

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0490.02 Esther van Mourik x4215

HOUSE BILL 13-1295

HOUSE SPONSORSHIP

Ferrandino, Court, Hullinghorst, Levy, Pabon

SENATE SPONSORSHIP

Heath,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE IMPLEMENTATION OF THE MINIMUM
102 SIMPLIFICATION REQUIREMENTS OF THE PROPOSED FEDERAL
103 "MARKETPLACE FAIRNESS ACT OF 2013" IN ORDER FOR THE
104 STATE TO BE AUTHORIZED BY THE FEDERAL GOVERNMENT TO
105 REQUIRE REMOTE SELLERS TO COLLECT SALES TAX ON TAXABLE
106 SALES MADE WITHIN THE STATE.

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://www.leg.state.co.us/billsummaries>.)

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

The 113th Congress is considering legislation, cited as the "Marketplace Fairness Act of 2013" (federal act) that, if enacted, grants states the authority to compel certain out-of-state retailers with gross annual receipts in total remote sales of more than \$1,000,000 (remote sellers) to collect and remit sales tax on behalf of the state and local taxing jurisdictions at the time of a transaction when the item purchased will be delivered in the state. Local retailers are already required to collect sales tax on behalf of the state and local taxing jurisdictions at the time of a local transaction. The federal act specifies that states are only granted this authority after certain minimum simplification requirements are met. The bill meets those minimum simplification requirements by:

- ! Establishing remote sales as a part of existing sales tax law;
- ! Specifying that only the state's sales tax base, not a local sales tax base, will apply to all remote sales;
- ! Requiring that the department of revenue be responsible for all state and local sales tax administration, return processing, including the establishment of a single form for returns, and audits for remote sales;
- ! Establishing the sourcing definition provided in the federal act in order to properly source all interstate sales to the state;
- ! Requiring the department of revenue to provide information to remote sellers that indicates the taxability of products and services along with any product and service exemptions from sales tax in the state;
- ! Requiring the department of revenue to provide remote sellers a sales tax rate database and a database of local taxing jurisdiction boundaries;
- ! Requiring the department of revenue to provide, or to contract with certified software providers to provide on its behalf, software to remote sellers, free of charge, 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; and
- ! Providing the required relief of liability to remote sellers for errors.

The bill allows local taxing jurisdictions governed by a home rule charter to opt in by passing an ordinance or resolution accepting the state's administration and distribution of its local sales tax on remote sales that is collected and remitted by remote sellers in conformance with the provisions of the bill.

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

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

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

6 (b) It is therefore the general assembly's intent to allow local
7 taxing jurisdictions governed by a home rule charter to opt into this act by
8 passing an ordinance or resolution accepting the state's administration and
9 distribution of its local sales tax on remote sales that is collected and
10 remitted by remote sellers in conformance with the provisions of House
11 Bill 13-_____.

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

14 **39-26-102. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (5.6) "LIVESTOCK PRODUCTION FACILITY" MEANS ANY STRUCTURE
17 USED PREDOMINATELY FOR THE HOUSING, CONTAINING, SHELTERING, OR
18 FEEDING OF LIVESTOCK, INCLUDING, WITHOUT LIMITATION, BARNs,
19 CORRALS, FEEDLOTS, AND SWINE HOUSES.

20 (5.7) (a) ~~"Livestock production facility" means any structure used~~
21 ~~predominantly for the housing, containing, sheltering, or feeding of~~
22 ~~livestock, including, without limitation, barns, corrals, feedlots, and swine~~
23 ~~houses~~ "LOCAL TAXING JURISDICTION" MEANS A CITY, TOWN,
24 MUNICIPALITY, COUNTY, SPECIAL DISTRICT, OR AUTHORITY AUTHORIZED
25 TO LEVY A SALES TAX PURSUANT TO TITLE 24, 25, 29, 30, 31, 32, 37, OR 42,
26 C.R.S., AND ANY MUNICIPALITY GOVERNED BY A HOME RULE CHARTER
27 THAT PASSES AN ORDINANCE, RESOLUTION, OR CHARTER PROVISION

1 ACCEPTING THE STATE'S ADMINISTRATION AND DISTRIBUTION OF ITS
2 LOCAL SALES TAX ON REMOTE SALES THAT IS COLLECTED AND REMITTED
3 BY REMOTE SELLERS IN CONFORMANCE WITH THE PROVISIONS OF HOUSE
4 BILL 13-_____.

5 (b) ANY MUNICIPALITY GOVERNED BY A HOME RULE CHARTER
6 THAT PASSES AN ORDINANCE, RESOLUTION, OR CHARTER PROVISION
7 ACCEPTING THE STATE'S ADMINISTRATION AND DISTRIBUTION OF ITS
8 LOCAL SALES TAX ON REMOTE SALES THAT IS COLLECTED AND REMITTED
9 BY REMOTE SELLERS IN CONFORMANCE WITH THE PROVISIONS OF HOUSE
10 BILL 13-_____ MUST PROVIDE A COPY OF SUCH ORDINANCE, RESOLUTION,
11 OR CHARTER PROVISION TO THE DEPARTMENT OF REVENUE NO LATER THAN
12 THIRTY DAYS AFTER ITS ADOPTION.

13 (7.6) "REMOTE SALE" MEANS A SALE INTO THIS STATE IN WHICH
14 THE RETAILER WOULD NOT LEGALLY BE REQUIRED TO PAY, COLLECT, OR
15 REMIT STATE OR LOCAL SALES TAXES UNLESS PROVIDED BY AN ACT OF
16 CONGRESS.

17 (7.7) (a) "REMOTE SELLER" MEANS A PERSON WITH GROSS ANNUAL
18 RECEIPTS OF MORE THAN ONE MILLION DOLLARS IN TOTAL REMOTE SALES
19 IN THE UNITED STATES IN THE PRECEDING CALENDAR YEAR WHO MAKES
20 A REMOTE SALE IN THE STATE.

21 (b) THE SALES OF A RETAILER RELATED WITHIN THE MEANING OF
22 SECTION 267 (b) AND (c) OR SECTION 707 (b) (1) OF THE FEDERAL
23 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, SHALL BE
24 AGGREGATED IN CALCULATING THE GROSS ANNUAL RECEIPTS DESCRIBED
25 IN PARAGRAPH (a) OF THIS SUBSECTION (7.7).

26 (c) A RETAILER WITH ONE OR MORE OWNERSHIP RELATIONSHIPS
27 SHALL ALSO BE AGGREGATED IN CALCULATING THE GROSS ANNUAL

1 RECEIPTS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (7.7), IF SUCH
2 RELATIONSHIPS WERE DESIGNED WITH A PRINCIPAL PURPOSE OF AVOIDING
3 THE APPLICATION OF THE GROSS ANNUAL RECEIPT LIMITATION SPECIFIED
4 IN PARAGRAPH (a) OF THIS SUBSECTION (7.7).

5 (8) "Retailer" or "vendor" means a person doing business in this
6 state, INCLUDING A REMOTE SELLER, known to the trade and public as
7 such, and selling to the user or consumer, and not for resale.

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

21 **SECTION 3.** In Colorado Revised Statutes, 39-26-103, **amend**
22 (1) (c), (2), (4), and (7) as follows:

23 **39-26-103. Licenses - fee - revocation.** (1) (c) For each license
24 issued, a fee of sixteen dollars shall be paid, which fee shall accompany
25 the application together with an additional fifty-dollar deposit; EXCEPT
26 THAT THE ADDITIONAL DEPOSIT MAY NOT BE REQUIRED OF A REMOTE
27 SELLER. A further fee of sixteen dollars shall be paid for each two-year

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

8 (2) (a) ~~In case business is transacted~~ IF A RETAILER MAKES RETAIL
9 SALES at two or more separate places ~~by one person~~ OF BUSINESS IN THE
10 STATE, a separate license for each place of business shall be required.

11 (b) A REMOTE SELLER IS ONLY REQUIRED TO HAVE A SINGLE
12 LICENSE.

13 (4) The executive director OF THE DEPARTMENT OF REVENUE, after
14 reasonable notice and a full hearing, may revoke the license of any person
15 found by him or her to have violated any provision of this article. Any
16 ~~person engaged in the business of selling at retail in this state~~ RETAILER
17 WHO MAKES RETAIL SALES without securing a license therefor commits a
18 class 3 misdemeanor and shall be punished according to section
19 18-1.3-501, C.R.S. Any ~~person~~ RETAILER who ~~engages in the business of~~
20 ~~selling at retail in this state~~ MAKES RETAIL SALES without a license may
21 also be subject to a civil penalty of fifty dollars per day to a maximum
22 penalty of one thousand dollars. Such penalty shall be assessed by the
23 executive director or his or her authorized agent and shall be waived or
24 reduced if such failure to obtain such license is due to reasonable cause
25 and not willful neglect or intent to defraud.

26 (7) It is the duty of the executive director OF THE DEPARTMENT OF
27 REVENUE, at the time of issuance of any new license ~~for the business of~~

1 ~~selling at retail under this part 1~~, FOR A RETAILER WHO MAKES RETAIL
2 SALES, EXCEPT FOR A REMOTE SELLER, to notify the county treasurer of the
3 county where the new licensee is located, of the name and address of the
4 licensee.

5 **SECTION 4.** In Colorado Revised Statutes, 39-26-104, **amend**
6 (1) introductory portion; and **add** (2) as follows:

7 **39-26-104. Property and services taxed.** (1) EXCEPT AS
8 PROVIDED IN SUBSECTION (2), there is levied and there shall be collected
9 and paid a tax in the amount stated in section 39-26-106 as follows:

10 (2) (a) NOTWITHSTANDING ANY PROVISION IN TITLE 24, 25, 29, 30,
11 31, 32, 37, OR 42, C.R.S., OR ANY ORDINANCE OR RESOLUTION OF ANY
12 LOCAL TAXING JURISDICTION WITH RESPECT TO REMOTE SALES, THERE IS
13 LEVIED AND THERE SHALL BE COLLECTED AND PAID BY REMOTE SELLERS
14 ON EVERY INCIDENT SUBJECT TO TAX AS SET FORTH IN SUBSECTION (1) OF
15 THIS SECTION, BUT NOT INCLUDING THE INCIDENTS SET FORTH IN
16 PARAGRAPH (e) OF THIS SUBSECTION (2), A TAX AT THE RATE SPECIFIED IN
17 SECTION 39-26-106. IN ADDITION, EVERY REMOTE SELLER SHALL COLLECT
18 AND REMIT, AS PROVIDED IN SECTION 39-26-122.7, THE SALES TAX AT THE
19 GENERAL SALES TAX RATE LEVIED BY A LOCAL TAXING JURISDICTION;
20 EXCEPT THAT SUCH SALES TAX SHALL ONLY BE COLLECTED ON EVERY
21 INCIDENT SUBJECT TO TAX AS SET FORTH IN SUBSECTION (1) OF THIS
22 SECTION, BUT NOT INCLUDING THE INCIDENTS SET FORTH IN PARAGRAPH
23 (e) OF THIS SUBSECTION (2). ANY EXEMPTIONS WITH RESPECT TO PART 1
24 OF THIS ARTICLE AS SET FORTH IN THIS TITLE ARE APPLICABLE.

25 (b) NOTWITHSTANDING ANY PROVISION OF LAW, A LOCAL TAXING
26 JURISDICTION MAY NOT COLLECT A SALES TAX ON REMOTE SALES EXCEPT
27 AS PROVIDED IN THIS SUBSECTION (2).

1 (c) NOTWITHSTANDING ANY PROVISION OF LAW, WITH RESPECT TO
2 A LOCAL TAXING JURISDICTION, THE EFFECTIVE DATE OF ANY CHANGE IN
3 THE GENERAL SALES TAX RATE OF THE LOCAL TAXING JURISDICTION SHALL
4 BE EITHER JANUARY 1 OR JULY 1 FOLLOWING THE DATE OF THE ELECTION
5 IN WHICH SUCH A SALES TAX PROPOSAL IS APPROVED; AND NOTICE OF THE
6 ADOPTION OF ANY SALES TAX PROPOSAL SHALL BE SUBMITTED BY THE
7 LOCAL TAXING JURISDICTION TO THE EXECUTIVE DIRECTOR OF THE
8 DEPARTMENT OF REVENUE AT LEAST ONE HUNDRED DAYS PRIOR TO THE
9 EFFECTIVE DATE OF SUCH TAX. IF SUCH A SALES TAX PROPOSAL IS
10 APPROVED AT AN ELECTION HELD LESS THAN ONE HUNDRED FIVE DAYS
11 PRIOR TO THE JANUARY 1 OR JULY 1 FOLLOWING THE DATE OF ELECTION,
12 SUCH SALES TAX PROPOSAL SHALL NOT BE EFFECTIVE UNTIL THE NEXT
13 SUCCEEDING JANUARY 1 OR JULY 1.

14 (d) FOR THE PURPOSE OF THE ADMINISTRATION BY THE STATE OF
15 THE PROVISIONS OF THIS SUBSECTION (2), EACH LOCAL TAXING
16 JURISDICTION SHALL FILE, PURSUANT TO SECTION 29-2-110, C.R.S., WITH
17 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE A COPY OF
18 EACH SALES TAX ORDINANCE OR RESOLUTION, OR ANY AMENDMENT
19 THERETO, THAT CHANGES THE GENERAL SALES TAX RATE DESCRIBED IN
20 PARAGRAPH (a) OF THIS SUBSECTION (2) NO LATER THAN ONE HUNDRED
21 DAYS BEFORE THE EFFECTIVE DATE THEREOF.

22 (e) NOTWITHSTANDING ANY PROVISIONS OF LAW, THE FOLLOWING
23 INCIDENTS ARE NOT SUBJECT TO THE COLLECTION AND PAYMENT OF SALES
24 TAX BY REMOTE SELLERS AS SET FORTH IN PARAGRAPH (a) OF THIS
25 SUBSECTION (2):

26 (I) DIRECT MAIL ADVERTISING MATERIALS AS DEFINED IN SECTION
27 39-26-102 (2.8);

- 1 (II) CANDY AS DEFINED IN SECTION 39-26-707 (1.5) (b) (I);
- 2 (III) SOFT DRINKS AS DEFINED IN SECTION 39-26-707 (1.5) (b) (II);
- 3 (IV) NONESSENTIAL ARTICLES AS DESCRIBED IN SECTION
- 4 39-26-707 (1) (c); AND
- 5 (V) NONESSENTIAL CONTAINERS OR BAGS AS DESCRIBED IN
- 6 SECTION 39-26-707 (1) (d).

7 **SECTION 5.** In Colorado Revised Statutes, **repeal and reenact,**
8 **with amendments,** 39-26-105 as follows:

9 **39-26-105. Vendor liable for tax - repeal.** (1) (a) (I) (A) EXCEPT
10 AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I) AND
11 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), EVERY RETAILER SHALL,
12 IRRESPECTIVE OF THE PROVISIONS OF SECTION 39-26-106, BE LIABLE AND
13 RESPONSIBLE FOR THE PAYMENT OF AN AMOUNT EQUIVALENT TO TWO AND
14 NINETY ONE-HUNDREDTHS PERCENT OF ALL SALES MADE ON OR AFTER
15 JANUARY 1, 2001, BY THE RETAILER OF COMMODITIES OR SERVICES AS
16 SPECIFIED IN SECTION 39-26-104.

17 (B) A RETAILER WHO HAS RECEIVED IN GOOD FAITH FROM A
18 QUALIFIED PURCHASER A DIRECT PAYMENT PERMIT NUMBER ISSUED
19 PURSUANT TO SECTION 39-26-103.5 SHALL NOT BE LIABLE OR RESPONSIBLE
20 FOR THE COLLECTION AND REMITTANCE OF THE TAX IMPOSED BY THIS
21 ARTICLE ON ANY SALE MADE TO THE QUALIFIED PURCHASER THAT IS PAID
22 FOR DIRECTLY FROM SUCH QUALIFIED PURCHASER'S FUNDS AND NOT THE
23 PERSONAL FUNDS OF ANY INDIVIDUAL.

24 (II) A REMOTE SELLER SHALL BE LIABLE AND RESPONSIBLE FOR
25 THE PAYMENT OF THE AMOUNTS SPECIFIED IN SECTION 39-26-104 (2) (a).

26 (b) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
27 PARAGRAPH (b), EVERY RETAILER SHALL, BEFORE THE TWENTIETH DAY OF

1 EACH MONTH, MAKE A RETURN TO THE EXECUTIVE DIRECTOR OF THE
2 DEPARTMENT OF REVENUE FOR THE PRECEDING CALENDAR MONTH. THE
3 EXECUTIVE DIRECTOR SHALL DETERMINE WHAT INFORMATION THE
4 RETURNS MUST CONTAIN, HOW THE RETURNS MUST BE MADE, AND THE
5 TYPE OF FORMS THAT MUST BE USED.

6 (II) EVERY REMOTE SELLER SHALL MAKE A RETURN TO THE
7 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE AS SPECIFIED IN
8 SECTION 39-26-122.7.

9 (c) (I) (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF
10 THIS SUBPARAGRAPH (I), EVERY RETAILER SHALL REMIT, ALONG WITH THE
11 RETURN REQUIRED IN PARAGRAPH (b) OF THIS SUBSECTION (1), AN
12 AMOUNT EQUIVALENT TO THE PERCENTAGE ON SALES AS SPECIFIED IN
13 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) TO THE
14 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, LESS AN AMOUNT
15 AS SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) TO COVER
16 THE RETAILER'S EXPENSE IN THE COLLECTION AND REMITTANCE OF SAID
17 TAX.

18 (B) EVERY REMOTE SELLER SHALL REMIT, ALONG WITH THE
19 RETURN REQUIRED IN PARAGRAPH (b) OF THIS SUBSECTION (1), THE
20 AMOUNTS SPECIFIED IN SECTION 39-26-104 (2) (a), LESS AN AMOUNT AS
21 SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) TO COVER THE
22 RETAILER'S EXPENSE IN THE COLLECTION AND REMITTANCE OF SAID TAX.

23 (II) THE AMOUNT RETAINED BY A RETAILER TO COVER THE
24 RETAILER'S EXPENSE IN COLLECTING AND REMITTING TAX PURSUANT TO
25 THIS SECTION SHALL NOT EXCEED AN AMOUNT EQUAL TO THREE AND
26 ONE-THIRD PERCENT OF ALL SALES TAX REPORTED.

27 (III) IF ANY RETAILER IS DELINQUENT IN REMITTING SAID TAX,

1 OTHER THAN IN UNUSUAL CIRCUMSTANCES SHOWN TO THE SATISFACTION
2 OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, THE
3 RETAILER SHALL NOT BE ALLOWED TO RETAIN ANY AMOUNTS TO COVER
4 SUCH RETAILER'S EXPENSE IN COLLECTING AND REMITTING SAID TAX, AND
5 AN AMOUNT EQUIVALENT TO THE SAID PERCENTAGE, PLUS THE AMOUNT
6 OF ANY LOCAL VENDOR EXPENSE THAT MAY BE ALLOWED BY THE LOCAL
7 GOVERNMENT TO THE VENDOR, SHALL BE REMITTED TO THE EXECUTIVE
8 DIRECTOR BY ANY SUCH DELINQUENT VENDOR. ANY LOCAL VENDOR
9 EXPENSE REMITTED TO THE EXECUTIVE DIRECTOR SHALL BE DEPOSITED TO
10 THE STATE GENERAL FUND.

11 (2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
12 MAY EXTEND THE TIME FOR MAKING A RETURN AND PAYING THE TAXES
13 DUE UNDER SUCH REASONABLE RULES AS THE EXECUTIVE DIRECTOR MAY
14 PRESCRIBE, BUT NO SUCH EXTENSION SHALL BE FOR A GREATER PERIOD
15 THAN IS PROVIDED FOR IN SECTION 39-26-109.

16 (3) THE BURDEN OF PROVING THAT ANY RETAILER IS EXEMPT FROM
17 COLLECTING THE TAX ON ANY GOODS SOLD AND PAYING THE SAME TO THE
18 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, OR FROM
19 MAKING SUCH RETURNS, SHALL BE ON THE RETAILER UNDER SUCH
20 REASONABLE REQUIREMENTS OF PROOF AS THE EXECUTIVE DIRECTOR MAY
21 PRESCRIBE.

22 (4) EVERY RETAILER CONDUCTING A BUSINESS IN WHICH THE
23 TRANSACTION BETWEEN THE RETAILER AND THE CONSUMER CONSISTS OF
24 THE SUPPLYING OF TANGIBLE PERSONAL PROPERTY AND SERVICES IN
25 CONNECTION WITH THE MAINTENANCE OR SERVICING OF THE SAME SHALL
26 BE REQUIRED TO PAY THE TAXES LEVIED UNDER THIS ARTICLE UPON THE
27 FULL CONTRACT PRICE, UNLESS APPLICATION IS MADE TO THE EXECUTIVE

1 DIRECTOR OF THE DEPARTMENT OF REVENUE FOR PERMISSION TO USE A
2 PERCENTAGE BASIS OF REPORTING THE TANGIBLE PERSONAL PROPERTY
3 SOLD AND THE SERVICES SUPPLIED UNDER SUCH CONTRACT. THE
4 EXECUTIVE DIRECTOR IS AUTHORIZED TO DETERMINE THE PERCENTAGE
5 BASED UPON THE RATIO OF THE TANGIBLE PERSONAL PROPERTY INCLUDED
6 IN THE CONSIDERATION AS IT BEARS TO THE TOTAL OF THE CONSIDERATION
7 PAID UNDER SAID COMBINATION CONTRACT OR SALE THAT IS SUBJECT TO
8 THE SALES TAX LEVIED UNDER THE PROVISIONS OF THIS PART 1. THIS
9 SECTION SHALL NOT BE CONSTRUED TO INCLUDE ITEMS UPON WHICH THE
10 SALES TAX IS IMPOSED ON THE FULL PURCHASE PRICE AS DESIGNATED IN
11 SECTION 39-26-102 (12).

12 (5) (a) A QUALIFIED PURCHASER MAY PROVIDE A DIRECT PAYMENT
13 PERMIT NUMBER TO A RETAILER THAT IS LIABLE AND RESPONSIBLE FOR
14 COLLECTING AND REMITTING THE TAX IMPOSED BY THIS ARTICLE ON ANY
15 SALE MADE TO THE QUALIFIED PURCHASER. A QUALIFIED PURCHASER
16 HOLDING A DIRECT PAYMENT PERMIT NUMBER SHALL, BEFORE THE
17 TWENTIETH DAY OF EACH MONTH SUBSEQUENT TO THE MONTH IN WHICH
18 ANY SALE TO THE QUALIFIED PURCHASER WAS MADE FOR WHICH THE
19 QUALIFIED PURCHASER'S DIRECT PAYMENT PERMIT NUMBER WAS USED,
20 MAKE A RETURN AND REMIT DIRECTLY TO THE EXECUTIVE DIRECTOR OF
21 THE DEPARTMENT OF REVENUE THE AMOUNT OF SUCH TAX OWING ON ALL
22 SUCH SALES TO THE QUALIFIED PURCHASER MADE IN THE PRECEDING
23 MONTH. SUCH RETURNS OF THE QUALIFIED PURCHASER OR DULY
24 AUTHORIZED AGENT SHALL CONTAIN SUCH INFORMATION AND BE MADE IN
25 SUCH MANNER AND UPON SUCH FORMS AS THE EXECUTIVE DIRECTOR
26 SHALL PRESCRIBE.

27 (b) FROM THE AMOUNT OF THE TAX REQUIRED TO BE REMITTED

1 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), A QUALIFIED
2 PURCHASER SHALL BE ENTITLED TO RETAIN THE AMOUNT SPECIFIED IN
3 SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS
4 SECTION THAT A RETAILER WOULD OTHERWISE BE ENTITLED TO RETAIN TO
5 COVER THE RETAILER'S EXPENSE IN COLLECTING AND REMITTING THE TAX
6 IMPOSED BY THIS ARTICLE IF THE QUALIFIED PURCHASER HAD NOT
7 PROVIDED A DIRECT PAYMENT PERMIT NUMBER TO THE RETAILER.

8 **SECTION 6.** In Colorado Revised Statutes, 39-26-105.3, **add**
9 (6.5) as follows:

10 **39-26-105.3. Remittance of tax - electronic database - vendor**
11 **held harmless.** (6.5) (a) THE DEPARTMENT OF REVENUE SHALL PROVIDE
12 INFORMATION TO REMOTE SELLERS THAT INDICATES THE TAXABILITY OF
13 PRODUCTS AND SERVICES ALONG WITH ANY PRODUCT AND SERVICE
14 EXEMPTIONS FROM SALES TAX IN THE STATE. THE DEPARTMENT OF
15 REVENUE SHALL ALSO PROVIDE TO REMOTE SELLERS A SALES TAX RATE
16 DATABASE AND A DATABASE OF LOCAL TAXING JURISDICTION
17 BOUNDARIES.

18 (b) THE DEPARTMENT OF REVENUE SHALL ESTABLISH
19 CERTIFICATION PROCEDURES FOR PERSONS TO BE APPROVED AS CERTIFIED
20 SOFTWARE PROVIDERS, WHICH PROCEDURES SHALL INCLUDE A
21 REQUIREMENT THAT SOFTWARE PROVIDED BY CERTIFIED SOFTWARE
22 PROVIDERS BE CAPABLE OF CALCULATING AND FILING SALES AND USE
23 TAXES IN ALL STATES QUALIFIED UNDER THE PROPOSED FEDERAL
24 LEGISLATION KNOWN AS THE "MARKETPLACE FAIRNESS ACT OF 2013"
25 THAT, AS OF THE INTRODUCTION OF HOUSE BILL 13-____, IS BEING
26 CONSIDERED IN CONGRESS.

27 (c) (I) THE DEPARTMENT OF REVENUE SHALL PROVIDE FREE OF

1 CHARGE, OR SHALL CONTRACT WITH CERTIFIED SOFTWARE PROVIDERS TO
2 PROVIDE ON ITS BEHALF FREE OF CHARGE, SOFTWARE TO REMOTE SELLERS
3 THAT:

4 (A) CALCULATES SALES TAXES DUE ON EACH TRANSACTION AT
5 THE TIME THE TRANSACTION IS COMPLETED;

6 (B) FILES SALES TAX RETURNS; AND

7 (C) UPDATES TO REFLECT ANY TAX RATE CHANGES FOR THE STATE
8 OR ANY LOCAL TAXING JURISDICTION.

9 (II) REMOTE SELLERS ARE RELIEVED FROM LIABILITY TO THE STATE
10 OR LOCAL TAXING JURISDICTION FOR THE INCORRECT COLLECTION,
11 REMITTANCE, OR NONCOLLECTION OF SALES TAXES, INCLUDING ANY
12 PENALTIES OR INTEREST, IF THE LIABILITY IS THE RESULT OF AN ERROR OR
13 OMISSION MADE BY A CERTIFIED SOFTWARE PROVIDER.

14 (III) CERTIFIED SOFTWARE PROVIDERS ARE RELIEVED FROM
15 LIABILITY TO THE STATE LOCAL TAXING JURISDICTION FOR THE INCORRECT
16 COLLECTION, REMITTANCE, OR NONCOLLECTION OF SALES TAXES,
17 INCLUDING ANY PENALTIES OR INTEREST, IF THE LIABILITY IS THE RESULT
18 OF MISLEADING OR INACCURATE INFORMATION PROVIDED BY A REMOTE
19 SELLER.

20 (IV) REMOTE SELLERS AND CERTIFIED SOFTWARE PROVIDERS ARE
21 RELIEVED FROM LIABILITY TO THE STATE OR LOCAL TAXING JURISDICTION
22 FOR INCORRECT COLLECTION, REMITTANCE, OR NONCOLLECTION OF SALES
23 TAXES, INCLUDING ANY PENALTIES OR INTEREST, IF THE LIABILITY IS THE
24 RESULT OF INCORRECT INFORMATION OR SOFTWARE PROVIDED BY THE
25 DEPARTMENT OF REVENUE.

26 (V) THE DEPARTMENT OF REVENUE SHALL NOTIFY REMOTE
27 SELLERS AND CERTIFIED SOFTWARE PROVIDERS OF ANY STATE OR LOCAL

1 SALES TAX RATE CHANGE AT LEAST NINETY DAYS BEFORE THE EFFECTIVE
2 DATE OF SUCH A CHANGE. SUBSEQUENT TO ANY SALES TAX RATE CHANGE,
3 THE DEPARTMENT OF REVENUE SHALL UPDATE THE INFORMATION
4 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6.5) ACCORDINGLY.
5 REMOTE SELLERS AND CERTIFIED SOFTWARE PROVIDERS ARE RELIEVED
6 FROM LIABILITY FOR COLLECTING SALES TAXES AT THE IMMEDIATELY
7 PRECEDING EFFECTIVE STATE AND LOCAL RATES DURING THE NINETY-DAY
8 NOTICE PERIOD IF THE REQUIRED NOTICE IS NOT PROVIDED.

9 **SECTION 7.** In Colorado Revised Statutes, **add** 39-26-122.7 as
10 follows:

11 **39-26-122.7. Filing and remittance of remote sales - standard**
12 **sales tax reporting form for remote sales - delayed distributions.**

13 (1) EVERY REMOTE SELLER SHALL, BEFORE THE TWENTIETH DAY OF EACH
14 MONTH, MAKE A RETURN TO THE EXECUTIVE DIRECTOR OF THE
15 DEPARTMENT OF REVENUE FOR THE PRECEDING CALENDAR MONTH AND
16 INCLUDE SUCH REMITTANCE AS SPECIFIED IN SECTION 39-26-105 (1)(c) (I)
17 (B). A REMOTE SELLER'S RETURNS, OR THE RETURNS OF A REMOTE
18 SELLER'S DULY AUTHORIZED AGENT, MUST CONTAIN SUCH INFORMATION
19 AND BE MADE IN SUCH MANNER AND UPON SUCH FORMS AS SPECIFIED IN
20 THIS SECTION.

21 (2)(a) THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF
22 THE LOCAL TAXING JURISDICTION SALES TAX UNDER SECTION 39-26-104

23 (2) SHALL BE PERFORMED BY THE EXECUTIVE DIRECTOR OF THE
24 DEPARTMENT OF REVENUE IN THE SAME MANNER AS THE COLLECTION,
25 ADMINISTRATION, AND ENFORCEMENT OF THE COLORADO STATE SALES
26 TAX.

27 (b) A REMOTE SELLER MAY ONLY BE SUBJECT TO AUDIT BY THE

1 DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE SHALL AUDIT
2 ALL SALES TAX IMPOSED OR COLLECTED UNDER SECTION 39-26-104 (2).
3 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO LOCAL TAXING
4 AUTHORITY SHALL HAVE THE AUTHORITY TO AUDIT ANY REMOTE SELLER.

5 (3) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
6 SHALL AT NO CHARGE ADMINISTER, COLLECT, AND DISTRIBUTE ANY SALES
7 TAX IMPOSED BY ANY LOCAL TAXING JURISDICTION ON A REMOTE SALE
8 AUTHORIZED BY SECTION 39-26-104 (2). THE EXECUTIVE DIRECTOR SHALL
9 MAKE MONTHLY DISTRIBUTIONS OF SALES TAX COLLECTIONS TO THE
10 APPROPRIATE OFFICIAL IN EACH LOCAL TAXING JURISDICTION.

11 (4) (a) NOTWITHSTANDING THE PROVISIONS OF SECTION
12 39-21-113, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
13 SHALL REPORT MONTHLY TO EACH LOCAL TAXING JURISDICTION FOR
14 WHICH THE DEPARTMENT OF REVENUE COLLECTS A SALES TAX,
15 INFORMATION IDENTIFYING REMOTE SELLERS MAKING SALES WITHIN THE
16 LOCAL TAXING JURISDICTION AND, WHERE THE CHIEF ADMINISTRATIVE
17 OFFICER OR HIS DESIGNEE HAS EXECUTED A MEMORANDUM OF
18 UNDERSTANDING WITH THE DEPARTMENT OF REVENUE PROVIDING FOR
19 CONTROL OF CONFIDENTIAL DATA, THE STATUS OF EACH REMOTE SELLER'S
20 ACCOUNT INCLUDING THE AMOUNT OF SUCH LOCAL TAXING JURISDICTION'S
21 SALES TAX COLLECTED AND PAID BY EACH SUCH REMOTE SELLER. THE
22 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY, IN HIS OR
23 HER DISCRETION, PROVIDE ADDITIONAL INFORMATION TO A LOCAL TAXING
24 JURISDICTION CONCERNING COLLECTION AND ADMINISTRATION OF SUCH
25 LOCAL TAXING JURISDICTION'S SALES TAX IF SUCH A MEMORANDUM HAS
26 BEEN EXECUTED.

27 (b) EXCEPT IN ACCORDANCE WITH JUDICIAL ORDER OR AS

1 OTHERWISE PROVIDED BY LAW, NO OFFICIAL OR EMPLOYEE OF A LOCAL
2 TAXING JURISDICTION RECEIVING SALES TAX INFORMATION FROM THE
3 DEPARTMENT OF REVENUE PURSUANT TO THIS SUBSECTION (4) SHALL
4 DIVULGE OR MAKE KNOWN TO ANY PERSON NOT AN OFFICIAL OR
5 EMPLOYEE OF SUCH LOCAL TAXING JURISDICTION ANY INFORMATION THAT
6 IDENTIFIES OR PERMITS THE IDENTIFICATION OF THE AMOUNT OF SALES
7 TAXES COLLECTED OR PAID BY ANY INDIVIDUAL REMOTE SELLER. THE
8 OFFICIALS OR EMPLOYEES OF ANY LOCAL TAXING JURISDICTION CHARGED
9 WITH THE CUSTODY OF SUCH SALES TAX INFORMATION SHALL NOT BE
10 REQUIRED TO PRODUCE ANY SUCH INFORMATION IN ANY ACTION OR
11 PROCEEDING IN ANY COURT EXCEPT IN AN ACTION OR PROCEEDING UNDER
12 THE PROVISIONS OF THIS ARTICLE TO WHICH THE LOCAL TAXING
13 JURISDICTION HAVING CUSTODY OF THE INFORMATION IS A PARTY, IN
14 WHICH EVENT THE COURT MAY REQUIRE THE PRODUCTION OF, AND MAY
15 ADMIT IN EVIDENCE, SO MUCH OF SAID SALES TAX INFORMATION AS IS
16 PERTINENT TO THE ACTION OR PROCEEDING. ANY OFFICIAL OR EMPLOYEE
17 WHO WILLFULLY VIOLATES ANY OF THE PROVISIONS OF THIS SUBSECTION
18 (4) IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF,
19 SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE THOUSAND
20 DOLLARS AND SHALL BE DISMISSED FROM OFFICE.

21 (5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
22 SHALL ADOPT, BY REGULATION, A STANDARD SALES TAX REPORTING FORM
23 FOR REMOTE SALES. SUCH FORM SHALL BE SEPARATE FROM THE STATE
24 FORM AND SHALL BE THE ONLY SALES TAX REPORTING FORM REQUIRED TO
25 BE USED BY ANY REMOTE SELLER. SUCH FORM SHALL ALLOW A REMOTE
26 SELLER TO REPORT ALL SALES AND USE TAXES COLLECTED FOR A LOCAL
27 GOVERNMENT ON SUCH FORM.

1 (6) IF ANY SALES TAX TO BE DISTRIBUTED PURSUANT TO THIS
2 SECTION IS NOT DISTRIBUTED WITHIN SIXTY DAYS AFTER THE PROCESSING
3 DATE, INTEREST SHALL BE ADDED TO THE UNDISTRIBUTED AMOUNT FROM
4 THE SIXTIETH DAY AFTER THE PROCESSING DATE UNTIL THE DATE SUCH
5 SALES TAX IS DISTRIBUTED. THE RATE OF SAID INTEREST SHALL BE EQUAL
6 TO THE AVERAGE RATE, ROUNDED TO ONE ONE-THOUSANDTH OF A
7 PERCENT, BEING EARNED BY THE INVESTMENT OF MONEYS IN THE STATE
8 TREASURY FOR THE SAME PERIOD.

9 (7) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
10 MAY PROMULGATE RULES AND REGULATIONS TO CARRY OUT THE
11 PROVISIONS OF THIS SECTION.

12 **SECTION 8.** In Colorado Revised Statutes, 24-46-303, **amend**
13 (12) as follows:

14 **24-46-303. Definitions.** As used in this part 3, unless the context
15 otherwise requires:

16 (12) "State sales tax increment revenue" means the portion of the
17 revenue derived from state sales taxes, NOT INCLUDING ANY SALES TAXES
18 FOR REMOTE SALES AS SPECIFIED IN SECTION 39-26-104 (2), C.R.S.,
19 collected within a designated regional tourism zone in excess of the
20 amount of base year revenue.

21 **SECTION 9.** In Colorado Revised Statutes, 30-20-604.5, **amend**
22 (1) as follows:

23 **30-20-604.5. District sales tax.** (1) The board of any county or
24 of any city that has been authorized to become a city and county pursuant
25 to an amendment to the state constitution that has been approved by the
26 registered electors of the state of Colorado and that subsequently becomes
27 a city and county for the purpose of funding all or a portion of the cost of

1 any improvements constructed or transportation services provided
2 pursuant to section 30-20-603 (1) (a), (1) (a.5), and (1) (c), may levy a
3 sales tax throughout the district upon every transaction or other incident
4 with respect to which a sales tax is authorized pursuant to section
5 29-2-105, C.R.S.; except that such tax may be levied only upon those
6 transactions specified in section 39-26-104 (1) (a), (1) (b), (1) (e), and (1)
7 (f), C.R.S., AND MAY NOT INCLUDE ANY SALES TAXES FOR REMOTE SALES
8 AS SPECIFIED IN SECTION 39-26-104 (2), C.R.S. The board may, in its
9 discretion, levy or continue to levy a sales tax on the sales of low-emitting
10 motor vehicles, power sources, or parts used for converting such power
11 sources as specified in section 39-26-719 (1), C.R.S.

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

14 **31-25-107. Approval of urban renewal plans by local**
15 **governing body.** (9) (a) Notwithstanding any law to the contrary, any
16 urban renewal plan, as originally approved or as later modified pursuant
17 to this part 1, may contain a provision that taxes, if any, levied after the
18 effective date of the approval of such urban renewal plan upon taxable
19 property in an urban renewal area each year or that municipal sales taxes
20 collected within said area, or both such taxes, by or for the benefit of any
21 public body shall be divided for a period not to exceed twenty-five years
22 after the effective date of adoption of such a provision, as follows:

23 (I) That portion of the taxes which are produced by the levy at the
24 rate fixed each year by or for each such public body upon the valuation
25 for assessment of taxable property in the urban renewal area last certified
26 prior to the effective date of approval of the urban renewal plan or, as to
27 an area later added to the urban renewal area, the effective date of the

1 modification of the plan, or that portion of municipal sales taxes, NOT
2 INCLUDING ANY SALES TAXES FOR REMOTE SALES AS SPECIFIED IN SECTION
3 39-26-104 (2), C.R.S., collected within the boundaries of said urban
4 renewal area in the twelve-month period ending on the last day of the
5 month prior to the effective date of approval of said plan, or both such
6 portions, shall be paid into the funds of each such public body as are all
7 other taxes collected by or for said public body.

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

10 **31-25-807. Powers - duties.** (3) (a) Notwithstanding any law to
11 the contrary and subject to the provisions of subparagraph (IV) of this
12 paragraph (a), any such plan of development as originally adopted by the
13 board or as later modified pursuant to this part 8 may, after approval by
14 the governing body of the municipality, contain a provision that taxes, if
15 any, levied after the effective date of the approval of such plan of
16 development by said governing body upon taxable property within the
17 boundaries of the plan of development area each year or that municipal
18 sales taxes, NOT INCLUDING ANY SALES TAXES FOR REMOTE SALES AS
19 SPECIFIED IN SECTION 39-26-104 (2), C.R.S., collected within said area, or
20 both such taxes, by or for the benefit of any public body shall be divided
21 for a period not to exceed thirty years or such longer period as provided
22 for in subparagraph (IV) of this paragraph (a) after the effective date of
23 approval by said governing body of such a provision, as follows:

24 **SECTION 12. Severability.** If any provision of this act or the
25 application thereof to any person or circumstance is held invalid, such
26 invalidity does not affect other provisions or applications of the act that
27 can be given effect without the invalid provision or application, and to

1 this end the provisions of this act are declared to be severable.

2 **SECTION 13. Effective date.** This act takes effect July 1, 2014.

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