

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0744.01 Esther van Mourik x4215

HOUSE BILL 19-1240

HOUSE SPONSORSHIP

Kraft-Tharp and Van Winkle,

SENATE SPONSORSHIP

Court and Tate,

House Committees

Business Affairs & Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING SALES AND USE TAX ADMINISTRATION, AND, IN
102 CONNECTION THEREWITH, ESTABLISHING ECONOMIC NEXUS FOR
103 RETAILERS WITHOUT PHYSICAL PRESENCE IN THE STATE,
104 CODIFYING THE DESTINATION SOURCING RULE WITH A
105 SPECIFIED EXCEPTION, REQUIRING MARKETPLACE
106 FACILITATORS TO COLLECT AND REMIT SALES TAX FOR SALES
107 MADE BY MARKETPLACE SELLERS ON THE MARKETPLACE
108 FACILITATOR'S MARKETPLACE, AND REPEALING OBSOLETE
109 STATUTORY REFERENCES TO REMOTE SELLERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that

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

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

The bill:

- ! Establishes economic nexus for purposes of retail sales made by retailers without physical presence and specifies that the economic nexus does not apply for sales made by such retailers prior to June 1, 2019;
- ! Codifies the department of revenue's destination sourcing rule for state sales tax collection, for sales taxes imposed by any statutory incorporated town, city, or county, and for special districts, but specifies that a small retailer may source its sales to the business' location regardless of where the purchaser receives the tangible personal property or service until a geographic information system provided by the state is online and available for the retailer to determine the taxing jurisdiction in which an address resides;
- ! Requires marketplace facilitators to collect and remit sales tax on behalf of marketplace sellers that enter into a contract with a marketplace facilitator that facilitates the sale of the marketplace seller's tangible personal property, commodities, or services through the marketplace facilitator's marketplace and also:
 - ! Allows marketplace facilitators to retain the vendor fee for the collection and remittance of the sales tax on sales made by marketplace sellers on its marketplace;
 - ! Provides the marketplace facilitator with audit relief if the marketplace facilitator can demonstrate to the satisfaction of the executive director of the department of revenue that it made a reasonable effort to obtain accurate information regarding the obligation to collect tax from the marketplace seller; and
 - ! Specifies that the marketplace seller does not have the liabilities, obligations, and rights of a retailer if the marketplace facilitator is required to collect and remit sales tax on its behalf, including licensing, collection, and remittance requirements; and
- ! Repeals outdated references to remote sales and remote sellers that were added pursuant to House Bill 13-1295 but are not applicable because Congress never enacted an act that authorizes states to require certain retailers to pay, collect, or remit state or local sales taxes.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-102, **amend**
3 (3), (5.8), (6), and (8); **repeal** (5.7), (7.6), and (7.7); and **add** (5.9), (6.1),
4 (6.2), and (6.3) as follows:

5 **39-26-102. Definitions.** As used in this article 26, unless the
6 context otherwise requires:

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

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

20 (b) The soliciting, either by direct representatives, indirect
21 representatives, manufacturers' agents, or by distribution of catalogues or
22 other advertising, or by use of any communication media, or by use of the
23 newspaper, radio, or television advertising media, or by any other means
24 whatsoever, of business from persons residing in this state and by reason
25 thereof receiving orders from, or selling or leasing tangible personal
26 property to, such persons residing in this state for use, consumption,

1 distribution, and storage for use or consumption in this state.

2 (c) **Economic nexus.** (I) ~~A remote seller doing business in this~~
3 ~~state with respect to any remote sale subject to tax in accordance with~~
4 ~~section 39-26-104 (2)~~ EXCEPT AS PROVIDED IN SUBSECTION (3)(c)(II) OF
5 THIS SECTION, A PERSON IS DOING BUSINESS IN THIS STATE IN A CALENDAR
6 YEAR:

7 (A) IF IN THE PREVIOUS CALENDAR YEAR THE PERSON HAS MADE
8 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR
9 SERVICES IN THE STATE AS SPECIFIED IN SECTION 39-26-104 (3),
10 EXCEEDING ONE HUNDRED THOUSAND DOLLARS; OR

11 (B) ON AND AFTER THE FIRST DAY OF THE MONTH AFTER THE
12 NINETIETH DAY AFTER THE PERSON HAS MADE RETAIL SALES OF TANGIBLE
13 PERSONAL PROPERTY, COMMODITIES, OR SERVICES IN THE STATE AS
14 SPECIFIED IN SECTION 39-26-104 (3), IN THE CURRENT CALENDAR YEAR
15 THAT EXCEED ONE HUNDRED THOUSAND DOLLARS.

16 (II) FOR PURPOSES OF DETERMINING WHETHER THE THRESHOLDS
17 SET FORTH IN SUBSECTION (3)(c)(I) OF THIS SECTION ARE MET:

18 (A) RETAIL SALES MADE BY A PERSON PRIOR TO JUNE 1, 2019, ARE
19 NOT INCLUDED;

20 (B) A MARKETPLACE FACILITATOR SHALL INCLUDE ALL SALES
21 MADE BY MARKETPLACE SELLERS IN AND THROUGH ITS MARKETPLACE;
22 AND

23 (C) A MARKETPLACE SELLER SHALL NOT INCLUDE ANY SALES
24 MADE IN OR THROUGH A MARKETPLACE FACILITATOR'S MARKETPLACE.

25 ~~(d) Presumptive physical presence - component member with~~
26 ~~physical presence.~~ (I) A person is presumed to be doing business in this
27 state if such person is part of a controlled group of corporations, and that

1 ~~controlled group has a component member, other than a common carrier~~
2 ~~acting in its capacity as such, that has physical presence in this state and~~
3 ~~such component member with physical presence:~~

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

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

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

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

19 ~~(E) Facilitates the delivery of tangible personal property to in-state~~
20 ~~customers of the person against whom the presumption is asserted by~~
21 ~~allowing such customers to pick up tangible personal property sold by~~
22 ~~such person at an office, distribution facility, salesroom, warehouse,~~
23 ~~storage place, or other similar place of business maintained in this state.~~

24 ~~(H) For purposes of this paragraph (d), "controlled group of~~
25 ~~corporations" has the same meaning as set forth in section 1563 (a) of the~~
26 ~~federal "Internal Revenue Code of 1986", as amended, and "component~~
27 ~~member" has the same meaning as set forth in section 1563 (b) of the~~

1 federal "Internal Revenue Code of 1986", as amended. "Controlled group
2 of corporations" and "component member" also include any entity that,
3 notwithstanding its form of organization, bears the same ownership
4 relationship to the person against whom the presumption is asserted as a
5 corporation that would qualify as a component member of the same
6 controlled group of corporations as the person against whom the
7 presumption is asserted.

8 (HH) ~~The presumption set forth in subparagraph (I) of this~~
9 ~~paragraph (d) may be rebutted by proof that, during the calendar year in~~
10 ~~question, the component member with physical presence did not engage~~
11 ~~in any activities in this state that are sufficient under United States~~
12 ~~constitutional standards to establish nexus in this state on behalf of the~~
13 ~~person against whom the presumption is asserted.~~

14 ~~(c) **Presumptive physical presence - agreement or**~~
15 ~~**arrangement with a person with physical presence.** (I) Except as~~
16 ~~provided in subparagraph (HH) of this paragraph (c), a person is presumed~~
17 ~~to be doing business in this state if such person against whom the~~
18 ~~presumption is asserted enters into an agreement or arrangement with a~~
19 ~~person who has physical presence in this state, other than a common~~
20 ~~carrier acting in its capacity as such, for that person who has physical~~
21 ~~presence to:~~

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

25 (B) ~~Maintain an office, distribution facility, salesroom,~~
26 ~~warehouse, storage place, or other similar place of business in this state~~
27 ~~to facilitate the delivery of tangible personal property or taxable services~~

1 sold by the person against whom the presumption is asserted to such
2 person's in-state customers;

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

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

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

18 ~~(HH) **Activity to which presumption does not apply.** The~~
19 ~~presumption established in subparagraph (I) of this paragraph (e) does not~~
20 ~~apply to the following agreements or arrangements:~~

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

25 ~~(B) **Affiliate marketing agreements.** An agreement or~~
26 ~~arrangement between an in-state independent contractor or other~~
27 ~~representative and a person without direct in-state physical presence~~

1 under which such independent contractor or other representative, for a
2 cost per action, including but not limited to a commission or other
3 consideration based on completed sales, directly or indirectly refers
4 potential customers through internet promotional methods to the person
5 without direct in-state physical presence; or

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

11 ~~(5.7) (a) "Local taxing jurisdiction" means a city, town,~~
12 ~~municipality, county, special district, or authority authorized to levy a~~
13 ~~sales tax pursuant to title 24, 25, 29, 30, 31, 32, 37, 42, or 43, C.R.S., and~~
14 ~~any municipality governed by a home rule charter that passes an~~
15 ~~ordinance, resolution, or charter provision accepting the state's~~
16 ~~administration and distribution of its local sales tax on remote sales that~~
17 ~~is collected and remitted by remote sellers in conformance with the~~
18 ~~provisions of House Bill 13-1295.~~

19 ~~(b) Any municipality governed by a home rule charter that passes~~
20 ~~an ordinance, resolution, or charter provision accepting the state's~~
21 ~~administration and distribution of its local sales tax on remote sales that~~
22 ~~is collected and remitted by remote sellers in conformance with the~~
23 ~~provisions of House Bill 13-1295 must provide a copy of such ordinance,~~
24 ~~resolution, or charter provision to the department of revenue no later than~~
25 ~~thirty days after its adoption.~~

26 ~~(5.8) "Medical marijuana" shall have the same meaning as set~~
27 ~~forth in section 44-11-104 (11) "MARKETPLACE" MEANS A PHYSICAL OR~~

1 ELECTRONIC FORUM WHERE TANGIBLE PERSONAL PROPERTY,
2 COMMODITIES, OR SERVICES ARE OFFERED FOR SALE.

3 (5.9) (a) "MARKETPLACE FACILITATOR" MEANS A PERSON WHO
4 CONTRACTS WITH A MARKETPLACE SELLER TO FACILITATE FOR
5 CONSIDERATION, REGARDLESS OF WHETHER THE CONSIDERATION IS
6 DEDUCTED AS FEES FROM THE TRANSACTION, THE SALE OF THE
7 MARKETPLACE SELLER'S TANGIBLE PERSONAL PROPERTY, COMMODITIES,
8 OR SERVICES THROUGH A MARKETPLACE AND WHO:

9 (I) ENGAGES DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE
10 AFFILIATED PERSONS, IN ANY OF THE FOLLOWING:

11 (A) TRANSMITTING OR OTHERWISE COMMUNICATING THE OFFER OR
12 ACCEPTANCE BETWEEN THE PURCHASER AND THE MARKETPLACE SELLER;

13 (B) OWNING OR OPERATING THE INFRASTRUCTURE, ELECTRONIC
14 OR PHYSICAL, OR TECHNOLOGY THAT BRINGS PURCHASERS AND
15 MARKETPLACE SELLERS TOGETHER;

16 (C) PROVIDING A VIRTUAL CURRENCY THAT BUYERS ARE ALLOWED
17 OR REQUIRED TO USE TO PURCHASE PRODUCTS FROM THE MARKETPLACE
18 SELLER; OR

19 (D) DEVELOPING SOFTWARE OR PARTICIPATING IN RESEARCH AND
20 DEVELOPMENT ACTIVITIES RELATED TO ANY OF THE ACTIVITIES DESCRIBED
21 IN SUBSECTION (5.9)(a)(II) OF THIS SECTION, IF SUCH DEVELOPMENT OR
22 ACTIVITIES ARE DIRECTLY RELATED TO A PHYSICAL OR ELECTRONIC
23 MARKETPLACE OPERATED BY THE PERSON OR AN AFFILIATED PERSON; AND

24 (II) ENGAGES IN ANY OF THE FOLLOWING ACTIVITIES WITH
25 RESPECT TO THE MARKETPLACE SELLER'S PRODUCTS:

26 (A) PAYMENT PROCESSING SERVICES;

27 (B) FULFILLMENT OR STORAGE SERVICES;

- 1 (C) LISTING PRODUCTS FOR SALE;
- 2 (D) SETTING PRICES;
- 3 (E) BRANDING SALES AS THOSE OF THE MARKETPLACE
- 4 FACILITATOR;
- 5 (F) ORDER TAKING;
- 6 (G) ADVERTISING OR PROMOTION;
- 7 (H) PROVIDING CUSTOMER SERVICE; OR
- 8 (I) ACCEPTING OR ASSISTING WITH RETURNS OR EXCHANGES.

9 (b) NOTWITHSTANDING SUBSECTION (5.9)(a)(II) OF THIS SECTION,
10 AND IN ADDITION TO THE OTHER PROVISIONS SPECIFIED IN THIS
11 SUBSECTION (5.9), THE DEPARTMENT OF REVENUE MAY ADOPT A RULE, IN
12 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, THAT REQUIRES A RETAILER TO
13 ENGAGE IN PAYMENT PROCESSING SERVICES IN ORDER TO QUALIFY AS A
14 MARKETPLACE FACILITATOR.

15 (6) ~~"Person" includes any individual, firm, limited liability~~
16 ~~company, partnership, joint venture, corporation, estate, or trust or any~~
17 ~~group or combination acting as a unit, and the plural as well as the~~
18 ~~singular number~~ "MARKETPLACE SELLER" MEANS A PERSON, REGARDLESS
19 OF WHETHER THE PERSON IS DOING BUSINESS IN THIS STATE, WHO HAS AN
20 AGREEMENT WITH A MARKETPLACE FACILITATOR AND OFFERS FOR SALE
21 TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES THROUGH A
22 MARKETPLACE OWNED, OPERATED, OR CONTROLLED BY A MARKETPLACE
23 FACILITATOR.

24 (6.1) "MEDICAL MARIJUANA" HAS THE SAME MEANING AS SET
25 FORTH IN SECTION 44-11-104 (11).

26 (6.2) "MULTICHANNEL SELLER" MEANS A RETAILER THAT OFFERS
27 FOR SALE TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES

1 THROUGH A MARKETPLACE OWNED, OPERATED, OR CONTROLLED BY A
2 MARKETPLACE FACILITATOR, AND THROUGH OTHER MEANS.

3 (6.3) "PERSON" INCLUDES ANY INDIVIDUAL, FIRM, LIMITED
4 LIABILITY COMPANY, PARTNERSHIP, JOINT VENTURE, CORPORATION,
5 ESTATE, OR TRUST OR ANY GROUP OR COMBINATION ACTING AS A UNIT,
6 AND THE PLURAL AS WELL AS THE SINGULAR NUMBER.

7 (7.6) ~~"Remote sale" means a sale into this state as specified in~~
8 ~~subsection (9) of this section in which the retailer would not legally be~~
9 ~~required to pay, collect, or remit state or local sales taxes unless provided~~
10 ~~by an act of congress.~~

11 (7.7) ~~"Remote seller" means a person who makes a remote sale;~~
12 ~~except that a remote seller does not include a small seller as defined in an~~
13 ~~act of congress that authorizes states to require certain retailers to pay,~~
14 ~~collect, or remit state or local sales taxes.~~

15 (8) "Retailer" or "vendor" means a person doing business in this
16 state ~~including a remote seller~~, known to the trade and public as such, and
17 selling to the user or consumer, and not for resale, AND INCLUDES A
18 MARKETPLACE FACILITATOR, A MARKETPLACE SELLER, AND A
19 MULTICHANNEL SELLER.

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

22 **39-26-103. Licenses - fee - revocation - definition.** (1) (c) For
23 each license issued, a fee of sixteen dollars shall be paid, which fee shall
24 accompany the application together with an additional fifty-dollar deposit.
25 ~~except that the additional deposit may not be required of a remote seller.~~
26 A further fee of sixteen dollars shall be paid for each two-year period or
27 fraction thereof for which said license is renewed. Payment of a fee for

1 such a license issued after June 30 shall be prorated in increments of six
2 months. The fifty-dollar deposit shall be allowed as a credit against the
3 Colorado sales tax to be remitted. Except for licenses issued pursuant to
4 ~~paragraph (b) of subsection (9)~~ SUBSECTION (9)(b) of this section, all
5 licenses issued pursuant to this section shall be renewed on a biennial
6 basis, effective January 1, 1986.

7 (2) (b) ~~A remote seller is only required to have a single license.~~

8 (7) It is the duty of the executive director of the department of
9 revenue, at the time of issuance of any new license for a retailer who
10 makes retail sales ~~except for a remote seller~~, to notify the county treasurer
11 of the county where the new licensee is located, of the name and address
12 of the licensee.

13 **SECTION 3.** In Colorado Revised Statutes, 39-26-104, **amend**
14 (1) introductory portion; **repeal** (2); and **add** (3) as follows:

15 **39-26-104. Property and services taxed - definitions - repeal.**

16 (1) ~~Except as provided in subsection (2)~~, There is levied and there shall
17 be collected and paid a tax in the amount stated in section 39-26-106 as
18 follows:

19 (2) ~~Upon the effective date of an act of congress that authorizes~~
20 ~~states to require certain retailers to pay, collect, or remit state or local~~
21 ~~sales taxes:~~

22 (a) (1) ~~With respect to remote sales there is levied and there shall~~
23 ~~be collected and paid by remote sellers on every incident subject to tax as~~
24 ~~set forth in subsection (1) of this section, but not including the incidents~~
25 ~~set forth in paragraph (c) of this subsection (2), a tax at the rate specified~~
26 ~~in section 39-26-106. Any exemptions with respect to part 1 of this article~~
27 ~~as set forth in this title are applicable.~~

1 ~~(H) In addition to subparagraph (I) of this paragraph (a), every~~
2 ~~remote seller shall collect and remit, as provided in section 39-26-122.7,~~
3 ~~the sales tax at the general sales tax rate levied by a local taxing~~
4 ~~jurisdiction; except that such sales tax shall only be collected on every~~
5 ~~incident subject to tax as set forth in subsection (1) of this section. Any~~
6 ~~exemptions with respect to part 1 of this article as set forth in this title are~~
7 ~~applicable.~~

8 ~~(b) Notwithstanding any provision of law, a local taxing~~
9 ~~jurisdiction may not collect a sales or use tax on remote sales except as~~
10 ~~provided in this subsection (2).~~

11 ~~(c) Notwithstanding any provision of law, with respect to a local~~
12 ~~taxing jurisdiction, the effective date of any change in the general sales~~
13 ~~tax rate of the local taxing jurisdiction shall be either January 1 or July 1~~
14 ~~following the date of the election in which such a sales tax proposal is~~
15 ~~approved; and notice of the adoption of any sales tax proposal shall be~~
16 ~~submitted by the local taxing jurisdiction to the executive director of the~~
17 ~~department of revenue at least one hundred days prior to the effective date~~
18 ~~of such tax. If such a sales tax proposal is approved at an election held~~
19 ~~less than one hundred five days prior to the January 1 or July 1 following~~
20 ~~the date of election, such sales tax proposal shall not be effective until the~~
21 ~~next succeeding January 1 or July 1.~~

22 ~~(d) For the purpose of the administration by the state of the~~
23 ~~provisions of this subsection (2), each local taxing jurisdiction shall file,~~
24 ~~pursuant to section 29-2-109, C.R.S., with the executive director of the~~
25 ~~department of revenue a copy of each sales tax ordinance or resolution,~~
26 ~~or any amendment thereto, that changes the general sales tax rate~~
27 ~~described in paragraph (a) of this subsection (2), and a copy of any~~

1 ~~ordinance or resolution that changes the local taxing jurisdiction's~~
2 ~~boundaries, no later than one hundred days before the effective date~~
3 ~~thereof.~~

4 (c) ~~Notwithstanding any provisions of law, the following incidents~~
5 ~~are not subject to the collection and payment of sales tax by remote sellers~~
6 ~~as set forth in paragraph (a) of this subsection (2):~~

7 ~~(I) Direct mail advertising materials as defined in section~~
8 ~~39-26-102 (2.8);~~

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

10 ~~(III) Soft drinks as defined in section 39-26-707 (1.5)(b)(II);~~

11 ~~(IV) Nonessential articles as described in section 39-26-707~~
12 ~~(1)(c); and~~

13 ~~(V) Nonessential containers or bags as described in section~~
14 ~~39-26-707 (1)(d).~~

15 (3) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (3)(b) AND (3)(c) OF
16 THIS SECTION, FOR PURPOSES OF DETERMINING WHERE A SALE OF
17 TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES IS MADE, THE
18 FOLLOWING RULES APPLY:

19 (I) IF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES
20 ARE RECEIVED BY THE PURCHASER AT A BUSINESS LOCATION OF THE
21 SELLER, THE SALE IS SOURCED TO THAT BUSINESS LOCATION;

22 (II) IF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES
23 ARE NOT RECEIVED BY THE PURCHASER AT A BUSINESS LOCATION OF THE
24 SELLER, THE SALE IS SOURCED TO THE LOCATION WHERE RECEIPT BY THE
25 PURCHASER OCCURS, INCLUDING THE LOCATION INDICATED BY
26 INSTRUCTIONS FOR DELIVERY TO THE PURCHASER, IF THAT LOCATION IS
27 KNOWN TO THE SELLER;

1 (III) IF SUBSECTIONS (3)(a)(I) AND (3)(a)(II) OF THIS SECTION DO
2 NOT APPLY, THE SALE IS SOURCED TO THE LOCATION INDICATED BY AN
3 ADDRESS FOR THE PURCHASER THAT IS AVAILABLE FROM THE BUSINESS
4 RECORDS OF THE SELLER THAT ARE MAINTAINED IN THE ORDINARY COURSE
5 OF THE SELLER'S BUSINESS, WHEN USE OF THIS ADDRESS DOES NOT
6 CONSTITUTE BAD FAITH;

7 (IV) IF SUBSECTIONS (3)(a)(I), (3)(a)(II), AND (3)(a)(III) OF THIS
8 SECTION DO NOT APPLY, THE SALE IS SOURCED TO THE LOCATION
9 INDICATED BY AN ADDRESS FOR THE PURCHASER OBTAINED DURING THE
10 CONSUMMATION OF THE SALE, INCLUDING, IF NO OTHER ADDRESS IS
11 AVAILABLE, THE ADDRESS OF A PURCHASER'S PAYMENT INSTRUMENT,
12 WHEN USE OF THIS ADDRESS DOES NOT CONSTITUTE BAD FAITH; OR

13 (V) IF SUBSECTIONS (3)(a)(I), (3)(a)(II), (3)(a)(III), AND (3)(a)(IV)
14 OF THIS SECTION DO NOT APPLY, OR IF THE SELLER IS WITHOUT SUFFICIENT
15 INFORMATION TO APPLY THE RULES SET FORTH IN SUBSECTIONS (3)(a)(I),
16 (3)(a)(II), (3)(a)(III), AND (3)(a)(IV) OF THIS SECTION, THE SALE IS
17 SOURCED TO THE LOCATION INDICATED BY THE ADDRESS FROM WHICH THE
18 TANGIBLE PERSONAL PROPERTY, COMMODITY, OR SERVICE WAS SHIPPED.

19 (b) (I) THE LEASE OR RENTAL OF TANGIBLE PERSONAL PROPERTY
20 OR COMMODITIES, BUT NOT PROPERTY IDENTIFIED IN SUBSECTION
21 (3)(b)(II) OR (3)(b)(III) OF THIS SECTION, NOT LEASES OR RENTALS BASED
22 ON A LUMP SUM OR ACCELERATED BASIS, AND NOT ON THE ACQUISITION OF
23 PROPERTY FOR LEASE, ARE SOURCED AS FOLLOWS:

24 (A) FOR A LEASE OR RENTAL THAT REQUIRES RECURRING PERIODIC
25 PAYMENTS, THE FIRST PERIODIC PAYMENT IS SOURCED THE SAME AS A
26 RETAIL SALE IN ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION.
27 PERIODIC PAYMENTS MADE SUBSEQUENT TO THE FIRST PAYMENT ARE

1 SOURCED TO THE PRIMARY PROPERTY LOCATION FOR EACH PERIOD
2 COVERED BY THE PAYMENT. THE PRIMARY PROPERTY LOCATION IS AS
3 INDICATED BY AN ADDRESS FOR THE PROPERTY PROVIDED BY THE LESSEE
4 THAT IS AVAILABLE TO THE LESSOR FROM ITS RECORDS MAINTAINED IN
5 THE ORDINARY COURSE OF BUSINESS, WHEN USE OF THIS ADDRESS DOES
6 NOT CONSTITUTE BAD FAITH. THE PROPERTY LOCATION IS NOT ALTERED BY
7 INTERMITTENT USE AT DIFFERENT LOCATIONS, SUCH AS USE OF BUSINESS
8 PROPERTY THAT ACCOMPANIES EMPLOYEES ON BUSINESS TRIPS AND
9 SERVICE CALLS.

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

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

16 (A) FOR A LEASE OR RENTAL THAT REQUIRES RECURRING PERIODIC
17 PAYMENTS, EACH PERIODIC PAYMENT IS SOURCED TO THE PRIMARY
18 PROPERTY LOCATION. THE PRIMARY PROPERTY LOCATION IS AS INDICATED
19 BY AN ADDRESS FOR THE PROPERTY PROVIDED BY THE LESSEE THAT IS
20 AVAILABLE TO THE LESSOR FROM ITS RECORDS MAINTAINED IN THE
21 ORDINARY COURSE OF BUSINESS, WHEN USE OF THIS ADDRESS DOES NOT
22 CONSTITUTE BAD FAITH. THE LOCATION DOES NOT CHANGE BY
23 INTERMITTENT USE AT DIFFERENT LOCATIONS.

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

27 (III) THE LEASE OR RENTAL OF TRANSPORTATION EQUIPMENT IS

1 SOURCED IN THE SAME MANNER AS A RETAIL SALE IN ACCORDANCE WITH
2 SUBSECTION (3)(a) OF THIS SECTION.

3 (c) (I) A RETAILER SHALL SOURCE ITS SALES TO THE BUSINESS'
4 LOCATION REGARDLESS OF WHERE THE PURCHASER RECEIVES THE
5 TANGIBLE PERSONAL PROPERTY OR SERVICE IN A CALENDAR YEAR:

6 (A) IF IN THE PREVIOUS CALENDAR YEAR THE RETAILER HAS MADE
7 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR
8 SERVICES IN THE STATE TOTALING ONE HUNDRED THOUSAND DOLLARS OR
9 LESS; OR

10 (B) UNTIL THE FIRST DAY OF THE MONTH AFTER THE NINETIETH
11 DAY AFTER THE PERSON HAS MADE RETAIL SALES OF TANGIBLE PERSONAL
12 PROPERTY, COMMODITIES, OR SERVICES IN THE STATE IN THE CURRENT
13 CALENDAR YEAR THAT TOTAL MORE THAN ONE HUNDRED THOUSAND
14 DOLLARS, AFTER WHICH THE SOURCING RULES SET FORTH IN SUBSECTIONS
15 (3)(a) AND (3)(b) OF THIS SECTION APPLY TO ALL SALES MADE BY SUCH
16 RETAILERS ON AND AFTER SUCH DATE.

17 (II) (A) THIS SUBSECTION (3)(c) IS REPEALED EFFECTIVE NINETY
18 DAYS AFTER THE DATE THAT THE REVISOR OF STATUTES IS NOTIFIED BY
19 THE DEPARTMENT OF REVENUE THAT A GEOGRAPHIC INFORMATION
20 SYSTEM, PROVIDED BY THE STATE, IS ONLINE AND AVAILABLE FOR A
21 RETAILER TO USE TO DETERMINE THE TAXING JURISDICTION IN WHICH AN
22 ADDRESS RESIDES. THE DEPARTMENT OF REVENUE SHALL NOTIFY THE
23 REVISOR OF STATUTES NO LATER THAN FIFTEEN DAYS AFTER SUCH A
24 SYSTEM IS ONLINE.

25 (B) THE DEPARTMENT OF REVENUE SHALL IMMEDIATELY NOTIFY
26 THE RETAILERS DESCRIBED IN SUBSECTION (3)(c)(I) OF THIS SECTION THAT
27 THE GEOGRAPHIC INFORMATION SYSTEM DESCRIBED IN SUBSECTION

1 (3)(c)(II)(A) OF THIS SECTION IS ONLINE AND THAT NINETY DAYS AFTER
2 THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES DESCRIBED IN
3 SUBSECTION (3)(c)(II)(A) OF THIS SECTION, THE SOURCING RULES SET
4 FORTH IN SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION WILL APPLY TO
5 ALL SALES MADE BY SUCH RETAILERS ON AND AFTER SUCH DATE.

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

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

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

14 (III) "TRANSPORTATION EQUIPMENT" MEANS:

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

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

25 (C) AIRCRAFT THAT ARE OPERATED BY AIR CARRIERS AUTHORIZED
26 AND CERTIFICATED BY THE UNITED STATES DEPARTMENT OF
27 TRANSPORTATION OR ANOTHER FEDERAL OR FOREIGN AUTHORITY TO

1 ENGAGE IN THE CARRIAGE OF PERSONS OR PROPERTY IN INTERSTATE OR
2 FOREIGN COMMERCE; AND

3 (D) CONTAINERS DESIGNED FOR USE ON AND COMPONENT PARTS
4 ATTACHED OR SECURED ON THE ITEMS SET FORTH IN SUBSECTIONS
5 (3)(d)(III)(A) TO (3)(d)(III)(C) OF THIS SECTION.

6 **SECTION 4.** In Colorado Revised Statutes, 39-26-105, **amend**
7 (1)(a)(I)(A), (1)(b), (1)(c)(I), (1)(c)(II), and (3); **repeal** (1)(a)(II); and **add**
8 (1.5) as follows:

9 **39-26-105. Vendor liable for tax - repeal.** (1) (a) (I) (A) Except
10 as provided in ~~sub-subparagraph (B) of this subparagraph (I) and in~~
11 ~~subparagraph (H) of this paragraph (a)~~ SUBSECTIONS (1)(a)(I)(B) AND
12 (1.5) OF THIS SECTION, every retailer shall, irrespective of the provisions
13 of section 39-26-106, be liable and responsible for the payment of an
14 amount equivalent to two and ninety one-hundredths percent of all sales
15 made on or after January 1, 2001, by the retailer of commodities or
16 services as specified in section 39-26-104.

17 (II) ~~A remote seller shall be liable and responsible for the payment~~
18 ~~of the amounts specified in section 39-26-104 (2)(a).~~

19 (b) ~~(I) Except as provided in subparagraph (H) of this paragraph~~
20 ~~(b),~~ Every retailer shall, before the twentieth day of each month, make a
21 return to the executive director of the department of revenue for the
22 preceding calendar month. The executive director shall determine what
23 information the returns must contain, how the returns must be made, and
24 the type of forms that must be used.

25 ~~(H) Every remote seller shall make a return to the executive~~
26 ~~director of the department of revenue as specified in section 39-26-122.7.~~

27 (c) (I) (A) ~~Except as provided in sub-subparagraph (B) of this~~

1 ~~subparagraph (I)~~, Every retailer shall remit, along with the return required
2 in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS
3 SECTION, an amount equivalent to the percentage on sales as specified in
4 ~~subparagraph (I) of paragraph (a) of this subsection (1)~~ SUBSECTION
5 (1)(a)(I) OF THIS SECTION to the executive director of the department of
6 revenue, less an amount as set forth in ~~subparagraph (H) of this paragraph~~
7 ~~(e)~~ SUBSECTION (1)(c)(II) OF THIS SECTION to cover the retailer's expense
8 in the collection and remittance of said tax.

9 ~~(B) Every remote seller shall remit, along with the return required~~
10 ~~in paragraph (b) of this subsection (1), the amounts specified in section~~
11 ~~39-26-104 (2)(a), less an amount as set forth in subparagraph (H) of this~~
12 ~~paragraph (c) to cover the retailer's expense in the collection and~~
13 ~~remittance of said tax.~~

14 (II) ~~Except as provided in section 39-26-105.3 (8)(b)(III)~~ THE
15 AMOUNT RETAINED BY A RETAILER TO COVER THE RETAILER'S EXPENSE IN
16 COLLECTING AND REMITTING TAX PURSUANT TO THIS SECTION IS THREE
17 AND ONE-THIRD PERCENT OF ALL SALES TAX REPORTED.

18 ~~(A) Except as provided in sub-subparagraph (B), the amount~~
19 ~~retained by a retailer to cover the retailer's expense in collecting and~~
20 ~~remitting tax pursuant to this section shall be three and one-third percent~~
21 ~~of all sales tax reported.~~

22 ~~(B) For a twelve-month period commencing upon the first day of~~
23 ~~the third month following the effective date of any act of congress~~
24 ~~authorizing states to require certain retailers to pay, collect, or remit state~~
25 ~~or local sales tax, the percentage of all sales tax reported as specified in~~
26 ~~sub-subparagraph (A) of this subparagraph (H) shall be reduced by one~~
27 ~~hundred five one-thousandths percentage points.~~

1 (1.5) (a) WITH RESPECT TO SALES OF TANGIBLE PERSONAL
2 PROPERTY, COMMODITIES, OR SERVICES MADE BY MARKETPLACE SELLERS
3 IN OR THROUGH A MARKETPLACE FACILITATOR'S MARKETPLACE, A
4 MARKETPLACE FACILITATOR HAS ALL OF THE LIABILITIES, OBLIGATIONS,
5 AND RIGHTS OF A RETAILER OR VENDOR UNDER SUBSECTION (1) OF THIS
6 SECTION AND THIS ARTICLE 26 WHETHER OR NOT THE MARKETPLACE
7 SELLER, BECAUSE THE MARKETPLACE SELLER IS A MULTICHANNEL SELLER:

8 (I) HAS OR IS REQUIRED TO HAVE A LICENSE UNDER SECTION
9 39-26-103; OR

10 (II) WOULD HAVE BEEN REQUIRED TO COLLECT AND REMIT TAX
11 UNDER THIS ARTICLE 26 HAD THE SALE NOT BEEN MADE IN OR THROUGH
12 THE MARKETPLACE.

13 (b) THE LIABILITIES, OBLIGATIONS, AND RIGHTS SET FORTH IN
14 SUBSECTION (1.5)(a) OF THIS SECTION ARE IN ADDITION TO ANY
15 REQUIREMENTS THE MARKETPLACE FACILITATOR HAS UNDER SUBSECTION
16 (1) OF THIS SECTION IF IT ALSO OFFERS FOR SALE TANGIBLE PERSONAL
17 PROPERTY, COMMODITIES, OR SERVICES THROUGH OTHER MEANS.

18 (c) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION,
19 A MARKETPLACE SELLER, WITH RESPECT TO SALES OF TANGIBLE PERSONAL
20 PROPERTY, COMMODITIES, OR SERVICES MADE IN OR THROUGH A
21 MARKETPLACE FACILITATOR'S MARKETPLACE, DOES NOT HAVE THE
22 LIABILITIES, OBLIGATIONS, OR RIGHTS OF A RETAILER OR VENDOR UNDER
23 SUBSECTION (1) OF THIS SECTION AND THIS ARTICLE 26 IF THE
24 MARKETPLACE SELLER CAN SHOW THAT SUCH SALE WAS FACILITATED BY
25 A MARKETPLACE FACILITATOR:

26 (I) WITH WHOM THE MARKETPLACE SELLER HAS A CONTRACT THAT
27 EXPLICITLY PROVIDES THAT THE MARKETPLACE FACILITATOR WILL

1 COLLECT AND REMIT SALES TAX ON ALL SALES SUBJECT TO TAX UNDER
2 THIS ARTICLE 26; OR

3 (II) FROM WHOM THE MARKETPLACE SELLER REQUESTED AND
4 RECEIVED IN GOOD FAITH A CERTIFICATION THAT THE MARKETPLACE
5 FACILITATOR IS REGISTERED TO COLLECT SALES TAX AND WILL COLLECT
6 SALES TAX ON ALL SALES SUBJECT TO TAX UNDER THIS ARTICLE 26 MADE
7 IN OR THROUGH THE MARKETPLACE FACILITATOR'S MARKETPLACE.

8 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS
9 SECTION, the burden of proving that any retailer is exempt from collecting
10 the tax on any goods sold and paying the same to the executive director
11 of the department of revenue, or from making such returns, shall be on
12 the retailer under such reasonable requirements of proof as the executive
13 director may prescribe.

14 (b) (I) IF A MARKETPLACE FACILITATOR DEMONSTRATES TO THE
15 SATISFACTION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
16 REVENUE THAT THE MARKETPLACE FACILITATOR MADE A REASONABLE
17 EFFORT TO OBTAIN ACCURATE INFORMATION REGARDING THE OBLIGATION
18 TO COLLECT TAX FROM THE MARKETPLACE SELLER AND THAT THE FAILURE
19 TO COLLECT TAX ON ANY TANGIBLE PERSONAL PROPERTY, COMMODITIES,
20 OR SERVICES SOLD WAS DUE TO INCORRECT INFORMATION PROVIDED TO
21 THE MARKETPLACE FACILITATOR BY THE MARKETPLACE SELLER, THEN THE
22 MARKETPLACE FACILITATOR, BUT NOT THE MARKETPLACE SELLER, IS
23 RELIEVED OF LIABILITY UNDER THIS SECTION FOR THE AMOUNT OF THE TAX
24 THE MARKETPLACE FACILITATOR FAILED TO COLLECT, PLUS APPLICABLE
25 PENALTIES AND INTEREST.

26 (II) IF A MARKETPLACE FACILITATOR IS RELIEVED OF LIABILITY
27 UNDER SUBSECTION (3)(b)(I) OF THIS SECTION, THE MARKETPLACE SELLER

1 IS LIABLE UNDER THIS SECTION FOR THE AMOUNT OF TAX THE
2 MARKETPLACE FACILITATOR FAILED TO COLLECT, PLUS APPLICABLE
3 PENALTIES AND INTEREST.

4 (III) THIS SUBSECTION (3)(b) DOES NOT APPLY TO ANY SALE BY A
5 MARKETPLACE FACILITATOR THAT IS NOT FACILITATED ON BEHALF OF A
6 MARKETPLACE SELLER OR THAT IS FACILITATED ON BEHALF OF A
7 MARKETPLACE SELLER WHO IS AN AFFILIATE OF THE MARKETPLACE
8 FACILITATOR.

9 **SECTION 5.** In Colorado Revised Statutes, **repeal** 39-26-122.7.

10 **SECTION 6.** In Colorado Revised Statutes, 39-26-204, **amend**
11 (2) as follows:

12 **39-26-204. Periodic return - collection - repeal.** (2) (a) Every
13 retailer, EXCEPT THOSE RETAILERS DESCRIBED IN SUBSECTION (2)(b) OF
14 THIS SECTION, doing business in this state and making sales of tangible
15 personal property for storage, use, or consumption in the state, and not
16 exempted as provided in part 7 of this ~~article~~ ARTICLE 26, at the time of
17 making such sales or taking the orders therefor, or, if the storage, use, or
18 consumption of such tangible personal property is not then taxable under
19 this part 2, then at the time such storage, use, or consumption becomes
20 taxable under this part 2, AND SOURCED AS PROVIDED IN SECTION
21 39-26-104 (3), shall collect the tax imposed by section 39-26-202, from
22 the purchaser and give to the purchaser a receipt therefor, which receipt
23 shall identify the property, the date sold or the date ordered, and the tax
24 collected and paid. The tax required to be collected by such retailer from
25 such purchaser shall be displayed separately from the advertised price
26 listed on the forms or advertising matter on all sales checks, orders, sales
27 slips, or other proof of sales.

1 (b) (I) SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO A
2 RETAILER IN A CALENDAR YEAR:

3 (A) IF IN THE PREVIOUS CALENDAR YEAR THE RETAILER HAS MADE
4 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR
5 SERVICES IN THE STATE TOTALING ONE HUNDRED THOUSAND DOLLARS OR
6 LESS; OR

7 (B) UNTIL THE FIRST DAY OF THE MONTH AFTER THE NINETIETH
8 DAY AFTER A RETAILER HAS MADE RETAIL SALES OF TANGIBLE PERSONAL
9 PROPERTY, COMMODITIES, OR SERVICES IN THE STATE IN THE CURRENT
10 CALENDAR YEAR THAT TOTAL MORE THAN ONE HUNDRED THOUSAND
11 DOLLARS.

12 (II) THIS SUBSECTION (2)(b) IS REPEALED EFFECTIVE NINETY DAYS
13 AFTER THE DATE THAT THE REVISOR OF STATUTES IS NOTIFIED BY THE
14 DEPARTMENT OF REVENUE THAT A GEOGRAPHIC INFORMATION SYSTEM,
15 PROVIDED BY THE STATE, IS ONLINE AND AVAILABLE FOR A RETAILER TO
16 USE TO DETERMINE THE TAXING JURISDICTION IN WHICH AN ADDRESS
17 RESIDES. THE DEPARTMENT SHALL NOTIFY THE REVISOR OF STATUTES NO
18 LATER THAN FIFTEEN DAYS AFTER SUCH A SYSTEM IS ONLINE.

19 **SECTION 7.** In Colorado Revised Statutes, 24-46-303, **amend**
20 (12) as follows:

21 **24-46-303. Definitions.** As used in this part 3, unless the context
22 otherwise requires:

23 (12) "State sales tax increment revenue" means the portion of the
24 revenue derived from state sales taxes, including any revenue attributable
25 to the baseline growth rate, ~~and not including any sales taxes for remote~~
26 ~~sales as specified in section 39-26-104 (2), C.R.S.,~~ collected within a
27 designated regional tourism zone in excess of the amount of base year

1 revenue.

2 **SECTION 8.** In Colorado Revised Statutes, 29-2-105, **amend**
3 (1)(b) as follows:

4 **29-2-105. Contents of sales tax ordinances and proposals -**
5 **repeal.** (1) The sales tax ordinance or proposal of any incorporated town,
6 city, or county adopted pursuant to this article 2 shall be imposed on the
7 sale of tangible personal property at retail or the furnishing of services,
8 as provided in subsection (1)(d) of this section. Any countywide or
9 incorporated town or city sales tax ordinance or proposal shall include the
10 following provisions:

11 (b) A provision that, for the purpose of the sales tax ordinance or
12 proposal enacted in accordance with this ~~article~~ ARTICLE 2, all retail sales
13 are ~~consummated at the place of business of the retailer unless the~~
14 ~~tangible personal property sold is delivered by the retailer or his agent to~~
15 ~~a destination outside the limits of the local taxing entity or to a common~~
16 ~~carrier for delivery to a destination outside the limits of the incorporated~~
17 ~~town, city, or county. The gross receipts from such sales shall include~~
18 ~~delivery charges when such charges are subject to the state sales and use~~
19 ~~tax imposed by article 26 of title 39, C.R.S., regardless of the place to~~
20 ~~which delivery is made. If a retailer has no permanent place of business~~
21 ~~in such incorporated town, city, or county, or has more than one place of~~
22 ~~business, the place at which the retail sales are consummated for the~~
23 ~~purpose of a sales tax imposed by ordinance pursuant to this article shall~~
24 ~~be determined by the provisions of article 26 of title 39, C.R.S., and by~~
25 ~~rules and regulations promulgated by the department of revenue~~ SOURCED
26 AS SPECIFIED IN SECTION 39-26-104 (3).

27 **SECTION 9.** In Colorado Revised Statutes, 30-20-604.5, **amend**

1 (1) as follows:

2 **30-20-604.5. District sales tax.** (1) The board of any county or
3 of any city that has been authorized to become a city and county pursuant
4 to an amendment to the state constitution that has been approved by the
5 registered electors of the state of Colorado and that subsequently becomes
6 a city and county for the purpose of funding all or a portion of the cost of
7 any improvements constructed or transportation services provided
8 pursuant to section 30-20-603 (1)(a), (1)(a.5), and (1)(c), may levy a sales
9 tax throughout the district upon every transaction or other incident with
10 respect to which a sales tax is authorized pursuant to section 29-2-105;
11 ~~C.R.S.~~; except that such tax may be levied only upon those transactions
12 specified in section 39-26-104 (1)(a), (1)(b), (1)(e), and (1)(f). ~~C.R.S. and~~
13 ~~may not include any sales taxes for remote sales as specified in section~~
14 ~~39-26-104 (2), C.R.S.~~ The board may, in its discretion, levy or continue
15 to levy a sales tax on the sales of low-emitting motor vehicles, power
16 sources, or parts used for converting such power sources as specified in
17 section 39-26-719 (1). ~~C.R.S.~~

18 **SECTION 10.** In Colorado Revised Statutes, 31-25-107, **amend**
19 (9)(a)(I) as follows:

20 **31-25-107. Approval of urban renewal plans by local**
21 **governing body - definitions.** (9) (a) Notwithstanding any law to the
22 contrary, any urban renewal plan, as originally approved or as later
23 modified pursuant to this part 1, may contain a provision that the property
24 taxes of specifically designated public bodies, if any, levied after the
25 effective date of the approval of such urban renewal plan upon taxable
26 property in an urban renewal area each year or that municipal sales taxes
27 collected within said area, or both such taxes, by or for the benefit of the

1 designated public body must be divided for a period not to exceed
2 twenty-five years after the effective date of adoption of such a provision,
3 as follows:

4 (I) That portion of the taxes which are produced by the levy at the
5 rate fixed each year by or for each such public body upon the valuation
6 for assessment of taxable property in the urban renewal area last certified
7 prior to the effective date of approval of the urban renewal plan or, as to
8 an area later added to the urban renewal area, the effective date of the
9 modification of the plan, or that portion of municipal sales taxes ~~not~~
10 ~~including any sales taxes for remote sales as specified in section~~
11 ~~39-26-104 (2), C.R.S.~~, collected within the boundaries of said urban
12 renewal area in the twelve-month period ending on the last day of the
13 month prior to the effective date of approval of said plan, or both such
14 portions, shall be paid into the funds of each such public body as are all
15 other taxes collected by or for said public body.

16 **SECTION 11.** In Colorado Revised Statutes, 31-25-807, **amend**
17 (3)(a) introductory portion as follows:

18 **31-25-807. Powers - duties.** (3) (a) Notwithstanding any law to
19 the contrary and subject to the provisions of subparagraph (IV) of this
20 ~~paragraph (a)~~ SUBSECTION (3)(a)(IV) OF THIS SECTION, any such plan of
21 development as originally adopted by the board or as later modified
22 pursuant to this part 8 may, after approval by the governing body of the
23 municipality, contain a provision that taxes, if any, levied after the
24 effective date of the approval of such plan of development by said
25 governing body upon taxable property within the boundaries of the plan
26 of development area each year or that municipal sales taxes ~~not including~~
27 ~~any sales taxes for remote sales as specified in section 39-26-104 (2),~~

1 ~~C.R.S.~~, collected within said area, or both such taxes, by or for the benefit
2 of any public body shall be divided for a period not to exceed thirty years
3 or such longer period as provided for in ~~subparagraph (IV) of this~~
4 ~~paragraph (a)~~ SUBSECTION (3)(a)(IV) OF THIS SECTION after the effective
5 date of approval by said governing body of such a provision, as follows:

6 **SECTION 12.** In Session Laws of Colorado 2013, section 2 of
7 chapter 314, **amend** 39-26-102 (9) as follows:

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

10 **39-26-102. Definitions.** As used in this article, unless the context
11 otherwise requires:

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

25 **SECTION 13.** In Session Laws of Colorado 2013, **repeal** section
26 10 of chapter 314.

27 **SECTION 14.** In Session Laws of Colorado 2013, section 16 of

1 chapter 314, **repeal** (3).

2 **SECTION 15.** In Session Laws of Colorado 2014, **repeal**
3 sections 1 and 2 of chapter 300.

4 **SECTION 16. Effective date.** This act takes effect June 1, 2019.

5 **SECTION 17. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.