

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0929.01 Nicole Myers x4326

HOUSE BILL 13-1318

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HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

(None),

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House Committees  
Finance

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE RECOMMENDATIONS MADE IN THE PUBLIC PROCESS  
102 FOR THE PURPOSE OF IMPLEMENTING CERTAIN STATE TAXES ON  
103 RETAIL MARIJUANA LEGALIZED BY SECTION 16 OF ARTICLE  
104 XVIII OF THE COLORADO CONSTITUTION.

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

Subject to voter approval at the statewide election in November 2013, the bill imposes a sales tax and an excise tax on the sale of retail

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.

marijuana, which was legalized by section 16 of article XVIII of the state constitution.

**Sales tax:** Beginning January 1, 2014, the bill imposes a tax of 15% on the sale of retail marijuana or retail marijuana products to a consumer by a retail marijuana store. The tax imposed is in addition to the 2.9% state sales tax and any local government sales tax that is imposed on the sale of all property and services pursuant to current law.

On or after January 1, 2014, the general assembly is authorized to establish a rate that is lower than 15% by a bill enacted by the general assembly and signed into law by the governor. After establishing a tax rate that is lower than 15% the general assembly may increase the rate by bill enacted by the general assembly and signed into law by the governor, so long as the rate does not exceed 15%. An increase in the rate does not require additional voter approval.

A retail marijuana store is required to add the tax imposed as a separate and distinct item, and when added, the tax constitutes a part of the total price of the retail marijuana or retail marijuana products purchased. A retail marijuana store is required to collect and remit the tax to the department in the same manner as the state sales tax is collected and remitted to the department pursuant to current law.

Of the revenues collected pursuant to the 15% sales tax, 10% will be distributed to each local government in the state that has one or more retail marijuana stores within its boundaries. Each local government's share of the revenues collected shall be apportioned according to the percentage of retail marijuana and retail marijuana products sales tax revenues collected by the department in the local government as compared to the total retail marijuana and retail marijuana products sales tax collections that may be allocated to all local governments in the state. The remaining revenues shall be deposited in the marijuana cash fund and appropriated as directed by the general assembly.

**Excise tax:** Beginning January 1, 2014, the bill imposes a tax on the sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility to a retail marijuana store, retail marijuana product manufacturing facility, or another retail marijuana cultivation facility. The amount of the tax is 15% of the average market rate of unprocessed retail marijuana statewide on the date that it is sold or transferred, as determined by the department, and the tax is imposed when a retail marijuana cultivation facility sells or transfers unprocessed retail marijuana to a retail marijuana store, a retail marijuana product manufacturing facility or another retail marijuana cultivation facility.

On or after January 1, 2014, the general assembly is authorized to establish a rate that is lower than 15% of the average market rate by a bill enacted by the general assembly and signed into law by the governor. After establishing a tax rate that is lower than 15% the general assembly may increase the rate by bill enacted by the general assembly and signed

into law by the governor, so long as the rate does not exceed 15%. An increase in the rate does not require additional voter approval.

The bill specifies that every retail marijuana cultivation facility is required to keep certain records regarding the sale or transfer of unprocessed retail marijuana and is required to collect and remit the tax to the department.

As required by section 16 of article XVIII of the state constitution, the bill specifies that the first \$40 million received and collected in payment of the excise tax on unprocessed retail marijuana shall be transferred to the public school capital construction assistance fund currently created in law. Any amount remaining after the transfer shall be transferred to the marijuana cash fund.

**Revenue and spending limitations:** The bill allows the state to collect and spend any revenues generated by the retail marijuana sales tax and retail marijuana excise tax as voter approved revenue changes.

**Submission of ballot questions by the secretary of state:** The bill requires the secretary of state to submit a ballot question at the statewide election to be held in November 2013 asking the voters to:

- ! Allow the general assembly to impose a retail marijuana sales tax at a rate not to exceed 15% of the sale of retail marijuana and retail marijuana products;
- ! Allow the general assembly to impose a retail excise tax at a rate not to exceed 15% of the average market rate of unprocessed retail marijuana on unprocessed retail marijuana at the time when a retail marijuana cultivation facility sells or transfers retail marijuana to a retail marijuana product manufacturing facility, a retail marijuana store, or another retail marijuana cultivation facility;
- ! Allow the general assembly to decrease or increase the rate of either tax without further voter approval so long as the rate does not exceed 15% for either tax; and
- ! Allow any additional tax revenue to be collected and spent notwithstanding any limitations in TABOR or any other law.

**Marijuana cash fund:** The bill changes the name of the existing medical marijuana license cash fund to the marijuana cash fund.

The bill specifies that the sale of marijuana or marijuana products by a medical marijuana center to a consumer and the sale or transfer of unprocessed marijuana by a marijuana cultivation facility to a medical marijuana center are not subject to either tax. The department of revenue (department) is required to promulgate rules for the implementation of both taxes.



1 ARE COMPRISED OF RETAIL MARIJUANA AND OTHER INGREDIENTS AND ARE  
2 INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO,  
3 EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

4 (4) "RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY"  
5 MEANS AN ENTITY LICENSED TO PURCHASE RETAIL MARIJUANA;  
6 MANUFACTURE, PREPARE, AND PACKAGE RETAIL MARIJUANA PRODUCTS;  
7 AND SELL RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS TO  
8 OTHER RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO  
9 RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

10 (5) "RETAIL MARIJUANA SALES TAX" MEANS THE SALES TAX  
11 IMPOSED ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS  
12 PURSUANT TO PART 2 OF THIS ARTICLE.

13 (6) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED BY  
14 THE DEPARTMENT TO PURCHASE RETAIL MARIJUANA FROM RETAIL  
15 MARIJUANA CULTIVATION FACILITIES AND RETAIL MARIJUANA AND RETAIL  
16 MARIJUANA PRODUCTS FROM RETAIL MARIJUANA PRODUCT  
17 MANUFACTURING FACILITIES AND TO SELL RETAIL MARIJUANA AND RETAIL  
18 MARIJUANA PRODUCTS TO CONSUMERS.

19 (7) "AVERAGE MARKET RATE" MEANS THE AVERAGE PRICE, AS  
20 DETERMINED BY THE DEPARTMENT ON A BIENNIAL BASIS, OF ALL  
21 UNPROCESSED RETAIL MARIJUANA THAT IS SOLD OR TRANSFERRED FROM  
22 RETAIL MARIJUANA CULTIVATION FACILITIES IN THE STATE TO RETAIL  
23 MARIJUANA PRODUCT MANUFACTURING FACILITIES, RETAIL MARIJUANA  
24 STORES, OR OTHER RETAIL MARIJUANA CULTIVATION FACILITIES.

25 (8) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR  
26 OLDER WHO PURCHASES RETAIL MARIJUANA OR RETAIL MARIJUANA  
27 PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR

1 OLDER BUT NOT FOR RESALE TO OTHERS.

2 (9) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

3 (10) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS  
4 CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT,  
5 WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES  
6 NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

7 (11) "LOCAL GOVERNMENT" MEANS A COUNTY, MUNICIPALITY, OR  
8 CITY AND COUNTY.

9 (12) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED  
10 BY THE DEPARTMENT TO SELL MARIJUANA AND MARIJUANA PRODUCTS  
11 PURSUANT TO SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION  
12 AND THE "COLORADO MEDICAL MARIJUANA CODE", ARTICLE 43.3 OF  
13 TITLE 12, C.R.S.

14 (13) "SALE" MEANS ANY TRANSFER, EXCHANGE, OR BARTER, IN  
15 ANY MANNER OR BY ANY MEANS WHATSOEVER, FOR A CONSIDERATION.

16 (14) "UNPROCESSED RETAIL MARIJUANA" MEANS MARIJUANA AT  
17 THE TIME OF THE FIRST TRANSFER OR SALE FROM A RETAIL MARIJUANA  
18 CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT  
19 MANUFACTURING FACILITY OR A RETAIL MARIJUANA STORE.

20 PART 2

21 RETAIL MARIJUANA SALES TAX

22 **39-28.8-201. Retail marijuana sales tax - administration -**  
23 **enforcement.** THE TAX IMPOSED PURSUANT TO THIS PART 2 SHALL BE  
24 ADMINISTERED AND ENFORCED IN ACCORDANCE WITH THE PROVISIONS OF  
25 PART 1 OF ARTICLE 26 OF THIS TITLE; EXCEPT THAT, IN THE EVENT OF A  
26 CONFLICT BETWEEN THE PROVISIONS OF THIS PART 2 AND THE PROVISIONS  
27 OF PART 1 OF ARTICLE 26 OF THIS TITLE, THE PROVISIONS OF THIS PART 2

1 SHALL CONTROL.

2 **39-28.8-202. Retail marijuana sales tax.** (1) (a) IN ADDITION TO  
3 THE TAX IMPOSED PURSUANT TO PART 1 OF ARTICLE 26 OF THIS TITLE AND  
4 THE SALES TAX IMPOSED BY A LOCAL GOVERNMENT PURSUANT TO TITLE  
5 29, 30, 31, OR 32, BEGINNING JANUARY 1, 2014, THERE IS IMPOSED UPON  
6 ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS BY  
7 A RETAILER A TAX AT THE RATE OF FIFTEEN PERCENT OF THE AMOUNT OF  
8 THE SALE, TO BE COMPUTED IN ACCORDANCE WITH SCHEDULES OR FORMS  
9 PRESCRIBED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT; EXCEPT  
10 THAT A RETAIL MARIJUANA STORE IS NOT ALLOWED TO RETAIN ANY  
11 PORTION OF THE RETAIL MARIJUANA SALES TAX COLLECTED PURSUANT TO  
12 THIS PART 2 TO COVER THE EXPENSES OF COLLECTING AND REMITTING THE  
13 TAX.

14 (b) THE FIFTEEN PERCENT TAX RATE SPECIFIED IN PARAGRAPH (a)  
15 OF THIS SUBSECTION (1) IS THE MAXIMUM TAX RATE THAT MAY BE  
16 IMPOSED PURSUANT TO THIS SECTION. AT ANY TIME ON OR AFTER  
17 JANUARY 1, 2014, THE GENERAL ASSEMBLY MAY, BY A BILL ENACTED BY  
18 THE GENERAL ASSEMBLY AND SIGNED INTO LAW BY THE GOVERNOR:

19 (I) ESTABLISH A TAX RATE TO BE IMPOSED PURSUANT TO THIS  
20 SUBSECTION (1) THAT IS LOWER THAN FIFTEEN PERCENT OF THE SALE OF  
21 RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS; OR

22 (II) AFTER ESTABLISHING A TAX RATE THAT IS LOWER THAN  
23 FIFTEEN PERCENT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH  
24 (b), INCREASE THE TAX RATE TO BE IMPOSED PURSUANT TO THIS  
25 SUBSECTION (1); EXCEPT THAT, IN NO EVENT SHALL THE GENERAL  
26 ASSEMBLY INCREASE THE TAX RATE ABOVE FIFTEEN PERCENT OF THE SALE  
27 OF RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS.

1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INCREASE IN THE  
2 TAX RATE PURSUANT TO THIS SUBPARAGRAPH (II) SHALL NOT REQUIRE  
3 VOTER APPROVAL SUBSEQUENT TO THE VOTER APPROVAL REQUIRED  
4 PURSUANT PART 4 OF THIS ARTICLE.

5 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO IMPOSE A  
6 TAX ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO ANY  
7 PERSON BY A MEDICAL MARIJUANA CENTER.

8 **39-28.8-203. Disposition of collections.** (1) THE PROCEEDS OF  
9 ALL MONEYS COLLECTED FROM THE RETAIL MARIJUANA SALES TAX SHALL  
10 BE CREDITED TO THE OLD AGE PENSION FUND CREATED IN SECTION 1 OF  
11 ARTICLE XXIV OF THE STATE CONSTITUTION IN ACCORDANCE WITH  
12 PARAGRAPHS (a) AND (f) OF SECTION 2 OF ARTICLE XXIV OF THE STATE  
13 CONSTITUTION. FOR EACH FISCAL YEAR IN WHICH A TAX IS COLLECTED  
14 PURSUANT TO THIS PART 2, AN AMOUNT SHALL BE DISTRIBUTED FROM THE  
15 GENERAL FUND AS FOLLOWS:

16 (a) (I) AN AMOUNT EQUAL TO TEN PERCENT OF THE GROSS RETAIL  
17 MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT SHALL  
18 BE APPORTIONED TO LOCAL GOVERNMENTS. THE CITY OR TOWN SHARE  
19 SHALL BE APPORTIONED ACCORDING TO THE PERCENTAGE THAT RETAIL  
20 MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT  
21 WITHIN THE BOUNDARIES OF THE CITY OR TOWN BEARS TO THE TOTAL  
22 RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE  
23 DEPARTMENT THAT MAY BE APPORTIONED TO ALL LOCAL GOVERNMENTS  
24 PURSUANT TO THIS PARAGRAPH (a). THE COUNTY SHARE SHALL BE  
25 APPORTIONED ACCORDING TO THE PERCENTAGE THAT RETAIL MARIJUANA  
26 SALES TAX REVENUES COLLECTED BY THE DEPARTMENT IN THE  
27 UNINCORPORATED AREA OF THE COUNTY BEARS TO TOTAL RETAIL



1 MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT THAT  
2 MAY BE APPORTIONED TO ALL LOCAL GOVERNMENTS PURSUANT TO THIS  
3 PARAGRAPH (a).

4 (II) THE DEPARTMENT OF REVENUE SHALL CERTIFY TO THE STATE  
5 TREASURER, AT LEAST ANNUALLY, THE PERCENTAGE FOR APPORTIONMENT  
6 TO EACH LOCAL GOVERNMENT, AND THE PERCENTAGE FOR  
7 APPORTIONMENT SO CERTIFIED SHALL BE APPLIED BY SAID DEPARTMENT  
8 IN ALL DISTRIBUTIONS TO LOCAL GOVERNMENTS UNTIL CHANGED BY  
9 CERTIFICATION TO THE STATE TREASURER.

10 (III) DISTRIBUTION TO EACH LOCAL GOVERNMENT PURSUANT TO  
11 THIS PARAGRAPH (a) SHALL BE MADE MONTHLY, NO LATER THAN THE  
12 FIFTEENTH DAY OF THE SECOND SUCCESSIVE MONTH AFTER THE MONTH  
13 FOR WHICH RETAIL MARIJUANA SALES TAX COLLECTIONS ARE MADE.

14 (IV) EACH LOCAL GOVERNMENT, UPON REQUEST AND DURING  
15 ESTABLISHED BUSINESS HOURS, SHALL BE ENTITLED TO VERIFY WITH THE  
16 EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S  
17 DESIGNEE THE PROCEEDS TO WHICH THE LOCAL GOVERNMENT IS ENTITLED  
18 PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (a).

19 (V) MONEYS APPORTIONED PURSUANT TO THIS PARAGRAPH (a)  
20 SHALL BE INCLUDED FOR INFORMATIONAL PURPOSES IN THE GENERAL  
21 APPROPRIATION BILL OR IN SUPPLEMENTAL APPROPRIATION BILLS FOR THE  
22 PURPOSE OF COMPLYING WITH THE LIMITATION ON STATE FISCAL YEAR  
23 SPENDING IMPOSED BY SECTION 20 OF ARTICLE X OF THE STATE  
24 CONSTITUTION AND SECTION 24-77-103, C.R.S.

25 (VI) NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO  
26 PREVENT A LOCAL GOVERNMENT FROM IMPOSING, LEVYING, AND  
27 COLLECTING ANY FEE OR ANY TAX UPON THE SALE OF RETAIL MARIJUANA

1 OR RETAIL MARIJUANA PRODUCTS OR UPON THE OCCUPATION OR PRIVILEGE  
2 OF SELLING RETAILS MARIJUANA PRODUCTS, NOR SHALL THE PROVISIONS  
3 OF THIS PARAGRAPH (a) BE INTERPRETED TO AFFECT ANY EXISTING  
4 AUTHORITY OF A LOCAL GOVERNMENT TO IMPOSE A TAX ON RETAIL  
5 MARIJUANA OR RETAIL MARIJUANA PRODUCTS TO BE USED FOR LOCAL AND  
6 MUNICIPAL PURPOSES.

7 (b) FOLLOWING APPORTIONMENT OF LOCAL GOVERNMENT SHARES  
8 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), AN AMOUNT EQUAL  
9 TO ALL REMAINING REVENUES COLLECTED SHALL BE TRANSFERRED FROM  
10 THE GENERAL FUND TO THE MARIJUANA CASH FUND CREATED IN SECTION  
11 12-43.3-501, C.R.S., TO BE USED FOR THE PURPOSES OF THE FUND AS  
12 DETERMINED BY THE GENERAL ASSEMBLY. THE GENERAL ASSEMBLY  
13 SHALL MAKE APPROPRIATIONS FROM THE MARIJUANA CASH FUND FOR THE  
14 EXPENSES OF THE ADMINISTRATION OF THIS SECTION.

15 **39-28.8-204. Revenue and spending limitations.**  
16 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR  
17 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE  
18 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUES  
19 GENERATED BY THE RETAIL MARIJUANA SALES TAX IMPOSED PURSUANT TO  
20 THIS PART 2 AS APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION  
21 IN NOVEMBER 2013, MAY BE COLLECTED AND SPENT AS VOTER-APPROVED  
22 REVENUE CHANGES AND SHALL NOT REQUIRE VOTER APPROVAL  
23 SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF  
24 THIS ARTICLE.

25 **39-28.8-205. Rules.** THE DEPARTMENT SHALL PROMULGATE RULES  
26 FOR THE IMPLEMENTATION OF THIS PART 2 IN ACCORDANCE WITH THE  
27 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,

1 C.R.S.

2

PART 3

3

RETAIL MARIJUANA EXCISE TAX

4

**39-28.8-301. Retail marijuana excise tax - administration -**

5

**enforcement.** THE TAX IMPOSED PURSUANT TO THIS PART 3 SHALL BE

6

ADMINISTERED AND ENFORCED IN ACCORDANCE WITH THE PROVISIONS OF

7

PART 1 OF ARTICLE 26 OF THIS TITLE; EXCEPT THAT, IN THE EVENT OF A

8

CONFLICT BETWEEN THE PROVISIONS OF THIS PART 3 AND THE PROVISIONS

9

OF PART 1 OF ARTICLE 26 OF THIS TITLE, THE PROVISIONS OF THIS PART 3

10

SHALL CONTROL.

11

**39-28.8-302. Retail marijuana - excise tax levied at first**

12

**transfer from retail marijuana cultivation facility - tax rate.**

13

(1) (a) BEGINNING JANUARY 1, 2014, EXCEPT AS OTHERWISE PROVIDED

14

IN PARAGRAPH (b) OF THIS SUBSECTION (1), THERE IS LEVIED AND SHALL

15

BE COLLECTED, IN ADDITION TO THE SALES TAX IMPOSED PURSUANT TO

16

PART 1 OF ARTICLE 26 OF THIS TITLE AND PART 2 OF THIS ARTICLE, A TAX

17

ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY

18

A RETAIL MARIJUANA CULTIVATION FACILITY, AT A RATE OF FIFTEEN

19

PERCENT OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL

20

MARIJUANA. THE TAX SHALL BE IMPOSED AT THE TIME WHEN THE RETAIL

21

MARIJUANA CULTIVATION FACILITY FIRST SELLS OR TRANSFERS

22

UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL MARIJUANA

23

CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT

24

MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER

25

RETAIL MARIJUANA CULTIVATION FACILITY.

26

(b) THE FIFTEEN PERCENT TAX RATE SPECIFIED IN PARAGRAPH (a)

27

OF THIS SUBSECTION (1) IS THE MAXIMUM TAX RATE THAT MAY BE

1 IMPOSED PURSUANT TO THIS SECTION. AT ANY TIME ON OR AFTER  
2 JANUARY 1, 2014, THE GENERAL ASSEMBLY MAY, BY A BILL ENACTED BY  
3 THE GENERAL ASSEMBLY AND SIGNED INTO LAW BY THE GOVERNOR:

4 (I) ESTABLISH A TAX RATE TO BE IMPOSED PURSUANT TO THIS  
5 SUBSECTION (1) THAT IS LOWER THAN FIFTEEN PERCENT OF THE AVERAGE  
6 MARKET RATE OF UNPROCESSED RETAIL MARIJUANA AT THE TIME THAT IT  
7 IS SOLD OR TRANSFERRED; OR

8 (II) AFTER ESTABLISHING A TAX RATE THAT IS LOWER THAN  
9 FIFTEEN PERCENT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH  
10 (b), INCREASE THE TAX RATE TO BE IMPOSED PURSUANT TO THIS  
11 SUBSECTION (1); EXCEPT THAT, IN NO EVENT SHALL THE GENERAL  
12 ASSEMBLY INCREASE THE TAX RATE ABOVE FIFTEEN PERCENT OF THE  
13 AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA AT THE  
14 TIME THAT IT IS SOLD OR TRANSFERRED. NOTWITHSTANDING ANY OTHER  
15 PROVISION OF LAW, AN INCREASE IN THE TAX RATE PURSUANT TO THIS  
16 SUBPARAGRAPH (II) SHALL NOT REQUIRE VOTER APPROVAL SUBSEQUENT  
17 TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF THIS  
18 ARTICLE.

19 (2) THE TAX IMPOSED PURSUANT TO SUBSECTION (1) OF THIS  
20 SECTION SHALL NOT BE LEVIED ON THE SALE OR TRANSFER OF  
21 UNPROCESSED MARIJUANA BY A MARIJUANA CULTIVATION FACILITY TO A  
22 MEDICAL MARIJUANA CENTER.

23 **39-28.8-303. Books and records to be preserved.** (1) EVERY  
24 RETAIL MARIJUANA CULTIVATION FACILITY SHALL KEEP AT EACH LICENSED  
25 PLACE OF BUSINESS COMPLETE AND ACCURATE ELECTRONIC RECORDS FOR  
26 THAT PLACE OF BUSINESS, INCLUDING ITEMIZED INVOICES OF ALL RETAIL  
27 MARIJUANA GROWN, HELD, SHIPPED, OR OTHERWISE TRANSPORTED OR

1 SOLD TO RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES,  
2 RETAIL MARIJUANA STORES, OR OTHER RETAIL MARIJUANA CULTIVATION  
3 FACILITIES IN THIS STATE.

4 (2) THE RECORDS REQUIRED BY SUBSECTION (1) OF THIS SECTION  
5 SHALL INCLUDE THE NAMES AND ADDRESSES OF RETAIL MARIJUANA  
6 PRODUCT MANUFACTURING FACILITIES, RETAIL MARIJUANA STORES, OR  
7 OTHER RETAIL MARIJUANA CULTIVATION FACILITIES TO WHICH  
8 UNPROCESSED RETAIL MARIJUANA IS SOLD OR TRANSFERRED, THE  
9 INVENTORY OF ALL UNPROCESSED RETAIL MARIJUANA ON HAND, AND  
10 OTHER PERTINENT PAPERS AND DOCUMENTS RELATING TO THE SALE OR  
11 TRANSFER OF UNPROCESSED RETAIL MARIJUANA.

12 (3) A RETAIL MARIJUANA CULTIVATION FACILITY SHALL KEEP  
13 ITEMIZED INVOICES OF ALL UNPROCESSED MARIJUANA TRANSFERRED TO  
14 RETAIL MARIJUANA STORES OWNED OR CONTROLLED BY THE OWNERS OF  
15 THE RETAIL MARIJUANA CULTIVATION FACILITY.

16 (4) (a) EVERY RETAIL MARIJUANA STORE SHALL KEEP AT ITS PLACE  
17 OF BUSINESS COMPLETE AND ACCURATE RECORDS TO SHOW THAT ALL  
18 RETAIL MARIJUANA RECEIVED BY THE RETAIL MARIJUANA STORE WAS  
19 PURCHASED FROM A RETAIL MARIJUANA CULTIVATION FACILITY. THE  
20 RETAIL MARIJUANA STORE SHALL PROVIDE A COPY OF SUCH RECORDS TO  
21 THE DEPARTMENT IF SO REQUESTED. THE DEPARTMENT MAY ESTABLISH  
22 THE ACCEPTABLE FORM OF SUCH RECORDS.

23 (b) ANY EXPENSES INCURRED BY THE DEPARTMENT RELATED TO  
24 ENFORCING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4)  
25 SHALL BE PAID FROM THE MARIJUANA CASH FUND CREATED IN SECTION  
26 12-43.3-501, C.R.S.

27 **39-28.8-304. Returns and remittance of tax - civil penalty.**

1 (1) EVERY RETAIL MARIJUANA CULTIVATION FACILITY SHALL FILE A  
2 RETURN WITH THE DEPARTMENT EACH QUARTER. THE RETURN, WHICH  
3 SHALL BE UPON FORMS PRESCRIBED AND FURNISHED BY THE DEPARTMENT,  
4 SHALL CONTAIN, AMONG OTHER THINGS, THE TOTAL AMOUNT OF  
5 UNPROCESSED RETAIL MARIJUANA SOLD OR TRANSFERRED DURING THE  
6 PRECEDING QUARTER AND THE TAX DUE THEREON.

7 (2) EVERY RETAIL MARIJUANA CULTIVATION FACILITY SHALL FILE  
8 A RETURN WITH THE DEPARTMENT BY THE TWENTIETH DAY OF THE MONTH  
9 FOLLOWING THE MONTH REPORTED AND WITH THE REPORT SHALL REMIT  
10 THE AMOUNT OF TAX DUE. IF ANY RETAIL MARIJUANA CULTIVATION  
11 FACILITY IS DELINQUENT IN REMITTING THE TAX, OTHER THAN IN UNUSUAL  
12 CIRCUMSTANCES SHOWN TO THE SATISFACTION OF THE EXECUTIVE  
13 DIRECTOR OF THE DEPARTMENT, THE PENALTY IMPOSED UNDER SECTION  
14 39-28.8-307 SHALL APPLY.

15 (3) THE DEPARTMENT MAY REQUIRE RETAIL MARIJUANA  
16 CULTIVATION FACILITIES TO FILE TAX RETURNS AND REMIT PAYMENTS DUE  
17 PURSUANT TO THIS PART 3 ELECTRONICALLY. THE DEPARTMENT SHALL  
18 PROMULGATE RULES GOVERNING ELECTRONIC PAYMENT AND FILING.

19 **39-28.8-305. When credit may be obtained for tax paid.**

20 (1) (a) THE DEPARTMENT SHALL GIVE CREDIT TO A RETAIL MARIJUANA  
21 CULTIVATION FACILITY FOR ALL TAXES LEVIED AND PAID PURSUANT TO  
22 THIS PART 3 THAT ARE BAD DEBTS. SUCH CREDIT SHALL OFFSET TAXES  
23 LEVIED PURSUANT TO THIS PART 3 ONLY. THE DEPARTMENT SHALL ONLY  
24 GIVE CREDIT IF THE BAD DEBT HAS BEEN CHARGED OFF AS UNCOLLECTIBLE  
25 ON THE BOOKS OF THE RETAIL MARIJUANA CULTIVATION FACILITY.  
26 SUBSEQUENT TO RECEIVING THE CREDIT, IF THE RETAIL MARIJUANA  
27 CULTIVATION FACILITY RECEIVES A PAYMENT FOR THE BAD DEBT, THE

1 RETAIL MARIJUANA CULTIVATION FACILITY SHALL BE LIABLE TO THE  
2 DEPARTMENT FOR THE AMOUNT RECEIVED AND SHALL REMIT THIS AMOUNT  
3 IN THE NEXT PAYMENT TO THE DEPARTMENT UNDER SECTION 39-28.8-304.

4 (b) ANY CLAIM FOR A BAD DEBT CREDIT UNDER THIS SUBSECTION  
5 (1) SHALL BE SUPPORTED BY ALL OF THE FOLLOWING:

6 (I) A COPY OF THE ORIGINAL INVOICE ISSUED BY THE RETAIL  
7 MARIJUANA CULTIVATION FACILITY;

8 (II) EVIDENCE THAT THE UNPROCESSED RETAIL MARIJUANA  
9 DESCRIBED IN THE INVOICE WAS DELIVERED TO THE RETAIL MARIJUANA  
10 PRODUCT MANUFACTURING FACILITY, RETAIL MARIJUANA STORE, OR  
11 OTHER RETAIL MARIJUANA CULTIVATION FACILITY THAT ORDERED IT; AND

12 (III) EVIDENCE THAT THE RETAIL MARIJUANA PRODUCT  
13 MANUFACTURING FACILITY, RETAIL MARIJUANA STORE, OR OTHER RETAIL  
14 MARIJUANA CULTIVATION FACILITY THAT ORDERED AND RECEIVED THE  
15 UNPROCESSED RETAIL MARIJUANA DID NOT PAY THE RETAIL MARIJUANA  
16 CULTIVATION FACILITY FOR IT AND THAT THE RETAIL MARIJUANA  
17 CULTIVATION FACILITY USED REASONABLE COLLECTION PRACTICES IN  
18 ATTEMPTING TO COLLECT THE DEBT.

19 (c) IF THE DEPARTMENT GIVES CREDIT TO A RETAIL MARIJUANA  
20 CULTIVATION FACILITY FOR A BAD DEBT, THE ENTITY THAT ORDERED AND  
21 RECEIVED THE UNPROCESSED RETAIL MARIJUANA BUT DID NOT PAY THE  
22 RETAIL MARIJUANA CULTIVATION FACILITY FOR IT SHALL BE LIABLE IN AN  
23 AMOUNT EQUAL TO THE CREDIT FOR THE TAX IMPOSED IN THIS ARTICLE ON  
24 THE UNPROCESSED RETAIL MARIJUANA. SUBSEQUENT TO RECEIVING THE  
25 CREDIT, IF THE RETAIL MARIJUANA CULTIVATION FACILITY RECEIVES A  
26 PAYMENT FOR THE BAD DEBT AND THE RETAIL MARIJUANA CULTIVATION  
27 FACILITY MAKES A PAYMENT TO THE DEPARTMENT, THE AMOUNT OF TAXES

1 OWED SHALL BE REDUCED BY THE AMOUNT PAID TO THE DEPARTMENT.  
2 (2) AS USED IN THIS SECTION, "BAD DEBT" MEANS THE TAXES  
3 ATTRIBUTABLE TO ANY PORTION OF A DEBT THAT IS RELATED TO A SALE  
4 OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA SUBJECT TO TAX  
5 UNDER THIS PART 3, THAT IS NOT OTHERWISE DEDUCTIBLE OR  
6 EXCLUDABLE, THAT HAS BECOME WORTHLESS OR UNCOLLECTIBLE IN THE  
7 TIME AFTER THE TAX HAS BEEN PAID PURSUANT TO SECTION 39-28.8-304,  
8 AND THAT IS ELIGIBLE TO BE CLAIMED AS A DEDUCTION PURSUANT TO  
9 SECTION 166 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS  
10 AMENDED. A BAD DEBT SHALL NOT INCLUDE ANY INTEREST ON THE  
11 WHOLESALE PRICE OF UNPROCESSED RETAIL MARIJUANA, UNCOLLECTIBLE  
12 AMOUNTS ON PROPERTY THAT REMAIN IN THE POSSESSION OF THE RETAIL  
13 MARIJUANA CULTIVATION FACILITY UNTIL THE FULL PURCHASE PRICE IS  
14 PAID, EXPENSES INCURRED IN ATTEMPTING TO COLLECT ANY ACCOUNT  
15 RECEIVABLE OR ANY PORTION OF THE DEBT RECOVERED, AN ACCOUNT  
16 RECEIVABLE THAT HAS BEEN SOLD TO A THIRD PARTY FOR COLLECTION, OR  
17 REPOSSESSED PROPERTY.

18 **39-28.8-306. Distribution of tax collected.** (1) ALL MONEYS  
19 RECEIVED AND COLLECTED IN PAYMENT OF THE TAX IMPOSED BY THE  
20 PROVISIONS OF THIS PART 3 SHALL BE TRANSMITTED TO THE STATE  
21 TREASURER, WHO SHALL DISTRIBUTE THE MONEY AS FOLLOWS:

22 (a) THE FIRST FORTY MILLION DOLLARS RECEIVED AND COLLECTED  
23 SHALL BE TRANSFERRED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION  
24 ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR TO  
25 ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE; AND

26 (b) ANY AMOUNT REMAINING AFTER THE TRANSFER PURSUANT TO  
27 PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE TRANSFERRED TO THE



1 MARIJUANA CASH FUND CREATED IN SECTION 12-43.3-501, C.R.S.

2 **39-28.8-307. Prohibited acts - penalties.** IT IS UNLAWFUL FOR  
3 ANY RETAIL MARIJUANA CULTIVATION FACILITY TO SELL OR TRANSFER  
4 RETAIL MARIJUANA WITHOUT A LICENSE AS REQUIRED BY LAW, OR TO  
5 WILLFULLY MAKE ANY FALSE OR FRAUDULENT RETURN OR FALSE  
6 STATEMENT ON ANY RETURN, OR TO WILLFULLY EVADE THE PAYMENT OF  
7 THE TAX, OR ANY PART THEREOF, AS IMPOSED BY THIS PART 3. ANY RETAIL  
8 MARIJUANA CULTIVATION FACILITY OR AGENT THEREOF WHO WILLFULLY  
9 VIOLATES ANY PROVISION OF THIS PART 3 SHALL BE PUNISHED AS  
10 PROVIDED BY SECTION 39-21-118.

11 **39-28.8-308. Revenue and spending limitations.**  
12 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR  
13 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE  
14 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUES  
15 GENERATED BY THE RETAIL MARIJUANA EXCISE TAX IMPOSED PURSUANT  
16 TO THIS PART 3 AS APPROVED BY THE VOTERS AT THE STATEWIDE  
17 ELECTION IN NOVEMBER 2013 MAY BE COLLECTED AND SPENT AS  
18 VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE VOTER  
19 APPROVAL SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT  
20 TO PART 4 OF THIS ARTICLE.

21 **39-28.8-309. Rules.** THE DEPARTMENT SHALL PROMULGATE RULES  
22 FOR THE IMPLEMENTATION OF THIS PART 3 IN ACCORDANCE WITH THE  
23 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,  
24 C.R.S.

25 PART 4  
26 SUBMISSION OF BALLOT QUESTIONS REGARDING  
27 RETAIL MARIJUANA SALES AND EXCISE TAX

1           **39-28.8-401. Submission of ballot questions regarding**  
2 **imposition of retail marijuana sales and excise tax.** (1) THE  
3 SECRETARY OF STATE SHALL SUBMIT A BALLOT QUESTION TO A VOTE OF  
4 THE REGISTERED ELECTORS OF THE STATE OF COLORADO AT THE  
5 STATEWIDE ELECTION TO BE HELD IN NOVEMBER 2013, FOR THEIR  
6 APPROVAL OR REJECTION. EACH ELECTOR VOTING AT SAID NOVEMBER  
7 ELECTION SHALL CAST A VOTE AS PROVIDED BY LAW EITHER "YES/FOR" OR  
8 "NO/AGAINST" ON THE PROPOSITION: "SHALL TAXES ON RETAIL  
9 MARIJUANA BE INCREASED BY \$\_\_\_\_\_ ANNUALLY IN THE FIRST FULL  
10 FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY  
11 THEREAFTER BY AMENDMENTS TO THE COLORADO REVISED STATUTES,  
12 AND, IN CONNECTION THEREWITH, IN ADDITION TO ANY STATE OR LOCAL  
13 GOVERNMENT SALES TAX, IMPOSING A RETAIL MARIJUANA SALES TAX NOT  
14 TO EXCEED 15% ON THE SALE OF RETAIL MARIJUANA AND RETAIL  
15 MARIJUANA PRODUCTS, ALLOWING THE GENERAL ASSEMBLY TO DECREASE  
16 OR INCREASE THE RATE OF THE RETAIL MARIJUANA SALES TAX WITHOUT  
17 FURTHER VOTER APPROVAL SO LONG AS THE RATE DOES NOT EXCEED 15%,  
18 IMPOSING A RETAIL MARIJUANA EXCISE TAX TO BE IMPOSED WHEN  
19 UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A  
20 RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA  
21 PRODUCT MANUFACTURING FACILITY, RETAIL MARIJUANA STORE, OR  
22 ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY, ALLOWING THE  
23 GENERAL ASSEMBLY TO DECREASE OR INCREASE THE RATE OF THE RETAIL  
24 MARIJUANA EXCISE TAX WITHOUT FURTHER VOTER APPROVAL SO LONG AS  
25 THE RATE DOES NOT EXCEED 15%, AND ALLOWING ANY ADDITIONAL TAX  
26 REVENUE TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY  
27 LIMITATIONS PROVIDED BY LAW?"

1           (2) THE VOTES CAST FOR THE ADOPTION OR REJECTION OF THE  
2 QUESTION SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION  
3 SHALL BE CANVASSED AND THE RESULT DETERMINED IN THE MANNER  
4 PROVIDED BY LAW FOR THE CANVASSING OF VOTES FOR REPRESENTATIVES  
5 IN CONGRESS.

6           **SECTION 2.** In Colorado Revised Statutes, 12-43.3-501, **amend**  
7 (1) as follows:

8           **12-43.3-501. Marijuana cash fund.** (1) All moneys collected by  
9 the state licensing authority pursuant to this article shall be transmitted to  
10 the state treasurer, who shall credit the same to the ~~medical~~ marijuana  
11 ~~license~~ cash fund, which fund is hereby created and referred to in this  
12 section as the "fund". The moneys in the fund shall be subject to annual  
13 appropriation by the general assembly to the department of revenue for  
14 the direct and indirect costs associated with implementing this article.  
15 Any moneys in the fund not expended for the purpose of this article may  
16 be invested by the state treasurer as provided by law. All interest and  
17 income derived from the investment and deposit of moneys in the fund  
18 shall be credited to the fund. Any unexpended and unencumbered moneys  
19 remaining in the fund at the end of a fiscal year shall remain in the fund  
20 and shall not be credited or transferred to the general fund or another  
21 fund.

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