

**Federal, State and Intergovernmental Relations (FSIR)  
Meeting  
February 22, 2019  
1:30 PM ♦ Mount Elbert**

**Council Member Charlie Richardson, Chair  
Council Member Marsha Berzins, Vice Chair  
Council Member Crystal Murillo, Member**

**Serve as leaders and partner with other governments and jurisdictions.**

1. Approval of January 24, 2019 Minutes Richardson
2. Neighborhood Services Legislation Request
3. State Legislative Session Bill Review Stephens/LaCrue
4. Miscellaneous Matters for Consideration
5. Set/Confirm Next Meeting Richardson

**Next meeting – March 8, 2019**

## Federal, State and Intergovernmental Relations (FSIR) Meeting

February 8, 2019

Members Present: Council Member Charlie Richardson, Chair; Council Member Marsha Berzins, Vice-Chair; Council Member Crystal Murillo, Member

Others Present: Rachel Allen, Scott Berg, Michael Crews, Zelda DeBoyes, Diana Groetzing, Matthew LaCrue, Debora O'Connor, Nancy Rodgers, Kim Skaggs, Amy Stephens, Trevor Vaughn, Terri Velasquez, Roberto Venegas

1. **APPROVAL OF MINUTES FROM JANUARY 24, 2019 MEETING:** Minutes from January 24, 2019 were approved as written with one amendment: on page 25 regarding electrical inspection, CM Berzins abstained.
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### 2. STATE LEGISLATIVE SESSION BILL REVIEW:

- **House Bill 19-1115: Assault on Detention Workers:** The bill adds to the definition of an "emergency medical care provider" a person providing emergency care at a detention facility. It then adds emergency medical care providers to the list of potential victims of assault in the first or second degree under certain circumstances.

**Discussion:** Per M. LaCrue, this was in judiciary February 7, and there is no agreement among stakeholders on the penalty length upon conviction. The House Judiciary voted to postpone the bill indefinitely.

- **House Bill 19-1096: Colorado Right to Rest:** The bill creates the "Colorado Right to Rest Act", which establishes basic rights for people experiencing homelessness, including but not limited to the right to rest in public spaces, to shelter themselves from the elements, to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of their property.

**Discussion:** Per M. LaCrue, Rep. Melton has pulled the bill and is awaiting the outcome of the Right to Survive initiative which will be on the ballot in Denver. Depending on the outcome of the Denver ballot measure Rep. Melton may bring the bill back next session.

- **House Bill 19-1011: Scope of Manufactured Home Sales Tax Exemption:** Concerning clarification of the scope of an existing sales tax exemption for manufactured homes.

**Discussion:** M. LaCrue stated that we have no position on this.

**Position:** No Position

- **House Bill 19-1037: Colorado Energy Impact Assistance Act:** Concerning energy asset management, and, in connection therewith, authorizing the issuance of low-cost ratepayer-

backed bonds and creating the Colorado energy impact assistance authority to mitigate the impacts of power plant retirements on Colorado workers and communities.

**Discussion:** The bill does not have a local government impact.

**Position:** No Position

- **House Bill 19-1042 Extend Court Jurisdiction for Vulnerable Youth:** The bill extends the jurisdiction of the court for guardianship proceedings and proceedings concerning the allocation of parental responsibilities for certain unmarried youth under 21 years of age who meet the requirements for such orders, as well as criteria specified in the bill, and for whom findings are sought from the court that may support an application for special immigrant juvenile classification under federal law.

**Discussion:** Per M. Crews, staff has yet to comment on the bill.

**Position:** No Position

- **House Bill 19-1064 Victim Notification Criminal Proceedings:** The bill eliminates requirements that victims must opt in to affect their rights in criminal proceedings involving their alleged offender or offender.

**Discussion:** The bill would not have an impact on municipal courts.

**Position/Action:** No Position

- **House Bill 19-1067 Motor Vehicle Tint:** Current law normally requires motor vehicles registered in Colorado to transmit at least 70% of light through the windshield and 27% of light through other windows. The bill requires motor vehicles registered outside Colorado but operated in Colorado to transmit at least 20% of light through windows other than the windshield.

**Discussion:** Per M. LaCrue, a motor vehicles registered in CO must transmit at least 70% of light through its windshield, and 27% of light through other windows. This bill requires motor vehicles registered outside of Colorado but operated in CO to transmit at least 20% of light through windows other than the windshield. CM Richardson asked if this is pro-law enforcement. M LaCrue said that it is. M. Crews said that we don't have a comment back from APD. CM Richardson said that if it's less tint than now thus making it safer for police officers, we will support it.

**Position:** No Position

- **House Bill 19-1084 Notice to Property Owners Whether Area Blighted:** Concerning a requirement that notice of a determination on whether a particular land area is blighted be given to owners of private property within the area.

**Discussion:** Per M. Crews, the City Attorney's Office and Development Services

recommended a monitor Position. Per M. LaCrue, this bill was drafted by CML.

**Position:** No Position

- **House Bill 19-1076 Clean Indoor Air Act Add E-cigarettes Remove Exceptions:** Concerning updates to the "Colorado Clean Indoor Air Act", and, in connection therewith, removing certain exceptions and adding provisions relevant to the use of electronic smoking devices.

**Discussion:** M LaCrue said that this bill changes the distance between a smoking area and public or private property, including at casinos. It also includes e-cigarettes.

T. Vaughn explained that we have five or six hookah bars in Aurora, and if this bill passes in its current format, these businesses will be shut down. Currently they are considered retail tobacco establishments, which is how smoking inside is permitted. His question for Council: do we want that to occur, these businesses closing? CM Richardson asked if they authors of the bill know about hookah businesses; T. Vaughn doesn't think they do.

A. Stephens read that the bills states that "a local authority may pursue a municipal homeroom charter that enacts and enforces the same subject matter, but you can't go less." C. Richardson responded saying that Aurora is extremely diverse; we need to make it so that we can allow for more local control and allow for the hookah businesses – we've had no complaints. R. Venegas then said that the marijuana cigarette lobby is working on a few amendments; Stephens said the same with casinos.

**Position:** Oppose unless amended.

- **House Bill 19-1090: Publicly Licensed Marijuana Companies:** Concerning measures to allow greater investment flexibility in marijuana businesses.

**Discussion:** The bill does not have a local government impact.

**Position:** No Position

- **House Bill 19-1106 Rental Application Fees:** Concerning the rental application process for prospective tenants.

**Discussion:** M. LaCrue explained that the landlord must use the entire application fee amount for admin fees. The renters will have a right to how the fees are being used and can get this information from the landlord upon request. CM Berzins is concerned that this would create even more fees. CRI: need to take this to Council on Feb 25. MB: this would create even more fees. Per CM Richardson, this needs to be taken to Council on February 25, 2019.

**Position:** No Position

- **House Bill 19-1108: Non-resident Electors and Special Districts:** Concerning measures to expand the ability of nonresident electors to participate in the governance of special districts, and, in connection therewith, allowing nonresident electors who own taxable property within the special district to vote in special district elections and allowing such electors to serve on special district boards in a nonvoting capacity

**Discussion:** A. Stephens explained that this means that if you own property here and don't live here, you should be able to vote here, but only in special districts.

**Position:** Monitor

- **House Bill 19-1119: Peace Officer Internal Investigation Open Records:** The bill makes an internal investigation file of a peace officer for in-uniform or on-duty conduct that involves a member of the public subject to an open records request. The bill requires some information to be redacted before complying with the open records request. The bill allows the custodian of the file to first provide a summary of the file to the requester and then allows the requester access to the file after the requester has reviewed the summary.

**Discussion:** Per CM Richardson, this is a lightning rod for the police. APD opposes if asked, and CML opposes. Per CM Richardson, send this to Council in a Study Session.

**Position:** No Position

- **House Bill 19-1143: Distribute Plastic Straws Only upon Request:** Concerning a requirement that a retail food establishment only provide a single-use plastic beverage straw to a customer upon request of the customer.

**Discussion:** City Attorney opposes if asked because there is a specific line in the bill that limits local control. If that line is removed, we'd be neutral. Per M. LaCrue, let CML handle this one. CML opposes.

**Position:** Monitor

- **House Bill 19-1148: Change Maximum Criminal Penalty One Year to 364 Days:** Concerning changing the maximum jail sentence for certain crimes from one year to three hundred sixty-four days.

**Discussion:** M. LaCrue explained that this adds the number of days rather than "one year"; and "one year" will equal 364 days. A. Stephens said that this is a clean-up.

**Position:** No Position

- **House Bill 19-1157 Modify Specific Ownership Tax Rates:** Concerning the modification of specific ownership tax rates, and, in connection therewith, requiring additional specific ownership tax revenue generated by the rate modifications to be credited to the highway users'

tax fund and allocated to the state highway fund, counties, and municipalities in accordance with an existing statutory formula.

**Discussion:** A. Stephens said that the City Attorney's position is "support if asked". M. LaCrue stated that on or after July 1, 2020, the bill modifies the rate of specific ownership tax imposed on motor vehicles, commercial trailers and specific mobile machinery that is less than 25 years old, increasing the total amount of specific ownership tax revenue collected. Additionally, specific modification is transferred to the highway user tax fund. T. Vaughn said this may be more money for the city because it is distribution-based; there is an increase. CRI: come back with more detail. Vaughn: This is distribution-based, but there is an increase. CM Richardson asked that the team come back with more detail before we declare a position.

**Position:** No Position

- **House Bill 19-1167: Remote Notaries Protect Privacy:** Concerning an authorization for notaries public to perform notarial acts using audio-video communication.

**Discussion:** M. LaCrue explained that this bill protects whether one can email the doc to be notarized. We've received no comment yet; he doesn't recommend fighting this battle.

**Position:** No Position

- **Senate Bill 19-004 Address High-cost Health Insurance Pilot Program:** Concerning measures to address the high costs of health insurance in the state, and, in connection therewith, authorizing the state personnel director to implement a pilot program to allow residents of a specified region to participate in state employee medical benefit plans and modifying the health care coverage cooperatives laws to include consumer protections and allow consumers to collectively negotiate rates directly with providers.

**Discussion:** M. LaCrue explained that this is a pilot program mostly for Eagle and Garfield, and will affect other ski towns and the employees who work there.

**Position:** No Position

- **Senate Bill 19-006 Electronic Sales and Use Tax Simplification System:** Concerning an electronic sales and use tax simplification system, and, in connection therewith, requiring the office of information technology to conduct a sourcing method for the development of the system and requiring the department of revenue to establish the implementation of the system for the acceptance of returns and processing of payments for the sales and use tax levied by the state and any local taxing jurisdictions.

**Discussion:** A. Stephens stated that this is the study and "we brought it up at Council"; it is sailing through. T. Vaughn said that we are neutral on this; we're trying to find something that's more simplified for those who file in multiple jurisdictions.

**Position:** No Position

- **Senate Bill 19-012 Use of Electronic Devices while Driving:** Concerning the use of mobile electronic devices while driving

**Discussion:** Per A. Stephens, the bill says you must have a device that props up; the device can be used, but it can't be in your hand. In cup holder or vent holder is fine. This bill would increase ticket fees and take more points off of a violator's license. The Governor signed this, and it was assigned for next week, but there is a lot of pushback. The Police like it, but, the city has an issue because Water and Public Works both use 2-way radios for work, and they would be in violation. Medical is exempted, but others aren't.

**Position:** Monitor

- **Senate Bill 19-014 Organized Retail Theft Prevention:** Concerning measures to reduce incidents of theft from retail establishments.

**Discussion:** M. LaCrue explained that this bill creates a crime of retail theft within these special circumstances:

- The person is, at the time of the theft, in possession of an item, article, implement, or device used or designed to overcome security systems, including but not limited to lined bags or tag removers, under circumstances indicating an intent to use or employ the item, article, implement, or device for such purposes; or
- To facilitate the theft, the person utilizes an organized effort of multiple persons to remove items from the store with the intent to resell the items.

A. Stephens said that Police oppose this because it is more work for the trial courts and local government. The City Attorney has no position.

**Position:** No Position

- **Senate Bill 19-019 County Fireworks Restrictions July 4<sup>th</sup>:** Concerning the power of a county to restrict the use of fireworks during the period between May 31 and July 5 of any year.

**Discussion:** The bill does not have a local government impact.

**Position/Action:** No Position

- **Senate Bill 19-032 Hazardous Materials Transportation Routing:** Concerning the routing of hazardous materials being transported on the roadways of the state.

**Discussion:** R. Venegas explained that this bill allows the highway authorities and their council members to petition independent of the city through which the materials would be transported. Per CM Richardson, we don't want hazardous materials coming through the city without Public Works and Public Safety knowing about it. CM Murillo said that they can only petition through the city right now.

R. Venegas said that they left out the Aurora portion and are trying to get E-470 for support. We are alone in our defense: Adams County is all for it because their streets run along E-470, and Commerce City & Brighton are for it. We've tried to get South Metro Fire, those jurisdictions to no avail. A. Stephens said that they wrote Elaine Chow for her (federal) involvement on this.

**Position:** Monitor

- **Senate Bill 19-049 Statute of Limitation Failure to Report Child Abuse:** Concerning increasing the statute of limitations for certain failure to report child sexual abuse crimes.

**Discussion:** Per M. LaCrue and A. Stephens, we don't want to get involved in this. This got out today and they reduced it from five to three years. CM Richardson agrees that we 'aren't touching that one'.

**Position:** No Position

- **Senate Bill 19-085 Equal Pay for Equal Work Act:** Concerning the creation of the "Equal Pay for Equal Work Act" in order to implement measures to prevent pay disparities.

**Discussion:** M. LaCrue explained that this bill removes the authority of the Director of the Division of Labor Standards and Statistics in the Department of Labor and Employment to enforce wage discrimination complaints based on an employee's sex, and instead permits an aggrieved person to bring a civil action in District Court to pursue remedies specified in the bill.

In addition, the bill allows exceptions to the prohibition against a wage differential based on sex if the employer demonstrates that a wage differential is based upon one or more factors, including a seniority system, merit system or system that measures earnings by quantity or quality of production.

Per M. Crews, HR's comment is to support the concept with recommended changes to CRS-8-5-201, which contains specifics required for promotions and pay decisions that may not be advertised. An example would be to remove a promotion notice that is required prior to the promotion and removing the reference, to having to repost the position when the range rate is outside the posted range. If there is a problem and we want to monitor it, Janet Buckner is on the bill. CM Richardson said that this may make it easier to enforce claims.

**Position:** Monitor

- **Senate Bill 19-103 Legalizing Minors' Businesses:** Concerning the ability of a minor to operate a business on a limited basis without obtaining the approval of a local government.

**Discussion:** T. Vaughn clarified that we don't close lemonade stands. The primary issue with this is that it's a matter of local concern, basically telling Council what they can and cannot license at the state level, and this doesn't appear to be constitutional. A. Stephens warned that this would bad PR; it was for Denver. We should stay away and let CML take it. CML is opposing.



**Position:** No Position

- **House Bill 19-1086 Plumbing Inspections Ensure Compliance:** Current law requires plumbing inspectors employed by qualified state institutions of higher education to possess the same qualifications required of state plumbing inspectors. Section 1 of the bill requires the same of inspectors employed by an incorporated town or city, county, or city and county.

**Discussion:** Per S. Berg, the current scenario is that we have licensed plumbing inspectors and certified plumbers doing inspections; this bill would remove these and have only plumbers do inspections. With Aurora's plumbing staff, it wouldn't work to have just the plumbers do inspections. CM Berzins says this challenges local control. CML is opposing, as shall we.

**Position:** Oppose

- **Senate Bill 19-130: Sales Tax Administration:** Concerning sales tax administration, and, in connection therewith, simplifying the collection of sales tax by retailers without physical presence and reversing the department of revenue's destination sourcing rule for Colorado retailers.

**Discussion:** M. LaCrue read the bill's subtext: 'concerning sales tax administration, and, in connection therewith, simplifying the collection of sales tax by retailers without physical presence and reversing the Department of Revenue's destination sourcing rule for Colorado retailers.' T. Vaughn explained that this is not good as written. It updates language that passed several years ago with the intention of implementation of the Market Fairness Act that never happened. With Wayfair this summer, the rules changed. This bill trying to update that law to make it more current. He further explained that the bill says we have to use the state's base for tax collection from non-physical premise retailers and some digital goods, and we haven't determined that we want to do that. It changes sourcing for in-state businesses; will be non-destination sourced.

The state has a narrow base with many exemptions. This bill overruns electronic simplification application for sales tax; kind of writes a blank check by giving out entire state's vendors' fee. We recommend actively opposing this bill. A. Stephens said that she will ask Bob why he's running this.

**Position:** No Position

- **Senate Bill 19-131 Exempt Certain Businesses from Destination Sourcing Rule:** Concerning an exemption for certain businesses from the destination sourcing rule for sales tax collection requirements.

**Discussion:** Staff did not note any concerns with the bill.

**Position:** No Position

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### 3. MISCELLANEOUS MATTERS FOR CONSIDERATION – None.

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**4. CONFIRM NEXT MEETING**

February 22, 2019 at 1:30pm in Mt. Elbert.

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Approved:

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CM Charlie Richardson  
Committee Chair

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Date



## Federal, State and Intergovernmental Relations Agenda Item Commentary

<b>Item Title:</b> Neighborhood Services legislation request
<b>Item Initiator:</b> Michael Crews, Intergovernmental Relations Coordinator
<b>Staff Source:</b> Malcolm Hankins, Neighborhood Services Director
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2.1: Work with appointed and elected representatives to ensure Aurora's interests--2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interest

### **ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

### **HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Neighborhood Services would like to expand the protections provided to Code Enforcement Officers within state statute. The department's policy request form along with supporting letters is attached.

### **ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

Summary of the proposed changes: Provides an important disincentive to individuals who might commit assault against code officers authorized to enforce ordinances and codes. Adds Code Enforcement Officer to the list of employees along with firefighter, emergency medical service provider, and peace officer, that would constitute commission of the crime of assault in the first degree if, while "engaged in the performance of his or her duties," he or she is subjected to threat with a deadly weapon. Adds Code Enforcement Officer to the list of employees along with firefighter, emergency medical service provider, and peace officer, that would constitute commission of the crime of assault in the second degree if, while "engaged in the performance of his or her duties," someone intends to prevent he or she from performing a lawful duty and intentionally causes bodily injury to any person. Adds Code Enforcement Officer to the list of employees along with firefighter, emergency medical service provider, and peace officer, that would constitute commission of the crime of assault in the second degree if, while "engaged in the performance of his or her duties," someone intends to prevent he or she from performing a lawful duty and intentionally causes serious bodily injury to any person. Adds Code Enforcement Officer, Animal Protection Officer, and Fire Fighter to the list of employees whose "Personal Information" is prohibited from being made available on the internet.

**QUESTIONS FOR Committee**

Does the committee approve of Neighborhood Services' legislation request?

**EXHIBITS ATTACHED:**

- 1.pdf
- 2.pdf
- 3.pdf

# City of Aurora

## 2019 State & Federal Request for Legislative/Policy Positions

Submitted by (Name and Title): [Malcolm A. Hankins](#)

City department: [Neighborhood Services](#)

Indicate if this is a state or federal matter: [State](#)

Indicate the subject (i.e. transportation, water, public safety, taxation, etc.):

[Public Safety:](#)

1. [Assaults/Offenses against Public Servants \(Code Enforcement Officers\)](#)
2. [Personal Information on the internet](#)

List the specific state or federal agency impacted and/or responsible for the legislation or policy (i.e. Department of Interior, Governor's Office, Congress, Department of Transportation, etc.):

If proposing specific legislation, please specifically list (1) The change in existing law - with statutory references, if known - and; (2) The specific issue or issues that the change would remedy:

(1)

[18-3-201. Definitions](#)

As used in [sections 18-3-201](#) to [18-3-204](#), unless the context otherwise requires:

(1.) "CODE ENFORCEMENT OFFICER" MEANS A PERSON WHO IS EMPLOYED OR CONTRACTED BY A STATE OR LOCAL GOVERNMENT AND WHOSE DUTIES INCLUDE PERFORMING FIELD INSPECTIONS OF BUILDINGS, STRUCTURES OR PROPERTY TO ENSURE COMPLIANCE WITH AND ENFORCE NATIONAL, STATE AND LOCAL LAWS, ORDINANCES AND CODES.

(1) "Emergency medical care provider" means a doctor, intern, nurse, nurse's aide, physician's assistant, ambulance attendant or operator, air ambulance pilot, paramedic, or any other member of a hospital or health care facility staff or security force who is involved in providing emergency medical care at a hospital or health care facility, or in an air ambulance or ambulance as defined in [section 25-3.5-103 \(1\)](#) and (1.5), C.R.S.

(1.3) "Emergency medical service provider" has the same meaning as set forth in [section 25-3.5-103 \(8\)](#), C.R.S. The term refers to both paid and volunteer emergency medical service providers.

(1.5) "Firefighter" means an officer or member of a fire department or fire protection or fire-fighting agency of the state, or any municipal or quasi-municipal corporation in this state,

whether that person is a volunteer or receives compensation for services rendered as such firefighter.

(1) Fire Inspector means a person responsible for investigating the causes of fires or ensuring compliance with applicable local, state, and federal statutes related to the fire code and fire prevention guidelines.

(2) "Peace officer, firefighter, FIRE INSPECTOR, CODE ENFORCEMENT OFFICER or emergency medical service provider engaged in the performance of his or her duties" means a peace officer, as described in section 16-2.5-101, C.R.S., a firefighter, A FIRE INSPECTOR, A CODE ENFORCEMENT OFFICER, or an emergency medical service provider, who is engaged or acting in, or who is present for the purpose of engaging or acting in, the performance of any duty, service, or function imposed, authorized, required, or permitted by law to be performed by a peace officer, firefighter, FIRE INSPECTOR, CODE ENFORCEMENT OFFICER, or emergency medical service provider, whether or not the peace officer, firefighter, FIRE INSPECTOR, CODE ENFORCEMENT OFFICER or emergency medical service provider is within the territorial limits of his or her jurisdiction, if the peace officer, firefighter, FIRE INSPECTOR, CODE ENFORCEMENT OFFICER or emergency medical service provider is in uniform or the person committing an assault upon or offense against or otherwise acting toward the peace officer, firefighter, FIRE INSPECTOR, CODE ENFORCEMENT OFFICER, or emergency medical service provider knows or reasonably should know that the victim is a peace officer, firefighter, FIRE INSPECTOR, CODE ENFORCEMENT OFFICER or emergency medical service provider. For the purposes of this subsection (2) and this part 2, the term "peace officer" includes county enforcement personnel designated pursuant to section 29-7-101 (3), C.R.S.

C.R.S. 18-3-202 (2016)

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18-3-202. Assault in the first degree

(1) A person commits the crime of assault in the first degree if:

(a) With intent to cause serious bodily injury to another person, he causes serious bodily injury to any person by means of a deadly weapon; or

(b) With intent to disfigure another person seriously and permanently, or to destroy, amputate, or disable permanently a member or organ of his body, he causes such an injury to any person; or

(c) Under circumstances manifesting extreme indifference to the value of human life, he knowingly engages in conduct which creates a grave risk of death to another person, and thereby causes serious bodily injury to any person; or

(d) Repealed.

(e) With intent to cause serious bodily injury upon the person of a peace officer, CODE ENFORCEMENT OFFICER, FIRE INSPECTOR, firefighter, or emergency medical service provider, he or she threatens

with a deadly weapon a peace officer, **CODE ENFORCEMENT OFFICER**, **FIRE INSPECTOR**, firefighter, or emergency medical service provider engaged in the performance of his or her duties, and the offender knows or reasonably should know that the victim is a peace officer, firefighter, or emergency medical service provider acting in the performance of his or her duties; or

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C.R.S. 18-3-203 (2016)

18-3-203. Assault in the second degree

(1) A person commits the crime of assault in the second degree if:

(a) Repealed.

(b) With intent to cause bodily injury to another person, he or she causes such injury to any person by means of a deadly weapon; or

(c) With intent to prevent one whom he or she knows, or should know, to be a peace officer, **CODE ENFORCEMENT OFFICER**, **FIRE INSPECTOR**, firefighter, emergency medical care provider, or emergency medical service provider from performing a lawful duty, he or she intentionally causes bodily injury to any person; or

(c.5) With intent to prevent one whom he or she knows, or should know, to be a peace officer, **CODE ENFORCEMENT OFFICER**, **FIRE INSPECTOR**, firefighter, or emergency medical service provider from performing a lawful duty, he or she intentionally causes serious bodily injury to any person; or

(d) He recklessly causes serious bodily injury to another person by means of a deadly weapon; or

(e) For a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness, or other physical or mental impairment or injury to another person by administering to him, without his consent, a drug, substance, or preparation capable of producing the intended harm; or

(f) While lawfully confined or in custody, he or she knowingly and violently applies physical force against the person of a peace officer, firefighter, or emergency medical service provider engaged in the performance of his or her duties, or a judge of a court of competent jurisdiction, or an officer of said court, or, while lawfully confined or in custody as a result of being charged with or convicted of a crime or as a result of being charged as a delinquent child or adjudicated as a delinquent child, he or she knowingly and violently applies physical force against a person engaged in the performance of his or her duties while employed by or under contract with a detention facility, as defined in [section 18-8-203 \(3\)](#), or while employed by the division in the department of human services responsible for youth services and who is a youth services counselor or is in the youth services worker classification series, and the person committing the offense knows or reasonably should

know that the victim is a peace officer, **CODE ENFORCEMENT OFFICER**, **FIRE INSPECTOR**, firefighter, or emergency medical service provider engaged in the performance of his or her duties, or a judge of a court of competent jurisdiction, or an officer of said court, or a person engaged in the performance of his or her duties while employed by or under contract with a detention facility or while employed by the division in the department of human services responsible for youth services. A sentence imposed pursuant to this paragraph (f) shall be served in the department of corrections and shall run consecutively with any sentences being served by the offender; except that, if the offense is committed against a person employed by the division in the department of human services responsible for youth services, the court may grant probation or a suspended sentence in whole or in part, and the sentence may run concurrently or consecutively with any sentences being served. A person who participates in a work release program, a furlough, or any other similar authorized supervised or unsupervised absence from a detention facility, as defined in [section 18-8-203 \(3\)](#), and who is required to report back to the detention facility at a specified time is deemed to be in custody.

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C.R.S. 18-3-204 (2016)

18-3-204. Assault in the third degree

(1) A person commits the crime of assault in the third degree if:

(a) The person knowingly or recklessly causes bodily injury to another person or with criminal negligence the person causes bodily injury to another person by means of a deadly weapon; or

(b) The person, with intent to harass, annoy, threaten, or alarm another person whom the actor knows or reasonably should know to be a peace officer, **A CODE ENFORCEMENT OFFICER**, **A FIRE INSPECTOR**, a firefighter, an emergency medical care provider, or an emergency medical service provider, causes the other person to come into contact with blood, seminal fluid, urine, feces, saliva, mucus, vomit, or toxic, caustic, or hazardous material by any means, including throwing, tossing, or expelling the fluid or material.

(2) Repealed.

(3) Assault in the third degree is a class 1 misdemeanor and is an extraordinary risk crime that is subject to the modified sentencing range specified in [section 18-1.3-501 \(3\)](#).

(4) Repealed.

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### **18-9-313. Personal information on the internet--law enforcement official**

(1) As used in this section:



(a) "Immediate family" means a law enforcement official's spouse, child, or parent or any other blood relative who lives in the same residence as the law enforcement official.

(a.5) "Law enforcement official" means a peace officer as described in section 16-2.5-101, C.R.S., a judge as defined by section 18-8-615 (3), AN ANIMAL CONTROL OFFICER AS DESCRIBED IN SECTION 30-15-105, A PEACE OFFICER, FIRE INSPECTOR, FIREFIGHTER, CODE ENFORCEMENT OFFICER OR EMERGENCY SERVICE PROVIDER ENGAGED IN THE PERFORMANCE OF HIS OR HER DUTIES AS DEFINED BY SECTION 18-3-201 (2), or a prosecutor.

(b) "Personal information" means a law enforcement official's home address, home telephone number, personal mobile telephone number, pager number, personal e-mail address, personal photograph, directions to the law enforcement official's home, or photographs of the law enforcement official's or the official's immediate family member's home or vehicle.

(2) It is unlawful for a person to knowingly make available on the internet personal information about a law enforcement official or the official's immediate family member, if the dissemination of the personal information poses an imminent and serious threat to the law enforcement official's safety or the safety of the law enforcement official's immediate family and the person making the information available on the internet knows or reasonably should know of the imminent and serious threat.

(3) A violation of subsection (2) of this section is a class I misdemeanor.

## (2)

### WHAT:

Adding Code Enforcement Officer and Fire Inspector to this section of code establishes a higher penalty for someone choosing to cause or threatening to cause injury to authorized Code Enforcement Officers who are unarmed and charged with enforcing local or state ordinances and codes.

### HOW:

- Provides an important disincentive to individuals who might commit assault against officers authorized to enforce ordinances and codes.
- Adds *Code Enforcement Officer* and Fire Inspector to the list of employees along with firefighter, emergency medical service provider, and peace officer, that would constitute commission of the crime of assault in the first degree if, while "engaged in the performance of his or her duties," he or she is subjected to threat with a deadly weapon.
- Adds *Code Enforcement Officer* and Fire Inspector to the list of employees along with firefighter, emergency medical service provider, and peace officer, that would constitute commission of the crime of assault in the second degree if, while "engaged in the performance of his or her duties," someone intends to prevent he or she from performing a lawful duty and intentionally causes bodily injury to any person.

- Adds *Code Enforcement Officer* and Fire Inspector to the list of employees along with firefighter, emergency medical service provider, and peace officer, that would constitute commission of the crime of assault in the second degree if, while “engaged in the performance of his or her duties,” someone intends to prevent he or she from performing a lawful duty and intentionally causes serious bodily injury to any person.
- Adds Animal Control Officer, Code Enforcement Officer, Fire Inspector and Fire Fighter to the list of employees whose “Personal Information” is prohibited from being made available on the internet.

**If proposing a specific policy position, please briefly describe the position and why it’s needed (i.e. anticipated legislation, critical to Aurora’s municipal operations, etc.):**

**Indicate the recommended position or action - support or oppose (if other, please describe why):**



## Penalties for Assault and Identifying Information; Code Enforcement Officer, Animal Control Officer, Fire Inspector

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The City of Aurora's Police and Fire Department's supports Proposed Legislation Re: Assaults Against Code Enforcement Officer and Fire Inspector and Identifying Information of Code Enforcement Officer, Animal Control Officer and Fire Inspector

\* \* \* \* \*

Code enforcement, Animal Control and Fire Inspector Officials address complaints and enforce ordinances in our communities. They can and do encounter dangerous persons while doing their job. Instances of assaults and deaths of enforcement officers throughout the nation including the State of Colorado are increasing leaving agencies seeking legislative support for reasonable and needed changes to provide additional protections to Code Enforcement Officials.

### **(A) Penalties; Assaults against a Code Enforcement Officer and Fire Inspector**

In recent years, government code enforcement officials and other government inspectors have experienced increased threats of violence and violence directed at them by perpetrators opposing the officer's performance of their sworn duties as a public servant. Sadly, across the nation these conflicts have resulted in code officer deaths.

- 2018 – West Valley City, UT: Code Enforcement Officer Jill Robinson was shot to death while conducting a follow-up inspection at this person's residence. The killer also set Officer Robinson's vehicle on fire while she laid dead in his driveway.
- 2018 – Locust Grove, GA: Police Officer Chase Maddox performing Code Enforcement duties was shoot to death for addressing an overweight commercial truck being stored in the killer's driveway.
- 2017 – Milwaukee, WI: Code Enforcement Officer Greg Zyszkiewicz was shot to death while conducting a zoning inspection of a residence. Police ended up arresting 5 individuals in connection to his murder.
- 2008 – Aurora, CO: Code Enforcement Officer Rodney Morales was shot to death while conducting a systematic housing inspection. While Officer Morales was waiting for the apartment manager inside of the building, the killer ran inside fired two shots into the chest of Officer Morales and ran away leaving him to die.
- 2005 – City of Commerce, TX: Code Enforcement Officer Michael Walker was shot to death while taking photos of code violations. Code Officer Walker ran for safety but was chased by the assailant and shot until he died on the sidewalk.
- 2001 – Memphis, TN: Code Enforcement Officer Mickey Wright shot to death while performing his duties at a car dealership. The owner of the dealership had warned the Memphis Code Office not to send an African American Officer to inspect his property. Officer Wright was killed, chopped up into pieces and stuffed into vehicles due to be crushed by the killer.
- 1985 – Dona Vista, FL – Code Officer Vincent Scanlon was shot to death while conducting an inspection at a bait store. Code Officer Scanlon was invited into the store and was shot three time with one of the bullets being fired point blank at Officer Scanlon's head.

In addition to these deaths there are enumerable assaults against Code Officers across the country. Because of these threats and incidents, several states have enacted legislation increasing the penalties for assaults against code officers.

- California Penal Code § 241 (2013) re: to Crimes and Punishment, assault and battery includes code enforcement officer, animal control officer and parking enforcement officer in enhanced sentencing language. Twice the fine and twice the potential time of imprisonment.  
[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=200920100AB1532](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200920100AB1532)
- Arizona Revised Statutes 13-1204- Aggravated Assault; Identifies assault against a code enforcement officer or fire inspector as aggravated assault.  
<https://www.azleg.gov/ars/13/01204.htm>
- Texas...Assault against a public servant
- District of Columbia § 22-405. Assault on member of police force, campus or university special police, or fire department. Includes officers or member of any fire department code inspector  
<https://code.dccouncil.us/dc/council/code/sections/22-405.html>
- Wisconsin Statutes 940.208 Battery to certain employees of counties, cities, villages, or towns. Whoever intentionally causes bodily harm to an employee of a county, city, village, or town under all of the following circumstances is guilty of a Class I felony: (2) The victim is enforcing, or conducting an inspection for the purpose of enforcing, a state, county, city, village, or town zoning ordinance, building code, or other construction law, rule, standard, or plan at the time of the act or the act is in response to any such enforcement or inspection activity.  
<https://docs.legis.wisconsin.gov/statutes/statutes/940/II/201>
- Tennessee 39-13-102. Aggravated assault. (d) A person commits aggravated assault who, with intent to cause physical injury to any public employee or an employee of a transportation system, public or private.  
<https://law.justia.com/codes/tennessee/2010/title-39/chapter-13/part-1/39-13-102>

The proposed language amends the existing definition of peace officer from “Peace officer, firefighter, or emergency medical service provider engaged in the performance of his or her duties.” by adding Code Enforcement Officer and Fire Inspector to the list of positions. The proposed legislative language defines code enforcement officer as a person who is employed or contracted by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforcement of national, state and local laws, ordinances and codes.

This change provides a stronger disincentive to individuals who might commit assault against municipal and state officers, namely code enforcement officers and fire inspectors authorized to enforce ordinances and codes. Animal Control officers are currently included as peace officers under Section 30-15-105 and therefore are not needed to be called out separately from the already present term “Peace Officer” as defined in section

The proposed legislative change supports the national acknowledgement of the inherent risks of the profession providing through penalties a stronger disincentive to perpetrators who might assault municipal and State inspections officials and/or officers authorized to enforce ordinances and codes.

## **(B) Identifying Information; Code Enforcement Officer, Animal Control Officer and Fire Personnel**

In addition to actual assaults against municipal enforcement officers, harassment, threats of violence and stalking by residents who are being cited for municipal violations is becoming more common. Many of the perpetrators have direct access to employee’s personal residential information via public record requests

or via the internet. The proposal legislation would exempt personal residential information for municipal and State Code Enforcement and Animal Control Officers and Fire Inspectors from public record requests. It would allow Officers to request redaction of the information from internet sites i.e. county assessor's records, recorders offices etc.

There are circumstances in which people that were cited conduct a public records request to learn where the code enforcement officer, animal protection officer or Fire Inspector lives. Current laws only apply after an incident has taken place. The proposed language would establish a barrier so that these things don't happen at officers' homes, reducing the threat to their families. The proposed amendment prevents personal information from being disclosed (i.e. home address and phone number) via the internet. If legal process servers, the press, or others wish to contact code enforcement officers, they can do so at their place of work.

The following incidents demonstrate the need for this proposed legislative change:

- ***The opposing legal counsel in a case involving an Animal Control Official led to social media encouragement to identify and go to the personal home of the Animal Control Official. The group had a history of threatening and aggressive communication. In this instance, they identified and promoted the official's city of residence on social media and encouraged a continued search of the official's specific home address. The same social media group had been associated with threats made against this official.***
- ***City inspectors in Colorado have been told by residents that they will find out where they live and come to their homes. In some cases, residents have visited the homes of inspectors.***
- ***In Aurora CO, after repeated incidents of threats made against Code Enforcement and Animal Control Officers, officers were equipped with body worn cameras and protective vests.***

***The City of Aurora including Police and Fire Departments respectfully requests legislative support for this proposed legislation.***



# Colorado Association of Code Enforcement Officials

*CACEO \* PO Box 24 \* Arvada, CO 80001*

*CACEO.org*

Colorado General Assembly  
200 East Colfax  
Denver, Colorado 80203

Dear Colorado Legislators,

The purpose of this letter is to encourage the inclusion of Code Enforcement Officer in Sections 18-3-201 through 18-3-204 and Section 18-9-313 of the Colorado Revised Statutes (CRS). Code enforcement plays an essential role in maintaining quality communities in our state.

Code enforcement officers are responsible for enforcing quality of life, health and safety ordinances, regulations and statutes. These include food safety, building, trash, and sidewalk snow removal codes. Code enforcement officers deal with property violations, such as an illegal home occupation (an auto painting facility in a residential zone for example,) trash accumulation attracting pests from mice and rats to raccoons and bears, and a myriad of other issues. We contact people in their homes, and businesses. People often believe they can do anything they want on their property without regard to the laws or their neighbors. Occasionally, when they find out they cannot, they want to attack the messenger.

Although rare, murders of code enforcement officers do happen. In 2009, Rodney Morales was killed in Aurora as he entered an apartment building to meet the owner for a scheduled inspection. Rodney was killed by a person unaffiliated with the property. Investigators found that Rodney was specifically targeted because he was a code enforcement officer. Last June, Jill Robinson, a code enforcement officer for West Valley, Utah was shot in the head and lit on fire by the homeowner as she performed a scheduled inspection of his property.

Unfortunately, assaults on code enforcement officers are not so rare. These assaults range from punching and kicking to pushing and grabbing. Statistics are not currently kept in Colorado for assaults on code enforcement officers in the line of duty, but every jurisdiction has had the issue arise.

We also would like to encourage including Code Enforcement Officer in the protections afforded in Section 18-9-313 of the CRS. This section deals with personal information on the internet. Many violators take our enforcement actions personally, even though we are merely enforcing the codes passed by our legislators.

Code enforcement officers are sometimes threatened or slandered by phone, letter or in person. Several of us have been threatened on our home phones, even though those phone numbers were unlisted. Making our personal information more difficult to obtain and distribute helps maintain the distance necessary between personal and professional lives.



# Colorado Association of Code Enforcement Officials

*CACEO \* PO Box 24 \* Arvada, CO 80001*

*CACEO.org*

Including code enforcement officers in Sections 18-3-201 through 18-3-204 as well as Section 18-9-313 of the CRS would give us additional layers of protection while performing the duties to keep the cities, counties and the State of Colorado clean and safe.

Please feel free to contact either of us or any code enforcement officer in the State if you would like more information or to discuss this issue.

Thank you for your consideration in this matter.

Michael Cairy  
President  
Colorado Association of Code Enforcement Officials  
CACEO  
PO Box 24  
Arvada, CO 80001

Ph: 303-814-4353

[MCairy@douglas.co.us](mailto:MCairy@douglas.co.us)



[www.caceo.org](http://www.caceo.org)

Terry Steinborn  
Vice-President/Safety Coordinator  
Colorado Association of Code Enforcement Officials  
CACEO  
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303-519-4018 cell

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[www.caceo.org](http://www.caceo.org)



## Federal, State and Intergovernmental Relations Agenda Item Commentary

<b>Item Title:</b> State Legislative Session bill review
<b>Item Initiator:</b> Michael Crews, Intergovernmental Relations Coordinator
<b>Staff Source:</b> Michael Crews, Intergovernmental Relations Coordinator
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b> Matt La Crue, Dentons
<b>Council Goal:</b> 2.1: Work with appointed and elected representatives to ensure Aurora's interests--2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interest

### **ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

### **HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Dentons has served as the city's state lobbyist since January of 2017. They regularly provided updates to the FSIR committee, including reviewing state legislative activity and recommending positions as appropriate.

### **ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

City staff is requesting actively oppose positions from FSIR for the following bills: SB19-130 Sales Tax Administration(Oppose) HB19-1157 Modify Specific Ownership Tax Rates (Oppose)

### **QUESTIONS FOR Committee**

Does the Committee approve of the department recommendations for the bills discussed?

### **EXHIBITS ATTACHED:**

FSIR Leg 2.22.19.docx  
HB 1157.pdf  
SB 130.pdf



## MEMORANDUM

**TO:** FSIR  
**FROM:** MICHAEL CREWS, INTERGOVERNMENTAL RELATIONS  
COORDINATOR  
**SUBJECT:** STATE LEGISLATION UPDATE  
**DATE:** 2/22/2019

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### Staff Active Oppose Recommended

**Sales Tax Administration:** SB19-130 Sales Tax Administration would simplify the collection of sales tax by retailer without a physical presence and would reserve the Department of Revenue's destination sourcing rule for Colorado retailers. The bill would allow local taxing jurisdictions governed by a home rule charter to opt in by passing an ordinance, resolution, or accepting the state's administration and distribution of its local sales tax on sales made by retailers without a physical presence that is collected and remitted by such sellers in accordance with the bill.

Additional analysis is to be conducted on the bill and in coordination with the CML Sales Tax Committee. Provisions of this bill will need to be amended before staff would recommend supporting the bill. The bill is mandatory as the city will need to opt in to these methods of collections in order to partake in collections. Additionally, the sourcing rules proposed in this bill would impact the city and lead to a reduction in revenues regardless if the city opts into the statewide collection.

**Tax & Licensing recommend an actively oppose position. The bill has been assigned to the Senate Finance Committee.**

**Ownership Tax Rates:** HB19-1157 Modify Specific Ownership Tax Rates would modify the rates of specific ownership tax imposed on motor vehicles, commercial trailers, and special mobile machinery that is less than 25 years old, increasing the total amount of specific ownership tax revenue collected. Additional specific ownership tax revenue generated by the specific ownership tax rate modifications is transferred to the highway users tax fund (HUTF) for allocation to the state, counties, and municipalities in accordance with the existing "second stream" statutory formula for the allocation of HUTF money.

The specific ownership tax is a local revenue source that the counties collect and distribute to local jurisdictions. The bill would change the rates and use the additional revenue to fund state and local needs. Even when increasing the rate there is a risk that there will be less money available to municipalities. After consultation with CML it is possible that the bill will be found to be unconstitutional under Colo. Const. Art. X Sec. 6. The state is diverting funds for state purposes that the Constitution mandates shall be distributed to local governments only.

**Finance and the City Attorney's Office recommend an actively oppose position. The bill has been assigned to the House Transportation & Local Government Committee.**

### **Informational Items**

#### **FSIR Active Support Update**

**Nicotine Taxation:** HB19-1033 Local Governments May Regulate Nicotine Products would enable local governments to impose an additional sales tax on nicotine products. Under the current statute in order to participate in the revenue share back provided by the state sales tax on nicotine products local governments are prohibited from enacting their own sales tax on such products. This bill would allow local governments to continue to receive state revenue share back and levy an additional sales tax on nicotine products. The bill would allow the city to collect sales tax twice on the sale of nicotine products.

**The bill passed out of the Senate Health & Human Services Committee on February 15<sup>th</sup>.**

**Electrical Inspections:** HB19-1035 Remove Fee Cap Electrical Inspection Local Government Higher Education would enable local governments to charge more than 15% over what the state charges to perform an electrical inspection. Under the current statute, local governments are prohibited from charging more than 15% of what the state charges to perform an electrical inspection. The bill would allow the city to set and charge a higher fee for electrical inspections performed by the building department.

**The bill passed House Third readings on January 31<sup>st</sup> and has been assigned to the Senate Local Government Committee.**

#### **FSIR Active Oppose Update**

**Legalizing Minors' Businesses:** SB19-103 Legalizing Minors' Businesses would prohibit a municipality from requiring a license or permit for a business that is operated on an occasional basis (not in operation for more than 84 days in a calendar year) by a minor and is located a sufficient distance from a commercial entity as determined by the municipality to prevent the minor's business from becoming a direct economic competitor of the commercial entity.

The primary concern is that the bill would preempt the city's home rule authority. Under the city's current requirements a minor's lemonade stand would not be considered to meet the definition of engaged in business and would not need a license. Additionally, the bill allows for an unlicensed business operation for up to 84 days per year anywhere in the city as long as the owner is identified as a minor. The bill should include additional language or a revenue limitation to ensure that the intent is followed.

**An amended version of the bill passed the Senate second readings on February 14<sup>th</sup>.**

**Plumbing Inspections:** HB19-1086 Plumbing Inspections Ensure Compliance would require plumbing inspections to be performed only by state-licensed plumbers. Under current law, only

plumbing inspectors employed by qualified state institutions of higher education are required to have the same qualifications as state plumbing inspectors. The bill would expand that requirement to plumbing inspectors employed by a municipality.

The bill would have a significant negative impact on plumbing inspections carried out by the city. Currently, the city has 3 licensed plumbers on staff and 18 plumbers that are ICC certified.

**The bill was pulled from the House Business Affairs & Labor Committee and laid over to allow stakeholders time to identify a compromise.**

**Clean Indoor Air Act:** HB19-1076 Clean Indoor Air Act Add E-cigarettes Remove Exceptions would be an update to the Colorado Clean Indoor Air Act. The update would include the following: Eliminating the existing exceptions for certain places of business in which smoking may be permitted, such as airport smoking concessions, businesses with 3 or fewer employees, designated smoking rooms in hotels, and designated smoking areas in assisted living facilities; and Adding a definition of "electronic smoking device" (ESD) to include e-cigarettes and similar devices within the scope of the act.

As currently drafted, it would put several Aurora Hookah bars out of business. Might be something to at least notify council about in case they want to take a stance. Not sure the drafters are even aware of the hookah business model. It is particularly popular in the African cultures and is why we have a concentration of them.

**The bill is scheduled to be heard in the House Health & Insurance committee on February 20<sup>th</sup>.**

### **FSIR Monitor Update**

**Improper Guilty Pleas:** SB19-030 Remediating Improper Guilty Pleas would address that in some instances when criminal defendants entered a guilty plea in connection to a deferred judgment they were not advised that there may be additional penalties that attach to the plea even if the plea is later withdrawn and the case is dismissed. These defendants did not knowingly, intelligently, and voluntarily enter the plea of guilty as required by law. The bill authorizes these persons to petition the court for an order vacating the guilty plea. The bill will have an impact on municipal courts in that it will add requirements currently not supported by Supreme Court case law. The language of the proposed bill is broad and unclear.

**An amended version of the bill passed out the Senate Judiciary Committee on a 3-2 vote on January 30<sup>th</sup> and has been referred to the Senate Appropriations Committee. With the added amendment Judge Day would not oppose the bill.**



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

**INTRODUCED**

LLS NO. 19-0718.02 Jason Gelender x4330

**HOUSE BILL 19-1157**

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**HOUSE SPONSORSHIP**

**Liston,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Transportation & Local Government  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE MODIFICATION OF SPECIFIC OWNERSHIP TAX RATES,**  
102            **AND, IN CONNECTION THEREWITH, REQUIRING ADDITIONAL**  
103            **SPECIFIC OWNERSHIP TAX REVENUE GENERATED BY THE RATE**  
104            **MODIFICATIONS TO BE CREDITED TO THE HIGHWAY USERS TAX**  
105            **FUND AND ALLOCATED TO THE STATE HIGHWAY FUND,**  
106            **COUNTIES, AND MUNICIPALITIES IN ACCORDANCE WITH AN**  
107            **EXISTING STATUTORY FORMULA.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

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.

On and after July 1, 2020, the bill modifies the rates of specific ownership tax imposed on motor vehicles, commercial trailers, and special mobile machinery that is less than 25 years old, increasing the total amount of specific ownership tax revenue collected. Additional specific ownership tax revenue generated by the specific ownership tax rate modifications is transferred to the highway users tax fund (HUTF) for allocation to the state, counties, and municipalities in accordance with the existing "second stream" statutory formula for the allocation of HUTF money. The state, counties, and municipalities may expend the revenue only for construction, reconstruction, repairs, improvement, planning, supervision, and maintenance of state highways, county roads, and municipal streets, including the acquisition of rights-of-way and access rights.

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

2           **SECTION 1.** In Colorado Revised Statutes, 42-3-107, **amend** (2),  
 3 (7), (8)(a), (8)(b)(I), (8)(b)(III), (8)(b)(IV), (10)(a), (10)(b)(I), (10)(b)(III),  
 4 (10)(b)(IV), (13), and (15)(e); and **add** (2.5), (7.5), (8)(a.5), (10)(a.5), and  
 5 (15)(e.5) as follows:

6           **42-3-107. Taxable value of classes of property - rate of tax -**  
 7 **when and where payable - department duties - apportionment of tax**  
 8 **collections - definitions - rules - repeal.** (2) BEFORE JULY 1, 2020, the  
 9 annual specific ownership tax payable on every item of Class A personal  
 10 property shall be computed in accordance with the following schedule:

11 <b>Year of service</b>	<b>Rate of tax</b>
12   First year	2.10% of taxable value
13   Second year	1.50% of taxable value
14   Third year	1.20% of taxable value
15   Fourth year	.90% of taxable value
16   Fifth, sixth, seventh, eighth,	
17   and ninth years	.45% of taxable value or \$10,



1 REGISTERED AS BEING IN ITS TENTH YEAR OR A LATER YEAR OF SERVICE AS  
2 OF THE EFFECTIVE DATE OF THIS SUBSECTION (2.5)(b) AND HAS NOT, ON OR  
3 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5)(b), BEEN NEWLY  
4 REGISTERED IN THE STATE AFTER PREVIOUSLY BEING REGISTERED IN  
5 ANOTHER STATE OR A FOREIGN COUNTRY OR BEEN SOLD OR TRANSFERRED.

6 (7) WITH RESPECT TO SPECIFIC OWNERSHIP TAXES COLLECTED  
7 BEFORE JULY 1, 2020, the department shall transmit all specific ownership  
8 taxes collected on items of Class A and Class F personal property to the  
9 state treasurer and shall advise the treasurer on the last day of each month  
10 of the amounts apportioned to each county from the preceding month's  
11 collections. The state treasurer shall pay ~~such~~ THE amounts to the  
12 respective treasurers of each county.

13 (7.5) WITH RESPECT TO SPECIFIC OWNERSHIP TAXES COLLECTED ON  
14 OR AFTER JULY 1, 2020, THE DEPARTMENT SHALL TRANSMIT ALL SPECIFIC  
15 OWNERSHIP TAXES COLLECTED ON ITEMS OF CLASS A, CLASS B, CLASS C,  
16 CLASS D, AND CLASS F PERSONAL PROPERTY TO THE STATE TREASURER  
17 AND SHALL ADVISE THE STATE TREASURER ON THE LAST DAY OF EACH  
18 MONTH OF BOTH THE AMOUNTS ACTUALLY APPORTIONED TO EACH  
19 COUNTY FROM THE PRECEDING MONTH'S COLLECTIONS PURSUANT TO  
20 SUBSECTIONS (2.5), (8)(a.5), (10)(a.5), (13)(b), AND (15)(e.5) OF THIS  
21 SECTION AND THE AMOUNTS THAT WOULD HAVE BEEN APPORTIONED TO  
22 EACH COUNTY FROM THE PRECEDING MONTH'S COLLECTIONS UNDER  
23 SUBSECTIONS (2), (8)(a), (10)(a), (13)(a), AND (15)(e) OF THIS SECTION IF  
24 THE SPECIFIC OWNERSHIP TAX SCHEDULES SET FORTH IN THOSE  
25 SUBSECTIONS HAD CONTINUED TO APPLY ON AND AFTER JULY 1, 2020. THE  
26 STATE TREASURER SHALL PAY THE AMOUNTS THAT WOULD HAVE BEEN  
27 APPORTIONED TO EACH COUNTY UNDER SUBSECTIONS (2), (8)(a), (10)(a),



1 (13)(a), AND (15)(e) OF THIS SECTION IF THE SPECIFIC OWNERSHIP TAX  
 2 SCHEDULES SET FORTH IN THOSE SUBSECTIONS HAD CONTINUED TO APPLY  
 3 ON AND AFTER JULY 1, 2020, TO EACH COUNTY AND SHALL CREDIT ALL  
 4 REMAINING SPECIFIC OWNERSHIP TAXES TO THE HIGHWAY USERS TAX  
 5 FUND CREATED IN SECTION 43-4-201 (1)(a) FOR ALLOCATION TO THE  
 6 STATE HIGHWAY FUND, THE COUNTY TREASURERS OF THE RESPECTIVE  
 7 COUNTIES, AND CITIES AND INCORPORATED TOWNS AS SPECIFIED IN  
 8 SECTION 43-4-205 (6.8).

9 (8) (a) Except as OTHERWISE provided in ~~paragraph (b) of this~~  
 10 ~~subsection (8)~~ SUBSECTION (8)(b) OF THIS SECTION, BEFORE JULY 1, 2020,  
 11 the annual specific ownership tax payable on every item of Class B  
 12 personal property is:

<b>Year of service</b>	<b>Rate of tax</b>
14 First year	2.10% of taxable value
15 Second year	1.50% of taxable value
16 Third year	1.20% of taxable value
17 Fourth year	.90% of taxable value
18 Fifth, sixth, seventh, eighth, 19 and ninth years	.45% of taxable value or \$10, 20 whichever is greater
21 Tenth and each later year	\$ 3

22 (a.5) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS  
 23 (8)(a.5)(II) AND (8)(b) OF THIS SECTION, ON AND AFTER JULY 1, 2020, THE  
 24 ANNUAL SPECIFIC OWNERSHIP TAX PAYABLE ON EVERY ITEM OF CLASS B  
 25 PERSONAL PROPERTY IS:

<b>YEAR OF SERVICE</b>	<b>RATE OF TAX</b>
26 FIRST YEAR	2.10% OF TAXABLE VALUE

1	SECOND YEAR	1.50% OF TAXABLE VALUE
2	THIRD YEAR	1.20% OF TAXABLE VALUE
3	FOURTH YEAR	.90% OF TAXABLE VALUE
4	FIFTH YEAR	.80% OF TAXABLE VALUE
5	SIXTH YEAR	.70% OF TAXABLE VALUE
6	SEVENTH YEAR	.60% OF TAXABLE VALUE
7	EIGHTH YEAR	.50% OF TAXABLE VALUE
8	NINTH YEAR	.45% OF TAXABLE VALUE
9	TENTH THROUGH	
10	FIFTEENTH YEARS	.35% OF TAXABLE VALUE
11	SIXTEENTH THROUGH	
12	TWENTY-FOURTH YEARS	.25% OF TAXABLE VALUE
13	TWENTY-FIFTH YEAR AND	
14	EACH LATER YEAR	\$ 3

15           (II) NOTWITHSTANDING THE SPECIFIC OWNERSHIP TAX SCHEDULE  
16 SPECIFIED IN SUBSECTION (8)(a.5)(I) OF THIS SECTION, ON AND AFTER JULY  
17 1, 2020, THE ANNUAL SPECIFIC OWNERSHIP TAX PAYABLE ON AN ITEM OF  
18 CLASS B PERSONAL PROPERTY IS THREE DOLLARS IF THE ITEM WAS  
19 REGISTERED AS BEING IN ITS TENTH YEAR OR A LATER YEAR OF SERVICE AS  
20 OF THE EFFECTIVE DATE OF THIS SUBSECTION (8)(a.5)(II) AND HAS NOT, ON  
21 OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (8)(a.5)(II), BEEN  
22 NEWLY REGISTERED IN THE STATE AFTER PREVIOUSLY BEING REGISTERED  
23 IN ANOTHER STATE OR A FOREIGN COUNTRY OR BEEN SOLD OR  
24 TRANSFERRED.

25           (b) (I) In lieu of paying the specific ownership tax required in  
26 ~~paragraph (a) of this subsection (8)~~ BY SUBSECTION (8)(a) OR (8)(a.5) OF  
27 THIS SECTION, an owner who qualifies may pay ownership tax under this

1 ~~paragraph (b)~~ SUBSECTION (8)(b). The specific ownership tax payable on  
2 Class B personal property under sixteen thousand pounds empty weight  
3 is one dollar for each full year while the owner is a member of the United  
4 States armed forces and has orders to serve outside the United States. If  
5 the owner serves less than a full year outside the United States, the tax is  
6 the amount established by ~~paragraph (a) of this subsection (8)~~  
7 SUBSECTION (8)(a) OR (8)(a.5) OF THIS SECTION, prorated according to the  
8 number of months the owner was in the United States.

9 (III) If a person has already paid taxes at the rate required in  
10 ~~paragraph (a) of this subsection (8)~~ BY SUBSECTION (8)(a) OR (8)(a.5) OF  
11 THIS SECTION but is eligible to pay taxes under this ~~paragraph (b)~~  
12 SUBSECTION (8)(b), the department shall credit the person the difference  
13 between the rate in ~~paragraph (a) of this subsection (8)~~ SUBSECTION (8)(a)  
14 OR (8)(a.5) OF THIS SECTION and the prorated rate imposed in this  
15 ~~paragraph (b)~~ SUBSECTION (8)(b) towards the person's specific ownership  
16 taxes for succeeding years.

17 (IV) This ~~paragraph (b)~~ SUBSECTION (8)(b)(IV) only applies to a  
18 motor vehicle that is less than ~~ten~~ TWENTY-FIVE model-years old and less  
19 than sixteen thousand pounds empty weight.

20 (10) (a) Except as OTHERWISE provided in ~~paragraph (b) of this~~  
21 ~~subsection (10)~~ SUBSECTION (10)(b) OF THIS SECTION, BEFORE JULY 1,  
22 2020, the annual specific ownership tax payable on every item of Class  
23 C personal property is:

24 <b>Year of service</b>	<b>Rate of tax</b>
25 First year	2.10% of taxable value
26 Second year	1.50% of taxable value
27 Third year	1.20% of taxable value

1	Fourth year	.90% of taxable value
2	Fifth, sixth, seventh, eighth,	
3	and ninth years	.45% of taxable value
4	Tenth and each later year	\$ 3

5 (a.5) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS  
6 (10)(a.5)(II) AND (10)(b) OF THIS SECTION, ON AND AFTER JULY 1, 2020,  
7 THE ANNUAL SPECIFIC OWNERSHIP TAX PAYABLE ON EVERY ITEM OF CLASS  
8 C PERSONAL PROPERTY IS:

9	<b>YEAR OF SERVICE</b>	<b>RATE OF TAX</b>
10	FIRST YEAR	2.10% OF TAXABLE VALUE
11	SECOND YEAR	1.50% OF TAXABLE VALUE
12	THIRD YEAR	1.20% OF TAXABLE VALUE
13	FOURTH YEAR	.90% OF TAXABLE VALUE
14	FIFTH YEAR	.80% OF TAXABLE VALUE
15	SIXTH YEAR	.70% OF TAXABLE VALUE
16	SEVENTH YEAR	.60% OF TAXABLE VALUE
17	EIGHTH YEAR	.50% OF TAXABLE VALUE
18	NINTH YEAR	.45% OF TAXABLE VALUE
19	TENTH THROUGH	
20	FIFTEENTH YEARS	.35% OF TAXABLE VALUE
21	SIXTEENTH THROUGH	
22	TWENTY-FOURTH YEARS	.25% OF TAXABLE VALUE
23	TWENTY-FIFTH YEAR AND	
24	EACH LATER YEAR	\$ 3

25 (II) NOTWITHSTANDING THE SPECIFIC OWNERSHIP TAX SCHEDULE  
26 SPECIFIED IN SUBSECTION (10)(a.5)(I) OF THIS SECTION, ON AND AFTER  
27 JULY 1, 2020, THE ANNUAL SPECIFIC OWNERSHIP TAX PAYABLE ON AN ITEM

1 OF CLASS C PERSONAL PROPERTY IS THREE DOLLARS IF THE ITEM WAS  
2 REGISTERED AS BEING IN ITS TENTH YEAR OR A LATER YEAR OF SERVICE AS  
3 OF THE EFFECTIVE DATE OF THIS SUBSECTION (10)(a.5)(II) AND HAS NOT,  
4 ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (10)(a.5)(II), BEEN  
5 NEWLY REGISTERED IN THE STATE AFTER PREVIOUSLY BEING REGISTERED  
6 IN ANOTHER STATE OR A FOREIGN COUNTRY OR BEEN SOLD OR  
7 TRANSFERRED.

8 (b) (I) In lieu of paying the specific ownership tax required in  
9 ~~paragraph (a) of this subsection (10)~~ BY SUBSECTION (10)(a) OF THIS  
10 SECTION, an owner who qualifies may pay ownership tax under this  
11 ~~paragraph (b)~~ SUBSECTION (10)(b). The specific ownership tax payable on  
12 Class C personal property is one dollar for each full year while the owner  
13 is a member of the United States armed forces and has orders to serve  
14 outside the United States. If the owner serves less than a full year outside  
15 the United States, the tax is the amount established by ~~paragraph (a) of~~  
16 ~~this subsection (10)~~ SUBSECTION (10)(a) OR (10)(a.5) OF THIS SECTION,  
17 prorated according to the number of months the owner was in the United  
18 States.

19 (III) If a person has already paid taxes at the rate required in  
20 ~~paragraph (a) of this subsection (10)~~ BY SUBSECTION (10)(a) OR (10)(a.5)  
21 OF THIS SECTION, but is eligible to pay taxes under this ~~paragraph (b)~~  
22 SUBSECTION (10)(b), the department shall credit the person the difference  
23 between the rate in ~~paragraph (a) of this subsection (10)~~ SUBSECTION  
24 (10)(a) OR (10)(a.5) OF THIS SECTION and the prorated rate imposed in this  
25 ~~paragraph (b)~~ SUBSECTION (10)(b) towards the person's specific  
26 ownership taxes for succeeding years.

27 (IV) This ~~paragraph (b)~~ SUBSECTION (10)(b) only applies to a

1 motor vehicle that is less than ~~ten~~ TWENTY-FIVE model-years old.

2 (13) (a) BEFORE JULY 1, 2020, the annual specific ownership tax  
3 payable on every item of Class D personal property ~~shall be~~ IS computed  
4 in accordance with the following schedule:

5 <b>Year of service</b>	<b>Rate of tax</b>
6 First year	2.10% of taxable value
7 Second year	1.50% of taxable value
8 Third year	1.20% of taxable value
9 Fourth year	.90% of taxable value
10 Fifth, sixth, seventh, eighth, 11 and ninth years	.45% of taxable value
12 Tenth and each later year	.45% of taxable value or \$ 3, 13 whichever is greater

14 (b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (13)(b)(II)  
15 OF THIS SECTION, ON AND AFTER JULY 1, 2020, THE ANNUAL SPECIFIC  
16 OWNERSHIP TAX PAYABLE ON EVERY ITEM OF CLASS D PERSONAL  
17 PROPERTY SHALL BE COMPUTED IN ACCORDANCE WITH THE FOLLOWING  
18 SCHEDULE:

19 <b>YEAR OF SERVICE</b>	<b>RATE OF TAX</b>
20 FIRST YEAR	2.10% OF TAXABLE VALUE
21 SECOND YEAR	1.50% OF TAXABLE VALUE
22 THIRD YEAR	1.20% OF TAXABLE VALUE
23 FOURTH YEAR	.90% OF TAXABLE VALUE
24 FIFTH YEAR	.80% OF TAXABLE VALUE
25 SIXTH YEAR	.70% OF TAXABLE VALUE
26 SEVENTH YEAR	.60% OF TAXABLE VALUE
27 EIGHTH YEAR	.50% OF TAXABLE VALUE

1	NINTH YEAR	.45% OF TAXABLE VALUE
2	TENTH THROUGH	
3	FIFTEENTH YEARS	.35% OF TAXABLE VALUE
4	SIXTEENTH THROUGH	
5	TWENTY-FOURTH YEARS	.25% OF TAXABLE VALUE
6	TWENTY-FIFTH YEAR AND	
7	EACH LATER YEAR	\$ 3

8 (II) NOTWITHSTANDING THE SPECIFIC OWNERSHIP TAX SCHEDULE  
9 SPECIFIED IN SUBSECTION (13)(b)(I) OF THIS SECTION, ON AND AFTER JULY  
10 1, 2020, THE ANNUAL SPECIFIC OWNERSHIP TAX PAYABLE ON AN ITEM OF  
11 CLASS D PERSONAL PROPERTY IS THREE DOLLARS IF THE ITEM WAS  
12 REGISTERED AS BEING IN ITS TENTH YEAR OR A LATER YEAR OF SERVICE AS  
13 OF THE EFFECTIVE DATE OF THIS SUBSECTION (13)(b)(II) AND HAS NOT, ON  
14 OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (13)(b)(II), BEEN  
15 NEWLY REGISTERED IN THE STATE AFTER PREVIOUSLY BEING REGISTERED  
16 IN ANOTHER STATE OR A FOREIGN COUNTRY OR BEEN SOLD OR  
17 TRANSFERRED.

18 (15) (e) BEFORE JULY 1, 2020, the annual specific ownership tax  
19 payable on each item of Class F personal property ~~shall be~~ IS computed  
20 in accordance with the following schedule:

21	<b>Year of service</b>	<b>Rate of tax</b>
22	First year	2.10% of taxable value
23	Second year	1.50% of taxable value
24	Third year	1.25% of taxable value
25	Fourth year	1.00% of taxable value
26	Fifth year	.75% of taxable value
27	Sixth and each later year	.50% of taxable value,

1 but not less than \$ 5  
 2 (e.5) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION  
 3 (15)(e.5)(II) OF THIS SECTION, ON AND AFTER JULY 1, 2020, THE ANNUAL  
 4 SPECIFIC OWNERSHIP TAX PAYABLE ON EVERY ITEM OF CLASS F PERSONAL  
 5 PROPERTY IS:

6 <b>YEAR OF SERVICE</b>	<b>RATE OF TAX</b>
7 FIRST YEAR	2.10% OF TAXABLE VALUE
8 SECOND YEAR	1.50% OF TAXABLE VALUE
9 THIRD YEAR	1.20% OF TAXABLE VALUE
10 FOURTH YEAR	.90% OF TAXABLE VALUE
11 FIFTH YEAR	.80% OF TAXABLE VALUE
12 SIXTH YEAR	.70% OF TAXABLE VALUE
13 SEVENTH YEAR	.60% OF TAXABLE VALUE
14 EIGHTH YEAR	.50% OF TAXABLE VALUE
15 NINTH YEAR	.45% OF TAXABLE VALUE
16 TENTH THROUGH	
17 FIFTEENTH YEARS	.35% OF TAXABLE VALUE
18 SIXTEENTH THROUGH	
19 TWENTY-FOURTH YEARS	.25% OF TAXABLE VALUE
20 TWENTY-FIFTH YEAR AND	
21 EACH LATER YEAR	\$ 3

22 (II) NOTWITHSTANDING THE SPECIFIC OWNERSHIP TAX SCHEDULE  
 23 SPECIFIED IN SUBSECTION (15)(e.5)(I) OF THIS SECTION, ON AND AFTER  
 24 JULY 1, 2020, THE ANNUAL SPECIFIC OWNERSHIP TAX PAYABLE ON AN ITEM  
 25 OF CLASS F PERSONAL PROPERTY IS THREE DOLLARS IF THE ITEM WAS  
 26 REGISTERED AS BEING IN ITS TENTH YEAR OR A LATER YEAR OF SERVICE AS  
 27 OF THE EFFECTIVE DATE OF THIS SUBSECTION (15)(e.5)(II) AND HAS NOT,



1 ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (15)(e.5)(II), BEEN  
2 NEWLY REGISTERED IN THE STATE AFTER PREVIOUSLY BEING REGISTERED  
3 IN ANOTHER STATE OR A FOREIGN COUNTRY OR BEEN SOLD OR  
4 TRANSFERRED.

5 **SECTION 2.** In Colorado Revised Statutes, 43-4-205, **amend**  
6 (6.5)(a); and **add** (6.8) as follows:

7 **43-4-205. Allocation of fund.** (6.5) (a) The ~~revenues~~ REVENUE  
8 accrued to and transferred to the highway users tax fund pursuant to  
9 section 39-26-123 (4)(a) ~~or 24-75-219, C.R.S., or appropriated to the~~  
10 ~~highway users tax fund pursuant to House Bill 02-1389, enacted during~~  
11 ~~the second regular session of the sixty-third general assembly,~~ shall be  
12 paid to the state highway fund for allocation to the department of  
13 transportation and shall be expended as provided in section 43-4-206 (2).

14 (6.8) SPECIFIC OWNERSHIP TAX REVENUE THAT IS CREDITED TO THE  
15 HIGHWAY USERS TAX FUND PURSUANT TO SECTION 42-3-107 (7.5) IS  
16 ALLOCATED TO THE STATE HIGHWAY FUND, THE COUNTY TREASURERS OF  
17 THE RESPECTIVE COUNTIES, AND CITIES AND INCORPORATED TOWNS FOR  
18 EXPENDITURE IN ACCORDANCE WITH THE FORMULA SPECIFIED IN  
19 SUBSECTION (6)(b) OF THIS SECTION.

20 **SECTION 3.** In Colorado Revised Statutes, 43-4-206, **amend** (1)  
21 introductory portion and (2)(a) introductory portion as follows:

22 **43-4-206. State allocation.** (1) Except as otherwise provided in  
23 subsections (1)(b)(V), (2), and (3) of this section, after paying the costs  
24 of the Colorado state patrol and any other costs of the department,  
25 exclusive of highway construction, highway improvements, or highway  
26 maintenance, that are appropriated by the general assembly, money in the  
27 highway users tax fund THAT IS REQUIRED BY SECTION 43-4-205 TO BE

1 PAID TO THE STATE HIGHWAY FUND shall be paid to the state highway fund  
2 and expended for the following purposes:

3 (2) (a) SPECIFIC OWNERSHIP TAX REVENUE THAT IS CREDITED TO  
4 THE HIGHWAY USERS TAX FUND PURSUANT TO SECTION 42-3-107 (7.5) AND  
5 ALLOCATED TO THE STATE HIGHWAY FUND AS REQUIRED BY SECTION  
6 43-4-205 (6.8) SHALL BE EXPENDED FOR THE CONSTRUCTION,  
7 RECONSTRUCTION, REPAIRS, IMPROVEMENT, PLANNING, SUPERVISION, AND  
8 MAINTENANCE OF THE STATE HIGHWAY SYSTEM, INCLUDING ANY COUNTY  
9 AND MUNICIPAL ROADS AND HIGHWAYS AND THE ACQUISITION OF  
10 RIGHTS-OF-WAY AND ACCESS RIGHTS FOR THE SYSTEM. Revenue accrued  
11 to and transferred to the highway users tax fund pursuant to section  
12 39-26-123 (4)(a) or appropriated to the highway users tax fund pursuant  
13 to House Bill 02-1389, enacted at the second regular session of the  
14 sixty-third general assembly, and credited to the state highway fund  
15 pursuant to section 43-4-205 (6.5) shall be expended by the department  
16 of transportation for the implementation of the strategic transportation  
17 project investment ~~program~~ AS FOLLOWS:

18 **SECTION 4.** In Colorado Revised Statutes, 43-4-207, **amend** (1)  
19 and (2)(b) introductory portion as follows:

20 **43-4-207. County allocation.** (1) After paying the costs of the  
21 Colorado state patrol and any other costs of the department, exclusive of  
22 highway construction, highway improvements, or highway maintenance,  
23 that are appropriated by the general assembly, the money, including  
24 money transferred from the general fund to the highway users tax fund  
25 pursuant to section 24-75-219 (5)(a)(II) and (5)(b)(II) AND SPECIFIC  
26 OWNERSHIP TAX REVENUE THAT IS CREDITED TO THE HIGHWAY USERS TAX  
27 FUND PURSUANT TO SECTION 42-3-107 (7.5), that section 43-4-205

1 requires to be paid from the highway users tax fund to the county  
2 treasurers of the respective counties shall be paid to the county treasurers  
3 of the respective counties, subject to annual appropriation by the general  
4 assembly, and shall be allocated and expended as provided in this section.  
5 The money received is allocated to the counties as provided by law and  
6 shall be expended by the counties only on the construction, engineering,  
7 reconstruction, maintenance, repair, equipment, improvement, and  
8 administration of the county highway systems and any other public  
9 highways, including any state highways, together with acquisition of  
10 rights-of-way and access rights for the same, for the planning, designing,  
11 engineering, acquisition, installation, construction, repair, reconstruction,  
12 maintenance, operation, or administration of transit-related projects,  
13 including, but not limited to, designated bicycle or pedestrian lanes of  
14 highway and infrastructure needed to integrate different transportation  
15 modes within a multimodal transportation system, and for no other  
16 purpose; except that money received pursuant to section 43-4-205 (6.3)  
17 shall be expended by the counties only for road safety projects, as defined  
18 in section 43-4-803 (21) AND SPECIFIC OWNERSHIP TAX REVENUE  
19 RECEIVED PURSUANT TO SECTION 43-4-205 (6.8) SHALL BE EXPENDED BY  
20 THE COUNTIES ONLY FOR THE CONSTRUCTION, ENGINEERING,  
21 RECONSTRUCTION, MAINTENANCE, REPAIR, EQUIPMENT, IMPROVEMENT,  
22 AND ADMINISTRATION OF THE COUNTY HIGHWAY SYSTEMS AND ANY  
23 OTHER PUBLIC HIGHWAYS, INCLUDING ANY STATE HIGHWAYS AND  
24 INCLUDING ACQUISITION OF RIGHTS-OF-WAY AND ACCESS RIGHTS FOR THE  
25 HIGHWAYS. The amount expended for administrative purposes shall not  
26 exceed five percent of each county's share of the funds available.

27 (2) For the fiscal year commencing July 1, 1989, and each fiscal

1 year thereafter, for the purpose of allocating money in the highway users  
2 tax fund to the various counties throughout the state, the following  
3 method is adopted:

4 (b) All money credited to the fund in excess of eighty-six million  
5 seven hundred thousand dollars, ~~and~~ all money transferred to the fund  
6 pursuant to section 24-75-219 (5)(a)(II) and (5)(b)(II) that is required by  
7 section 43-4-205 (6.4)(a) and subsection (1) of this section to be paid to  
8 the county treasurers of the respective counties, AND ALL SPECIFIC  
9 OWNERSHIP TAX REVENUE THAT IS CREDITED TO THE FUND PURSUANT TO  
10 SECTION 42-3-107 (7.5) AND THAT IS REQUIRED BY SECTION 43-4-205 (6.8)  
11 AND SUBSECTION (1) OF THIS SECTION TO BE PAID TO THE COUNTY  
12 TREASURERS OF THE RESPECTIVE COUNTIES is allocated to the counties in  
13 the following manner:

14 **SECTION 5.** In Colorado Revised Statutes, 43-4-208, **amend** (1)  
15 and (6)(a) as follows:

16 **43-4-208. Municipal allocation.** (1) After paying the costs of  
17 the Colorado state patrol and any other costs of the department, exclusive  
18 of highway construction, highway improvements, or highway  
19 maintenance, that are appropriated by the general assembly, the money,  
20 including money transferred from the general fund to the highway users  
21 tax fund pursuant to section 24-75-219 (5)(a)(II) and (5)(b)(II) AND  
22 SPECIFIC OWNERSHIP TAX REVENUE THAT IS CREDITED TO THE HIGHWAY  
23 USERS TAX FUND PURSUANT TO SECTION 42-3-107 (7.5), that section  
24 43-4-205 requires to be paid from the highway users tax fund to cities and  
25 incorporated towns shall be paid to the cities and incorporated towns  
26 within the limits of the respective counties, subject to annual  
27 appropriation by the general assembly, and shall be allocated and

1 expended as provided in this section. Each city treasurer shall account for  
2 the money received as provided in this part 2. Money so allocated shall  
3 be expended by the cities and incorporated towns for the construction,  
4 engineering, reconstruction, maintenance, repair, equipment,  
5 improvement, and administration of the system of streets of such city or  
6 incorporated town or of any public highways located within such city or  
7 incorporated town, including any state highways, together with the  
8 acquisition of rights-of-way and access rights for the same, and for the  
9 planning, designing, engineering, acquisition, installation, construction,  
10 repair, reconstruction, maintenance, operation, or administration of  
11 transit-related projects, including, but not limited to, designated bicycle  
12 or pedestrian lanes of highway and infrastructure needed to integrate  
13 different transportation modes within a multimodal transportation system,  
14 and for no other purpose; except that money paid to the cities and  
15 incorporated towns pursuant to section 43-4-205 (6.3) shall be expended  
16 by the cities and incorporated towns only for road safety projects, as  
17 defined in section 43-4-803 (21) AND SPECIFIC OWNERSHIP TAX REVENUE  
18 RECEIVED PURSUANT TO SECTION 43-4-205 (6.8) SHALL BE EXPENDED BY  
19 THE CITIES AND INCORPORATED TOWNS ONLY FOR THE CONSTRUCTION,  
20 ENGINEERING, RECONSTRUCTION, MAINTENANCE, REPAIR, EQUIPMENT,  
21 IMPROVEMENT, AND ADMINISTRATION OF THE SYSTEM OF STREETS OF A  
22 CITY OR INCORPORATED TOWN OR OF ANY PUBLIC HIGHWAYS LOCATED  
23 WITHIN A CITY OR INCORPORATED TOWN, INCLUDING ANY STATE  
24 HIGHWAYS AND INCLUDING ACQUISITION OF RIGHTS-OF-WAY AND ACCESS  
25 RIGHTS FOR THE SYSTEM. The amount expended for administrative  
26 purposes shall not exceed five percent of each city's share of the funds  
27 available.

1           (6) (a) In addition to the provisions of subsection (2)(a) of this  
2 section, on or after July 1, 1979, eighty percent of all additional money  
3 becoming available to cities and incorporated towns from the highway  
4 users tax fund pursuant to sections 24-75-215 and 43-4-205 (6)(b)(III)  
5 and, on and after July 1, 2018, eighty percent of the ~~general fund~~ money  
6 transferred from the general fund to the highway users tax fund pursuant  
7 to section 24-75-219 (5)(a)(II) and (5)(b)(II) that is required by section  
8 43-4-205 (6.4)(b) and subsection (1) of this section to be allocated to the  
9 cities and incorporated towns AND, ON AND AFTER JULY 1, 2020, EIGHTY  
10 PERCENT OF THE SPECIFIC OWNERSHIP TAX REVENUE THAT IS CREDITED TO  
11 THE HIGHWAY USERS TAX FUND PURSUANT TO SECTION 42-3-107 (7.5) AND  
12 THAT IS REQUIRED BY SECTION 43-4-205 (6.8) AND SUBSECTION (1) OF THIS  
13 SECTION TO BE PAID TO THE CITIES AND INCORPORATED TOWNS is allocated  
14 to the cities and incorporated towns in proportion to the adjusted urban  
15 motor vehicle registration in each city and incorporated town. The term  
16 "urban motor vehicle registration", as used in this section, includes all  
17 passenger, truck, truck-tractor, and motorcycle registrations. The number  
18 of registrations used in computing the percentage shall be those certified  
19 to the state treasurer by the department of revenue as constituting the  
20 urban motor vehicle registration for the last preceding year. The adjusted  
21 registration shall be computed by applying a factor to the actual number  
22 of such registrations to reflect the increased standards and costs of  
23 construction resulting from the concentration of vehicles in cities and  
24 incorporated places. For this purpose the following table of actual  
25 registration numbers and factors shall be employed:

26	<b>Actual registrations</b>	<b>Factor</b>
27	1 -- 500	1.0

1	501 -- 1,250	1.1
2	1,251 -- 2,500	1.2
3	2,501 -- 5,000	1.3
4	5,001 -- 12,500	1.4
5	12,501 -- 25,000	1.5
6	25,001 -- 50,000	1.6
7	50,001 -- 85,000	1.7
8	85,001 -- 125,000	1.8
9	125,001 -- 165,000	1.9
10	165,001 -- 205,000	2.0
11	205,001 -- 245,000	2.1
12	245,001 -- 285,000	2.2
13	285,001 -- 325,000	2.3
14	325,001 -- 365,000	2.4
15	365,001 -- 405,000	2.5
16	405,001 -- 445,000	2.6
17	445,001 -- 485,000	2.7
18	485,001 -- 525,000	2.8
19	525,001 -- 565,000	2.9
20	565,001 -- 605,000	3.0

21           **SECTION 6. Act subject to petition - effective date.** This act  
22 takes effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly (August  
24 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
25 referendum petition is filed pursuant to section 1 (3) of article V of the  
26 state constitution against this act or an item, section, or part of this act  
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in  
2 November 2020 and, in such case, will take effect on the date of the  
3 official declaration of the vote thereon by the governor.



First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0537.01 Esther van Mourik x4215

SENATE BILL 19-130

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SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Rich and Larson, Liston

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Senate Committees  
Finance

House Committees

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A BILL FOR AN ACT

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

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

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

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

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

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

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

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

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

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

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

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

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

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

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

1 collection purposes is a matter of statewide concern;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 apply to the following agreements or arrangements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

11 (III) "TRANSPORTATION EQUIPMENT" MEANS:

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

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

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

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

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

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

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

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

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

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

1 be used.

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

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

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

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

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

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

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

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

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

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

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

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

9 **39-26-105.3. Remittance of tax - electronic database - vendor**  
10 **held harmless - rules.** (7) ~~The executive director of the department of~~  
11 ~~revenue shall promulgate rules for the administration of this section. Such~~  
12 ~~rules shall be promulgated in accordance with article 4 of title 24, C.R.S.~~  
13 THE DEPARTMENT OF REVENUE SHALL PROVIDE INFORMATION TO  
14 RETAILERS WITHOUT PHYSICAL PRESENCE THAT INDICATES THE  
15 TAXABILITY OF PRODUCTS AND SERVICES ALONG WITH ANY PRODUCT AND  
16 SERVICE EXEMPTIONS FROM SALES TAX IN THE STATE. THE DEPARTMENT  
17 OF REVENUE SHALL ALSO PROVIDE TO RETAILERS WITHOUT PHYSICAL  
18 PRESENCE A SALES TAX RATE DATABASE AND A DATABASE OF LOCAL  
19 TAXING JURISDICTION BOUNDARIES. THE DEPARTMENT OF REVENUE SHALL  
20 NOTIFY RETAILERS WITHOUT PHYSICAL PRESENCE AND CERTIFIED  
21 SOFTWARE PROVIDERS OF ANY STATE OR LOCAL SALES TAX RATE CHANGE  
22 AT LEAST NINETY DAYS BEFORE THE EFFECTIVE DATE OF SUCH A CHANGE.  
23 SUBSEQUENT TO ANY SALES TAX RATE CHANGE, THE DEPARTMENT OF  
24 REVENUE SHALL UPDATE THE INFORMATION DESCRIBED IN THIS  
25 SUBSECTION (7) ACCORDINGLY.

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

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

3 (II) FILES SALES TAX RETURNS; AND

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

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

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

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

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

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

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

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

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

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

1 IS NOT PROVIDED.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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