First Extraordinary Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25B-0007.01 Nicole Myers x4326 **HOUSE BILL 25B-1005**

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A BILL FOR AN ACT

CONCERNING THE ELIMINATION OF THE SALES TAX VENDOR FEE THAT RETAILERS ARE AUTHORIZED TO RETAIN IN CONNECTION WITH COLLECTING AND REMITTING STATE SALES TAX.

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.)

Current law requires a retailer to periodically remit to the department of revenue the sales tax revenue that it collects and allows some retailers to retain a sales tax vendor fee to cover the retailer's expenses incurred in collecting and remitting state sales tax.

Beginning January 1, 2026, the bill eliminates the sales tax vendor

fee that retailers are authorized to retain in connection with collecting and remitting state sales tax.

The bill also makes conforming amendments to prevent additional sales tax revenue from being included in the calculation of state sales tax increment revenue for purposes of the "Colorado Regional Tourism Act" and to maintain the amount of sales and use tax revenue that the state treasurer annually credits to the housing development grant fund.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) The vendor fee in section 39-26-105, Colorado Revised Statutes, was designed to reimburse retailers for a specific service performed on behalf of the state: The collection and remittance of state-collected sales tax revenue;

(b) Not all retailers are equally compensated for their services. Only retailers that have total taxable sales of $1 million or less for the filing period are able to collect the vendor fee, and most of Colorado's home rule cities do not pay similar vendor fees for the collection and remittance of local sales tax. In addition, not all state taxes have vendor fees.

(c) The vendor fee is being removed to promote fairness and equality between all retailers by ending this benefit that some retailers receive and others do not receive. Further, the vendor fee is being removed to simplify the collection of state-collected sales tax, ease administrative burden, and relieve retailer confusion. Any revenue gain caused by the removal of the vendor fee is incidental to the primary purposes of promoting fairness and equality, simplifying the collection of state-collected sales tax, easing administrative burdens, and relieving retailer confusion.

(d) Any revenue gain caused by the removal of the vendor fee is de minimis.

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

(a) Removal of the vendor fee is not a tax policy change for purposes of section 20 (4)(a) of article X of the Colorado constitution because it does not in any way affect the amount of sales tax imposed on and paid by taxpayers but instead only distributes a small portion of gross sales tax revenue collected to vendors for their collection and remittance of state-collected sales tax revenue;

(b) Further, even if removal of the vendor fee could be considered a tax policy change, consistent with the Colorado Supreme Court's holding in *TABOR Found. v. Reg'l Transp. Dist.,* 2018 CO 29, that legislation that causes only an incidental and de minimis tax revenue increase does not amount to a new tax or a tax policy change that requires advance voter approval under section 20 of article X of the Colorado constitution, the removal of the vendor fee is neither a new tax nor a tax policy change that requires voter approval; and

(c) The removal of the vendor fee does not create new responsibilities or burdens on retailers. Instead, the removal of the fee demonstrates the general assembly's intent that the collection of sales tax revenue be fair and equal throughout the state, and that the burdens of doing so are limited, fair, and equal throughout the state.

SECTION 2. In Colorado Revised Statutes, 39-26-105, **amend** (1)(c), (1)(d)(I), and (5)(c); and **add** (1)(d)(V) as follows:

39-26-105. Vendor liable for tax - definitions - repeal. (1) (c) (I) Every retailer shall remit, along with the return required in subsection (1)(b) of this section, an amount equivalent to the percentage on sales as specified in subsection (1)(a)(I) of this section to the executive director of the department of revenue, less an amount as set forth in subsection ~~(1)(c)(II) or~~ (1)(d) of this section to cover the retailer's expense in the collection and remittance of said tax.

(II) ~~For sales made prior to January 1, 2020, the amount retained by a retailer to cover the retailer's expense in collecting and remitting tax pursuant to this section is three and one-third percent of all sales tax reported.~~

(III) If any retailer is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the executive director of the department of revenue, the retailer shall not be allowed to retain any amounts under ~~this subsection (1)(c) or~~ subsection (1)(d) of this section to cover such retailer's expense in collecting and remitting said tax, and an amount equivalent to the said percentage, plus the amount of any local vendor expense that may be allowed by the local government to the vendor, shall be remitted to the executive director by any such delinquent vendor. Any local vendor expense remitted to the executive director shall be deposited to the state general fund.

(d) (I) (A) For sales made on or after January 1, 2020, ~~except as provided in subsection (1)(d)(I)(B) of this section~~ BUT BEFORE JANUARY 1, 2026, the amount retained by a retailer to cover the retailer's expense in collecting and remitting tax in accordance with this section is four percent of the tax reported; except that a retailer shall not retain more than one thousand dollars in any filing period.

(B) ~~For sales made on and after January 1, 2023, but before January 1, 2024, the amount retained by a retailer to cover the retailer's expense in collecting and remitting tax in accordance with this section for~~

~~any filing period that the retailer's total taxable sales are less than or equal to one hundred thousand dollars is five and three-tenths percent of the tax reported; except that a retailer should not retain more than one thousand dollars in any filing period. This subsection (1)(d)(I)(B) is repealed, effective January 1, 2032.~~

(V) BEGINNING JANUARY 1, 2026, A RETAILER IS NOT PERMITTED TO RETAIN ANY MONEY TO COVER THE RETAILER'S EXPENSES IN COLLECTING AND REMITTING STATE TAX IN ACCORDANCE WITH THIS SECTION REGARDLESS OF THE RETAILER'S TOTAL TAXABLE SALES FOR ANY FILING PERIOD.

(5) (c) From the amount of the tax required to be remitted pursuant to subsection (5)(a) of this section, a qualified purchaser shall be entitled to retain the amount specified in subsection ~~(1)(c)(II) or~~ (1)(d) of this section that a retailer would otherwise be entitled to retain to cover the retailer's expense in collecting and remitting the tax imposed by this article 26 if the qualified purchaser had not provided a direct payment permit number to the retailer.

SECTION 3. In Colorado Revised Statutes, 24-46-303, **amend** (12) as follows:

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

(12) "State sales tax increment revenue" means the portion of the revenue derived from state sales taxes, including any revenue attributable to the baseline growth rate, collected within a designated regional tourism zone in excess of the amount of base year revenue. "State sales tax increment revenue" does not include any additional revenue derived from state sales taxes that are due to the changes set forth in section 39-26-105

(1)(d), enacted in 2019 AND AS AMENDED THEREAFTER, to the amount retained by a vendor to cover the vendor's expenses in collecting and remitting sales tax.

SECTION 4. In Colorado Revised Statutes, 39-26-123, **amend** (3)(b)(I); and **add** (3)(b)(III) as follows:

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

(b) (I) (A) Except as set forth in subsection (3)(b)(II) of this section, PRIOR TO JANUARY 1, 2026, an amount equal to the fiscal year increase in sales and use tax revenue attributable to the vendor fee changes made by House Bill 19-1245, enacted in 2019, which amount the state treasurer shall credit to the housing development grant fund created in section 24-32-721 (1).

(B) EXCEPT AS SET FORTH IN SUBSECTION (3)(b)(II) OF THIS SECTION AND SUBJECT TO SUBSECTION (3)(b)(III) OF THIS SECTION, BEGINNING JANUARY 1, 2026, AN AMOUNT EQUAL TO ONE AND SIX HUNDRED FIFTY-FIVE THOUSANDTHS PERCENT OF NET REVENUE EXCLUDING NET REVENUE COLLECTED UNDER PART 2 OF THIS ARTICLE 26, WHICH AMOUNT THE STATE TREASURER SHALL CREDIT TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN SECTION 24-32-721 (1).

(III) (A) BEGINNING JANUARY 1, 2026, THE TREASURER SHALL CREDIT THE EXCESS OF THE AMOUNT SET FORTH IN SUBSECTION

(3)(b)(I)(B) OF THIS SECTION OVER ONE-TWELFTH OF THE AMOUNT SET FORTH IN SUBSECTION (3)(b)(II)(D) OF THIS SECTION ON A MONTHLY BASIS. THE TREASURER SHALL FIRST TAKE INTO ACCOUNT ANY REDUCTION MADE PURSUANT TO SUBSECTION (3)(b)(II) OF THIS SECTION FOR THE FISCAL YEAR TO DATE.

(B) BEGINNING WITH STATE FISCAL YEAR 2026-27, THE TREASURER SHALL CREDIT THE EXCESS OF THE AMOUNT SET FORTH IN SUBSECTION (3)(b)(I)(B) OF THIS SECTION OVER ONE-TWELFTH OF THE APPLICABLE AMOUNT SET FORTH IN SUBSECTION (3)(b)(II) OF THIS SECTION ON A MONTHLY BASIS.

SECTION 5. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.