(III) "Power source" shall have the same meaning as set forth in section 39-22-516 (2.5) (a) (V).

(2) THE FOLLOWING SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE:

(a) [~~Formerly 39-26-203 (1) (m)~~] ~~To~~ The storage, ~~or~~ use, OR CONSUMPTION of a motor vehicle, if the owner is or was, at the time of purchase, a nonresident of Colorado and ~~he~~ THE OWNER purchased the vehicle outside of this state for use outside this state and actually so used it for a substantial and primary purpose for which it was acquired and ~~he~~ THE OWNER registered, titled, and licensed said motor vehicle outside of Colorado.

(b) [~~Formerly 39-26-203 (1) (II)~~] (I) ~~To~~ The storage, use, or consumption of a motor vehicle, power source for a motor vehicle, and parts used for converting the

power source of a motor vehicle, if the gross vehicle weight rating of the motor vehicle is greater than ten thousand pounds and if the motor vehicle, power source, or parts used for converting the power source are certified by the federal environmental protection agency or any state as provided in the "Federal Clean Air Act" as meeting an emission standard equal to or more stringent than the low-emitting vehicle emission standard.

(II) For purposes of this ~~paragraph (H)~~ PARAGRAPH (b), unless the context otherwise requires:

(A) "Motor vehicle" shall have the same meaning as set forth in section 39-22-516 (2.5) (a) (III).

(B) "Parts used for converting" shall mean the wiring, fuel lines, engine coolant system, fuel storage containers, fuel control system, and other components associated with reducing the emissions characteristics of an engine or motor.

(C) "Power source" shall have the same meaning as set forth in section 39-22-516 (2.5) (a) (V).

39-26-720. Bingo equipment. (1) ~~[Formerly 39-26-114 (24)]~~ All sales of equipment, as defined in section 12-9-102 (5), C.R.S., to a bingo-raffle licensee, as defined in section 12-9-102 (1.2), C.R.S., shall be exempt from taxation under PART 1 OF this ~~part~~ ARTICLE.

(2) ~~[Formerly 39-26-203 (1) (nn)]~~ ~~¶~~ The storage, use, or consumption of equipment, as defined in section 12-9-102 (5), C.R.S., by a bingo-raffle licensee, as defined in section 12-9-102 (1.2), C.R.S., SHALL BE EXEMPT FROM TAXATION UNDER PART 2 OF THIS ARTICLE.

39-26-721. Manufactured homes. (1) ~~[Formerly 39-26-114 (10)]~~ Forty-eight percent of the purchase price of factory-built housing, as such housing is defined in section 24-32-3302 (10), C.R.S., shall be exempt from taxation under ~~this~~ part 1 OF THIS ARTICLE; except that the entire purchase price in any subsequent sale of a manufactured home, as such vehicle is defined in section 42-1-102 (106) (b), C.R.S., after such manufactured home has been once subject to the payment of sales tax by virtue of section 39-26-113, shall be exempt from taxation under ~~this~~ part 1 OF THIS ARTICLE.

(2) ~~[Formerly 39-26-203 (1) (o)]~~ ~~¶~~ The storage, use, or consumption of a manufactured home, as such vehicle is defined in section 42-1-102 (106) (b), C.R.S., after such manufactured home has been once subject to the payment of use tax by virtue of section 39-26-208, SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE.

SECTION 3. 29-2-105 (1) (d), Colorado Revised Statutes, is amended to read:

29-2-105. Contents of sales tax ordinances and proposals. (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in paragraph (d) of this subsection (1). Any

countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(d) A provision that the tangible personal property and services taxable pursuant to this article shall be the same as the tangible personal property and services taxable pursuant to section 39-26-104, C.R.S., except as otherwise provided in this paragraph (d). The tangible personal property and services taxable pursuant to this article are subject to the same SALES TAX exemptions as those specified in ~~section 39-26-114~~ PART 7 OF ARTICLE 26 OF TITLE 39, C.R.S., except the exemption allowed by ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., for purchases of machinery or machine tools, the exemption of sales and purchases of those items in ~~section 39-26-114 (1) (a) (XXI)~~ SECTION 39-26-715 (1) (a) (II), C.R.S., the exemption for sales of food specified in ~~section 39-26-114 (1) (a) (XX)~~ SECTION 39-26-707 (1) (e), C.R.S., the exemption for vending machine sales of food set forth in ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S., the exemption for occasional sales by a charitable organization set forth in ~~section 39-26-114 (18)~~ SECTION 39-26-718 (1) (b), C.R.S., the exemption for sales and purchases of farm equipment and farm equipment under lease or contract specified in ~~section 39-26-114 (20)~~ SECTION 39-26-716 (2) (b) AND (2) (c), C.R.S., and the exemption for sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S. Sales of food, as defined in section 39-26-102 (4.5), C.R.S., exempted from the state sales tax pursuant to ~~section 39-26-114 (1) (a) (XX)~~ SECTION 39-26-707 (1) (e), C.R.S., vending machine sales of food as described in ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S., sales and purchases of those items exempted from the state sales tax pursuant to ~~section 39-26-114 (1) (a) (XXI)~~ SECTION 39-26-715 (1) (a) (II), C.R.S., purchases of machinery or machine tools as provided in ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., occasional sales by a charitable organization as provided in ~~section 39-26-114 (18)~~ SECTION 39-26-718 (1) (b), C.R.S., sales and purchases of farm equipment or farm equipment under lease or contract exempted from the state sales tax pursuant to ~~section 39-26-114 (20)~~ SECTION 39-26-716 (2) (b) AND (2) (c), C.R.S., or sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S., may be exempted from said town, city, or county sales tax only by the express inclusion of such exemption either at the time of adoption of the initial sales tax ordinance or resolution or by amendment thereto. Any such amendment shall be adopted in the same manner as the initial ordinance or resolution. In the absence of an express provision for the exemption for sales of food, as defined in section 39-26-102 (4.5), C.R.S., or for the exemption of vending machine sales of food as provided in ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S., or for the exemption of purchases of machinery or machine tools as provided in ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., or for the exemption of sales and purchases of those items in ~~section 39-26-114 (1) (a) (XXI)~~ SECTION 39-26-715 (1) (a) (II), C.R.S., or for the exemption of occasional sales by a charitable organization as provided in ~~section 39-26-114 (18)~~ SECTION 39-26-718 (1) (b) (I), C.R.S., or exemption of sales and purchases of farm equipment or farm equipment under lease or contract as provided in ~~section 39-26-114 (20)~~ SECTION 39-26-716 (2) (b) AND (2) (c), C.R.S., or exemption of sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S., all sales tax ordinances or resolutions, whether adopted prior to, on, or subsequent to July 1, 1979,

which provide in substance that the tangible personal property and services taxed shall be the same as the tangible personal property and services taxable pursuant to section 39-26-104, C.R.S., or any predecessor statute, except as otherwise provided in this paragraph (d), and subject to the same SALES TAX exemptions as those specified in ~~section 39-26-114~~ PART 7 OF ARTICLE 26 OF TITLE 39, C.R.S., or any predecessor statute, shall be construed as imposing or continuing to impose the town, city, or county sales tax on food, as defined in section 39-26-102 (4.5), C.R.S., vending machine sales of food as described in ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S., purchases of machinery and machine tools as described in ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., sales or purchases of those items described in ~~section 39-26-114 (1) (a) (XXI)~~ SECTION 39-26-715 (1) (a) (II), C.R.S., occasional sales by a charitable organization as described in ~~section 39-26-114 (18)~~ SECTION 39-26-718 (1) (b), C.R.S., sales and purchases of farm equipment and farm equipment under lease or contract as described in ~~section 39-26-114 (20)~~ SECTION 39-26-716 (2) (b) AND (2) (c), C.R.S., and sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S. Any incorporated town, city, or county that adopts or has adopted a sales tax ordinance or resolution pursuant to this article shall levy a sales tax on pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products pursuant to the provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides pursuant to section 35-9-115, C.R.S., notwithstanding the removal of such pesticides from the state sales tax base pursuant to House Bill 99-1381, enacted at the first regular session of the sixty-second general assembly, unless exempted by local ordinance or resolution. Any incorporated town, city, or county that adopts or has adopted a sales tax ordinance or resolution pursuant to this article shall levy a sales tax upon all sales and purchases of parts used in the repair or maintenance of farm equipment, all shipping pallets or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications, notwithstanding the removal of such items from the state sales tax base pursuant to House Bill 00-1162, enacted at the second regular session of the sixty-second general assembly, unless exempted by local ordinance or resolution. Any incorporated town, city, or county that adopts or has adopted a sales tax ordinance or resolution pursuant to this article shall levy a sales tax upon all sales and purchases of dairy equipment, notwithstanding the removal of such items from the state sales tax base pursuant to House Bill 01-1256, enacted at the first regular session of the sixty-third general assembly, unless exempted by local ordinance or resolution. The regional transportation district may, in its discretion, continue to levy a sales tax on vending machine sales of food as described in ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S., and on purchases of machinery or machine tools, as provided in ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S.

SECTION 4. 29-2-106 (4) (a), Colorado Revised Statutes, is amended to read:

29-2-106. Collection - administration - enforcement. (4) (a) The executive director of the department of revenue shall, at no charge, administer, collect, and distribute the sales tax of any home rule municipality, upon request of the governing body of such municipality, if the provisions of the sales tax ordinance of said municipality, other than those provisions relating to local procedures followed in adopting the ordinance and whether or not the ordinance applies the sales tax to the

sale of food, as defined in section 39-26-102 (4.5), C.R.S., or purchases of machinery or machine tools as provided in ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., or sales or purchases of electricity, coal, wood, gas, fuel oil, or coke as provided in ~~section 39-26-114 (1) (a) (XXI)~~ SECTION 39-26-715 (1) (a) (II), C.R.S., or vending machine sales of food as described in ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S., or sales or purchases of farm equipment or farm equipment under lease or contract, parts used in the repair or maintenance of farm equipment, all shipping pallets, crates, or aids paid for by a farm operation, as defined in ~~section 39-26-114 (20) (b) (III)~~ SECTION 39-26-716 (1) (e), C.R.S., aircraft designed or adapted to undertake agricultural applications, and dairy equipment as provided in ~~section 39-26-114 (20)~~ SECTION 39-26-716, C.R.S., or sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S., or to pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products pursuant to the provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides pursuant to section 35-9-115, C.R.S., as provided in section 29-2-105 (1) (d), correspond to the requirements of this article for sales taxes imposed by counties, towns, and cities and if no use tax is to be collected by the department except as provided in section 39-26-208, C.R.S. At the time of making such request, said governing body shall certify to the executive director of the department of revenue a true copy of said sales tax ordinance.

SECTION 5. 30-20-604.5 (1), Colorado Revised Statutes, is amended to read:

30-20-604.5. District sales tax. (1) The board of any county having a population greater than one hundred thousand or of any city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado and that subsequently becomes a city and county, regardless of population, for the purpose of funding all or a portion of the cost of any improvements constructed or transportation services provided pursuant to section 30-20-603 (1) (a), (1) (a.5), and (1) (c), may levy a sales tax throughout the district upon every transaction or other incident with respect to which a sales tax is authorized pursuant to section 29-2-105, C.R.S.; except that such tax may be levied only upon those transactions specified in section 39-26-104 (1) (a), (1) (b), (1) (e), and (1) (f), C.R.S. The board may, in its discretion, levy or continue to levy a sales tax on the sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S.

SECTION 6. 32-9-119 (2) (a), Colorado Revised Statutes, is amended to read:

32-9-119. Additional powers of district. (2) (a) To provide revenue to finance the operations of the district, to defray the cost of construction of capital improvements and acquisition of capital equipment, and to pay the interest and principal on securities of the district, the board, for and on behalf of the district after approval by election held pursuant to articles 1 to 13 of title 1, C.R.S., shall have the power to levy uniformly throughout the district a sales tax at the rate of six-tenths of one percent, or at the rate of one percent if approved by the eligible electors of the district in accordance with section 32-9-119.4, upon every transaction or other incident with respect to which a sales tax is now levied by the state, pursuant to the

provisions of article 26 of title 39, C.R.S.; except that:

(I) Such sales tax may be levied on vending machine sales of food that are otherwise exempt pursuant to ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S., and on purchases of machinery or machine tools that are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S.;

(II) The board shall continue to levy a sales tax on the sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S.

SECTION 7. 32-13-105 (1) and (4) (a), Colorado Revised Statutes, are amended to read:

32-13-105. Authorizing elections. (1) The district created in section 32-13-104 may submit to the registered electors within the geographical boundaries of the district, at one or more general elections, the question of whether the district shall be authorized to levy and collect the following sales and use taxes:

(a) A uniform sales and use tax throughout said geographical area at a rate of sixty-five one-thousandths of one percent upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S., except such sales and use tax shall be levied on purchases of machinery or machine tools which are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., to be distributed to the Denver museum of natural history, the Denver zoological gardens, the Denver art museum, and the Denver botanical gardens, pursuant to the provisions of section 32-13-107 (3) (a);

(b) A uniform sales and use tax throughout said geographical area at a rate of twenty-five one-thousandths of one percent upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S., except such sales and use tax shall be levied on purchases of machinery or machine tools ~~which~~ THAT are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., to be distributed to scientific and cultural facilities pursuant to the provisions of section 32-13-107 (3) (b);

(c) A uniform sales and use tax throughout said geographical area at a rate of ten one-thousandths of one percent upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S., except such sales and use tax shall be levied on purchases of machinery or machine tools ~~which~~ THAT are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., to be distributed to scientific and cultural facilities pursuant to the provisions of section 32-13-107 (3) (c).

(4) (a) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution and upon proper submittal of a valid initiative petition to or upon the adoption of a resolution by the board of the district created in section 32-13-104, the district may submit to the registered electors within the geographical boundaries of the district, at a general election or an election held on the first Tuesday in November of an odd-numbered year, the question of whether the district shall be authorized to levy and collect the following sales and use taxes in lieu of the sales and use taxes specified in subsection (1) of this section for a period of time not to exceed ten years from the date upon which the authority of the district to levy and collect the sales and use taxes specified in subsection (1) of this section is scheduled to expire:

(I) A uniform sales and use tax throughout said geographical area at a rate of fifty-nine one-thousandths of one percent upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S., except such sales and use tax shall be levied on purchases of machinery or machine tools ~~which~~ THAT are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., to be distributed to the Denver museum of natural history, the Denver zoological gardens, the Denver art museum, and the Denver botanical gardens pursuant to the provisions of section 32-13-107 (3) (a);

(II) A uniform sales and use tax throughout said geographical area at a rate of twenty-eight one-thousandths of one percent upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S., except such sales and use tax shall be levied on purchases of machinery or machine tools ~~which~~ THAT are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., to be distributed to scientific and cultural facilities pursuant to the provisions of section 32-13-107 (3) (b);

(III) A uniform sales and use tax throughout said geographical area at a rate of thirteen one-thousandths of one percent upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S., except such sales and use tax shall be levied on purchases of machinery or machine tools ~~which~~ THAT are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., to be distributed to scientific and cultural facilities pursuant to the provisions of section 32-13-107 (3) (c).

SECTION 8. 32-13-107 (1) (a), Colorado Revised Statutes, is amended to read:

32-13-107. Sales and use tax imposed - collection - administration of tax - use. (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), upon the approval of the registered electors pursuant to the provisions of section 32-13-105, the board shall have the power to levy such uniform sales and use taxes throughout the district created in section 32-13-104 upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to

the provisions of article 26 of title 39, C.R.S.; except that such sales and use tax shall be levied on:

(I) Purchases of machinery or machine tools that are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent such sales and purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., on and after the January 1 following the election in which such sales and use taxes were approved;

(II) Sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S.; and

(III) Vending machine sales of food that are otherwise exempt pursuant to ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S.

SECTION 9. 32-14-105 (1), Colorado Revised Statutes, is amended to read:

32-14-105. Authorizing election. (1) The board created in section 32-14-106 may submit to the registered electors within the geographical boundaries of the district, at a general election, at a special election not paid for with public funds, or at a primary election for which the additional cost of the ballot question is prepaid and is not paid with public funds, the question of whether, upon the granting of a major league baseball franchise by major league baseball to be located in the district, the district shall be authorized to levy and collect for a period not to exceed twenty years a uniform sales tax throughout the district at a rate not to exceed one-tenth of one percent upon every transaction or other incident with respect to which a sales tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall be levied on purchases of machinery or machine tools ~~which~~ THAT are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent that such purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., to be held and distributed pursuant to the provisions of section 32-14-115.

SECTION 10. 32-14-114 (1), Colorado Revised Statutes, is amended to read:

32-14-114. Sales tax imposed - collection - administration of tax - discontinuance. (1) Upon the approval of the registered electors pursuant to the provisions of section 32-14-105 and upon the granting of a major league baseball franchise by major league baseball to be located in the district, the board shall have the power to levy such uniform sales tax for a period not to exceed twenty years throughout the district created in section 32-14-104 upon every transaction or other incident with respect to which a sales tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall be levied on:

(a) Purchases of machinery or machine tools that are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent that such sales and purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., on and after the January 1 following the adoption of a resolution by the board;

(b) Sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION 39-26-719 (1), C.R.S.; and

(c) Vending machine sales of food that are otherwise exempt pursuant to ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S.

SECTION 11. 32-15-107 (1) (a) (I) (A), Colorado Revised Statutes, is amended to read:

32-15-107. Authorizing election. (1) (a) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution and upon receipt of a notice from the secretary of state stating that a valid petition has been filed and verified and the adoption of a resolution by the board as set forth in section 32-15-106 (1) (f), the board may submit to the registered electors within the geographical boundaries of the district, at the 1998 general election, the question of whether the district shall be authorized:

(I) (A) To levy and collect, for a period commencing after the termination of the sales tax levied and collected by the Denver metropolitan major league baseball stadium district pursuant to section 32-14-105 and continuing for a period not to extend beyond January 1, 2012, a uniform sales tax throughout the district at a rate not to exceed one-tenth of one percent upon every transaction or other incident with respect to which a sales tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall be levied on purchases of machinery or machine tools that are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent that such purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S., to be held and distributed pursuant to the provisions of section 32-15-111; and

SECTION 12. 32-15-110 (1), Colorado Revised Statutes, is amended to read:

32-15-110. Sales tax imposed - collection - administration of tax - discontinuance. (1) Upon the approval of the registered electors pursuant to the provisions of section 32-15-107, the board shall have the power to levy such uniform sales tax upon the adoption of a resolution for a period commencing after the termination of the sales tax levied and collected by the Denver metropolitan major league baseball stadium district pursuant to section 32-14-105 and continuing for a period not to extend beyond January 1, 2012, throughout the district created in section 32-15-104 upon every transaction or other incident with respect to which a sales tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall be levied on:

(a) Purchases of machinery or machine tools that are otherwise exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1), C.R.S., to the extent that such sales and purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1) (d), C.R.S.;

(b) Sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in ~~section 39-26-114 (22)~~ SECTION

39-26-719 (1), C.R.S.; and

(c) Vending machine sales of food that are otherwise exempt pursuant to ~~section 39-26-114 (7.5)~~ SECTION 39-26-714 (2), C.R.S.

SECTION 13. 35-9-118 (4.5), Colorado Revised Statutes, is amended to read:

35-9-118. Powers and duties of the commissioner. (4.5) No later than January 1, 2003, the commissioner shall advise the senate and house agriculture committees of the general assembly regarding the effectiveness of the exemption of certain pesticides from the state sales and use tax pursuant to ~~sections 39-26-114 (23) and 39-26-203 (1) (mm)~~ SECTIONS 39-26-716 (2) (e) AND 39-26-716 (3) (e), C.R.S., in increasing sales of such pesticides by Colorado pesticide dealers and reducing purchases by Colorado purchasers of such pesticides from sources outside of Colorado. No later than January 1, 2000, the commissioner shall make recommendations to said committees regarding the elimination of the state sales and use tax on commercial fertilizers, soil conditioners, plant amendments, agricultural liming materials, and other compounds used in the production of agricultural and livestock products.

SECTION 14. 39-21-113 (13), Colorado Revised Statutes, is amended to read:

39-21-113. Reports and returns. (13) Notwithstanding the provisions of this section, the executive director shall provide the aeronautics division created in section 43-10-103, C.R.S., with information obtained from an audit of or disclosed in any document, report, or return filed in connection with any of the taxes collected pursuant to ~~sections 39-26-104, 39-26-114 (1) (a) (VII), 39-26-202, 39-27-102, and 39-27-112~~ SECTIONS 39-26-104, 39-26-715 (1) (a) (I), 39-26-202, 39-27-102, AND 39-27-112 on gasoline or fuel used in aviation. The department shall only release information regarding the portion of said tax revenues that will be credited to the aviation fund created in section 43-10-109, C.R.S. Any information provided to the division pursuant to this subsection (13) shall remain confidential, and all employees of the division shall be subject to the limitations set forth in subsection (4) of this section and the penalties contained in subsection (6) of this section.

SECTION 15. 39-26-102 (1.3) and (23), Colorado Revised Statutes, are amended to read:

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

(1.3) "Auction sale" means any sale conducted or transacted at a permanent place of business operated by an auctioneer or a sale conducted and transacted at any location where tangible personal property is sold by an auctioneer when such auctioneer is acting either as agent for the owner of such personal property or is in fact the owner thereof. The auctioneer at any sale defined in subsection (11) of this section, except when acting as an agent for a duly licensed retailer or vendor or when selling only tangible personal property ~~which~~ THAT is exempt under the provisions of ~~section 39-26-114 (5) and (6)~~ SECTION 39-26-716 (4) (a) AND (4) (b), is a retailer or vendor as defined in subsection (8) of this section and the sale made by the auctioneer is a retail sale as defined in subsection (9) of this section, and the business conducted

by said auctioneer in accomplishing such sale is the transaction of a business as defined by subsection (2) of this section.

(23) Except as provided in ~~section 39-26-114 (1) (a) (XII)~~ SECTION 39-26-713 (1) (a), when right to continuous possession or use for more than three years of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made, such lease or contract shall be considered the sale of such article, and the tax shall be computed and paid by the vendor upon the rentals paid.

SECTION 16. 39-26-126, Colorado Revised Statutes, is amended to read:

39-26-126. Legislative finding as to revenues for old age pension fund. The general assembly finds that ~~sections 39-26-105 (1), 39-26-106 (2) (a), 39-26-109, 39-26-112, and 39-26-114 (1) (a) (V) and (7)~~ SECTIONS 39-26-105 (1), 39-26-106 (2) (a), 39-26-109, 39-26-112, 39-26-717 (1), AND 39-26-714 (1) repeal no law that provides revenue for the old age pension fund and amend no law so as to reduce the revenue provided for the old age pension fund, except as is allowed by article XXIV of the state constitution.

SECTION 17. 39-26-204 (2), Colorado Revised Statutes, is amended to read:

39-26-204. Periodic return - collection. (2) Every retailer doing business in this state and making sales of tangible personal property for storage, use, or consumption in the state, and not exempted as provided in ~~section 39-26-203~~ PART 7 OF THIS ARTICLE, at the time of making such sales or taking the orders therefor, or, if the storage, use, or consumption of such tangible personal property is not then taxable under this part 2, then at the time such storage, use, or consumption becomes taxable under this part 2, shall collect the tax imposed by section 39-26-202, from the purchaser and give to the purchaser a receipt therefor, which receipt shall identify the property, the date sold or the date ordered, and the tax collected and paid. The tax required to be collected by such retailer from such purchaser shall be displayed separately from the advertised price listed on the forms or advertising matter on all sales checks, orders, sales slips, or other proof of sales.

SECTION 18. 39-26-601 (1), Colorado Revised Statutes, is amended to read:

39-26-601. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Qualified taxpayer" means a natural person, 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, including machinery, as defined in ~~section 39-26-114 (11) (c) (I)~~ SECTION 39-26-709 (1) (c) (I), that is or will be used in Colorado directly and predominantly for research and development or in a combined activity of research and development and manufacturing that is exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1).

SECTION 19. 39-26-602 (1), (2), and (3), Colorado Revised Statutes, are

amended to read:

39-26-602. Fiscal years commencing on or after July 1, 2002 - temporary refund of state sales and use tax paid for tangible personal property used for research and development to refund state revenues exceeding TABOR limit - application requirements and procedures - legislative declaration. (1) The general assembly finds and declares that providing a refund of state sales and use tax paid in connection with the sale, purchase, storage, use, or consumption of tangible personal property, including machinery as defined in ~~section 39-26-114 (11) (c) (I)~~ SECTION 39-26-709 (1) (c) (I), used in Colorado directly and predominantly for research and development or in a combined activity of research and development and manufacturing that is exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1) is a reasonable method of refunding a portion of the excess state revenues required to be refunded in accordance with section 20 (7) (d) of article X of the state constitution.

(2) (a) Subject to the provisions of subsection (6) of this section, for the state fiscal year commencing on July 1, 2002, if, based on the financial report prepared by the controller in accordance with section 24-77-106.5, C.R.S., the controller certifies that the amount of state revenues for said state fiscal year exceeds the limitation on state fiscal year spending imposed by section 20 (7) (a) of article X of the state constitution for said state fiscal year and the voters statewide either have not authorized the state to retain and spend all of the excess state revenues for that state fiscal year or have authorized the state to retain and spend only a portion of the excess state revenues for that state fiscal year, each qualified taxpayer shall be allowed to claim a refund in an amount equal to fifty percent of all state sales and use tax paid by the qualified taxpayer pursuant to parts 1 and 2 of this article during that state fiscal year on the sale, purchase, storage, use, or consumption of tangible personal property, including machinery as defined in ~~section 39-26-114 (11) (c) (I)~~ SECTION 39-26-709 (1) (c) (I), that is or will be used in Colorado directly and predominantly for research and development or in a combined activity of research and development and manufacturing that is exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1).

(b) Subject to the provisions of subsection (6) of this section, for state fiscal years commencing on or after July 1, 2003, if, based on the financial report prepared by the controller in accordance with section 24-77-106.5, C.R.S., the controller certifies that the amount of state revenues for said state fiscal year exceeds the limitation on state fiscal year spending imposed by section 20 (7) (a) of article X of the state constitution for said state fiscal year and the voters statewide either have not authorized the state to retain and spend all of the excess state revenues for that state fiscal year or have authorized the state to retain and spend only a portion of the excess state revenues for that state fiscal year, each qualified taxpayer shall be allowed to claim a refund in an amount equal to all state sales and use tax paid by the qualified taxpayer pursuant to parts 1 and 2 of this article during that state fiscal year on the sale, purchase, storage, use, or consumption of tangible personal property, including machinery as defined in ~~section 39-26-114 (11) (c) (I)~~ SECTION 39-26-709 (1) (c) (I), that is or will be used in Colorado directly and predominantly for research and development or in a combined activity of research and development and manufacturing that is exempt pursuant to ~~section 39-26-114 (11)~~ SECTION 39-26-709 (1).

(3) To claim the refund allowed by subsection (2) 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 state fiscal year immediately following the state fiscal 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 on the sale, purchase, storage, use, or consumption of tangible personal property, including machinery as defined in ~~section 39-26-114 (1) (c) (I)~~ SECTION 39-26-709 (1) (c) (I), that is or will be used in Colorado directly and predominantly for research and development or in a combined activity of research and development and manufacturing that is exempt pursuant to ~~section 39-26-114 (1) (I)~~ SECTION 39-26-709 (1). 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 upon request. No refund shall be allowed if the qualified taxpayer has not complied with the provisions of this subsection (3).

SECTION 20. 39-28-113, Colorado Revised Statutes, is amended to read:

39-28-113. Provisions not applicable. The provisions of ~~section 39-26-114 (1) (a) (IV)~~ SECTION 39-26-706 (1) (a), relating to exemption from the "Emergency Sales Tax Act of 1935", and ~~section 39-26-203 (1) (j)~~ SECTION 39-26-706 (1) (b), relating to exemption from the use tax, shall not apply to or render inoperative the provisions of this article.

SECTION 21. 39-30-106 (1) (b), Colorado Revised Statutes, is amended to read:

39-30-106. Sales and use tax - machinery and equipment exempted. (1) (b) The provisions of ~~section 39-26-114 (1) (I)~~ SECTION 39-26-709 (1) shall govern the administration of this subsection (1), except to the extent that such section and this subsection (1) are inconsistent. For purposes of this section, in addition to the definition of "manufacturing" found in ~~section 39-26-114 (1) (c) (II)~~ SECTION 39-26-709 (1) (c) (II), "manufacturing" shall include refining, blasting, exploring, mining and mined land reclamation, quarrying for, processing and beneficiation, or otherwise extracting from the earth or from waste or stockpiles or from pits or banks any natural resource.

SECTION 22. 43-10-109 (3), Colorado Revised Statutes, is amended to read:

43-10-109. Aviation fund created. (3) On and after July 1, 2003, the moneys in the fund are hereby continuously appropriated to the division for the purposes authorized by law; except that, in each fiscal year, the general assembly shall appropriate an amount not to exceed five percent of the total amount of revenues credited to the fund pursuant to section 39-27-112 (2) (b), C.R.S., and subsection (2) of this section during the preceding fiscal year to be used to defray any administrative costs incurred by the division and the board in implementing and administering the provisions of this article. Any monetary penalties collected pursuant to section 24-46.6-103 (1) (b), C.R.S., are continuously appropriated to the division to defray

any administrative expenses incurred by the division and the board in enforcing the provisions of section 24-46.6-103 (1), C.R.S. The general assembly shall also appropriate from the fund an amount to the department of revenue for the reasonable expenses incurred in administering ~~sections 39-26-114 (1) (a) (VII) and 39-26-203 (1) (c)~~ SECTION 39-26-715 (1) (a) (I) AND (2) (a), C.R.S., and as provided in section 39-27-112 (2) (b), C.R.S.

SECTION 23. 43-10-110 (2) (b), Colorado Revised Statutes, is amended to read:

43-10-110. Revenues in aviation fund - disbursements. (2) (b) The transfer of moneys pursuant to this subsection (2) shall be based upon monthly reports made by the department of revenue, pursuant to the provisions of ~~sections 39-26-114 (1) (a) (VII), 39-26-203 (1) (c), and 39-27-102 (1) (a) (IV) (C)~~ SECTIONS 39-26-715 (1) (a) (I) AND (2) (a) AND 39-27-102 (1) (a) (IV) (C), C.R.S., and transmitted to the division. Such moneys shall only be used for aviation purposes. Each entity operating a public-accessible airport that receives moneys pursuant to the provisions of this subsection (2) shall submit an annual report to the division providing information concerning the aviation purposes for which the moneys have been used. Moneys in the fund derived from the sale of gasoline and aviation fuel at airports not qualified to receive revenue pursuant to the provisions of this subsection (2) shall remain in the fund.

SECTION 24. Effective date. This act shall take effect July 1, 2004.

SECTION 25. 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 21, 2004