HOUSE BILL 13-1318

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, AND, IN CONNECTION
105 THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, add article 28.8 to title 39 as follows:

ARTICLE 28.8
Taxes on Marijuana and Marijuana Products

PART 1
DEFINITIONS

39-28.8-101. Definitions. Unless the context otherwise requires, any terms not defined in this article shall have the meanings set forth in article 26 of this title. As used in this article, unless the context otherwise requires:

(1) "Average market rate" means the average price, as determined by the department on a biannual basis in six-month intervals, of all unprocessed retail marijuana that is sold or transferred from retail marijuana cultivation facilities in the state to retail marijuana product manufacturing facilities, retail marijuana stores, or other retail marijuana cultivation facilities. An "average market rate" may be based on the purchaser or transferee of unprocessed retail marijuana or on the nature of the unprocessed retail marijuana that is sold or transferred.

(2) "Consumer" means a person twenty-one years of age or older who purchases retail marijuana or retail marijuana products for personal use by persons twenty-one years of age or older but not for resale to others.

(3) "Department" means the department of revenue.
"INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

"LOCAL GOVERNMENT" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

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

"RETAIL MARIJUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIJUANA CONCENTRATE. "RETAIL MARIJUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT THAT IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

"RETAIL MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE RETAIL MARIJUANA AND SELL RETAIL MARIJUANA TO RETAIL MARIJUANA STORES, TO RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER RETAIL MARIJUANA CULTIVATION FACILITIES, BUT NOT TO
CONSUMERS.

(9) "Retail marijuana products" means concentrated retail marijuana products and retail marijuana products that are comprised of retail marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(10) "Retail marijuana product manufacturing facility" means an entity licensed to purchase retail marijuana; manufacture, prepare, and package retail marijuana products; and sell retail marijuana and retail marijuana products to other retail marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

(11) "Retail marijuana sales tax" means the sales tax imposed on retail marijuana and retail marijuana products pursuant to Part 2 of this Article.

(12) "Retail marijuana store" means an entity licensed by the department to purchase retail marijuana from retail marijuana cultivation facilities and retail marijuana and retail marijuana products from retail marijuana product manufacturing facilities and to sell retail marijuana and retail marijuana products to consumers.

(13) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration.

(14) "Unprocessed retail marijuana" means marijuana at the time of the first transfer or sale from a retail marijuana cultivation facility to a retail marijuana product manufacturing facility or a retail marijuana store.
39-28.8-201. Retail marijuana sales tax - administration - enforcement. The tax imposed pursuant to this part 2 shall be administered and enforced in accordance with the provisions of Article 21 of this title and Part 1 of Article 26 of this title, including, without limitation, any penalties for failure to make any return or to collect or pay any tax; except that, in the event of a conflict between the provisions of this part 2 and the provisions of Article 21 of this title or Part 1 of Article 26 of this title, the provisions of this part 2 shall control.

39-28.8-202. Retail marijuana sales tax. (1) (a) In addition to the tax imposed pursuant to Part 1 of Article 26 of this title and the sales tax imposed by a local government pursuant to Title 29, 30, 31, or 32, beginning January 1, 2014, there is imposed upon all sales of retail marijuana and retail marijuana products by a retailer a tax at the rate of ten percent of the amount of the sale, to be computed in accordance with schedules or forms prescribed by the executive director of the department; except that a retail marijuana store is not allowed to retain any portion of the retail marijuana sales tax collected pursuant to this part 2 to cover the expenses of collecting and remitting the tax and except that the department of revenue may require a retailer to make returns and remit the tax described in this part 2 by electronic means.

                   (b) The maximum tax rate that may be imposed pursuant to this section is fifteen percent, at any time on or after January
1, 2014, the general assembly may, by a bill enacted by the general assembly and signed into law by the governor:

(I) Establish a tax rate to be imposed pursuant to this subsection (1) that is lower than fifteen percent of the sale of retail marijuana or retail marijuana products; or

(II) After establishing a tax rate that is lower than fifteen percent pursuant to subparagraph (I) of this paragraph (b), increase the tax rate to be imposed pursuant to this subsection (1); except that, in no event shall the general assembly increase the tax rate above fifteen percent of the sale of retail marijuana or retail marijuana products. Notwithstanding any other provision of law, an increase in the tax rate pursuant to this subparagraph (II) shall not require voter approval subsequent to the voter approval required pursuant part 4 of this article.

(2) Nothing in this section shall be construed to impose a tax on the sale of marijuana or marijuana products to any person by a medical marijuana center.

(3) The department may require retail marijuana stores to file tax returns and remit payments due pursuant to this part 2 electronically. The department shall promulgate rules governing electronic payment and filing.

(4) A retail marijuana store shall file with the department evidence of a surety bond issued by a company authorized to do business in this state for the benefit of the department in an amount equal to two months of the store's anticipated collections of the tax imposed pursuant to this part.
2. The amount of the store's anticipated collections shall be determined solely in the discretion of the retail marijuana store. A store may file a replacement surety bond if the amount of the store's anticipated collections changes after the store has filed a bond with the department pursuant to this subsection (4).

39-28.8-203. Disposition of collections. (1) The proceeds of all moneys collected from the retail marijuana sales tax shall be credited to the old age pension fund created in section 1 of article XXIV of the state constitution in accordance with paragraphs (a) and (f) of section 2 of article XXIV of the state constitution. For each fiscal year in which a tax is collected pursuant to this part 2, an amount shall be distributed from the general fund as follows:

(a) (I) An amount equal to fifteen percent of the gross retail marijuana sales tax revenues collected by the department shall be apportioned to local governments. The city or town share shall be apportioned according to the percentage that retail marijuana sales tax revenues collected by the department within the boundaries of the city or town bears to the total retail marijuana sales tax revenues collected by the department. The county share shall be apportioned according to the percentage that retail marijuana sales tax revenues collected by the department in the unincorporated area of the county bears to total retail marijuana sales tax revenues collected by the department.

(II) The department of revenue shall certify to the state
TREASURER, AT LEAST ANNUALLY, THE PERCENTAGE FOR APPORTIONMENT TO EACH LOCAL GOVERNMENT, AND THE PERCENTAGE FOR APPORTIONMENT SO CERTIFIED SHALL BE APPLIED BY SAID DEPARTMENT IN ALL DISTRIBUTIONS TO LOCAL GOVERNMENTS UNTIL CHANGED BY CERTIFICATION TO THE STATE TREASURER.

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

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

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

(VI) NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO PREVENT A LOCAL GOVERNMENT FROM IMPOSING, LEVYING, AND COLLECTING ANY FEE OR ANY TAX UPON THE SALE OF RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS OR UPON THE OCCUPATION OR PRIVILEGE OF SELLING RETAILS MARIJUANA PRODUCTS, NOR SHALL THE PROVISIONS OF THIS PARAGRAPH (a) BE INTERPRETED TO AFFECT ANY EXISTING AUTHORITY OF A LOCAL GOVERNMENT TO IMPOSE A TAX ON RETAIL
MARIJUANA OR RETAIL MARIJUANA PRODUCTS TO BE USED FOR LOCAL AND MUNICIPAL PURPOSES; HOWEVER, ANY LOCAL TAX IMPOSED AT OTHER THAN THE LOCAL JURISDICTION'S GENERAL SALES TAX RATE SHALL NOT BE COLLECTED, ADMINISTERED, AND ENFORCED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 29-2-106, C.R.S., BUT SHALL INSTEAD BE COLLECTED, ADMINISTERED, AND ENFORCED BY THE LOCAL GOVERNMENT ITSELF.

(b) FOLLOWING APPORTIONMENT OF LOCAL GOVERNMENT SHARES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), AN AMOUNT EQUAL TO ALL REMAINING REVENUES COLLECTED SHALL BE TRANSFERRED FROM THE GENERAL FUND TO THE MARIJUANA CASH FUND CREATED IN SECTION 12-43.3-501, C.R.S., TO BE USED FOR THE ENFORCEMENT OF REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY AND FOR THE OTHER PURPOSES OF THE FUND AS DETERMINED BY THE GENERAL ASSEMBLY. THE GENERAL ASSEMBLY SHALL MAKE APPROPRIATIONS FROM THE MARIJUANA CASH FUND FOR THE EXPENSES OF THE ADMINISTRATION OF THIS SECTION.

(2) ON OR BEFORE APRIL 1, 2014, AND ON OR BEFORE APRIL 1 EACH YEAR THEREAFTER THROUGH APRIL 1, 2016, THE FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, SHALL REVIEW THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION TO DETERMINE WHETHER THE PERCENTAGE OF THE TAX IMPOSED PURSUANT TO THIS PART THAT IS APPORTIONED TO LOCAL GOVERNMENTS IS APPROPRIATE. THE FINANCE COMMITTEES MAY REQUEST ASSISTANCE AND INPUT FROM THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF LOCAL AFFAIRS IN MAKING THIS DETERMINATION.

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

39-28.8-205. Rules. The department shall promulgate rules
for the implementation of this Part 2 in accordance with the
"State Administrative Procedure Act", article 4 of title 24,
C.R.S.

PART 3
RETAIL MARIJUANA EXCISE TAX

39-28.8-301. Retail marijuana excise tax - administration -
enforcement. The tax imposed pursuant to this Part 3 shall be
administered and enforced in accordance with the provisions of
article 21 of this title and part 1 of article 26 of this title,
INCLUDING, WITHOUT LIMITATION, ANY PENALTIES FOR FAILURE TO MAKE
ANY RETURN OR TO COLLECT OR PAY ANY TAX; EXCEPT THAT, IN THE
EVENT OF A CONFLICT BETWEEN THE PROVISIONS OF THIS PART 3 AND THE
PROVISIONS OF ARTICLE 21 OF THIS TITLE OR PART 1 OF ARTICLE 26 OF THIS
TITLE, THE PROVISIONS OF THIS PART 3 SHALL CONTROL.

39-28.8-302. Retail marijuana - excise tax levied at first
transfer from retail marijuana cultivation facility - tax rate.
(1) (a) Beginning January 1, 2014, except as otherwise provided
IN PARAGRAPH (b) OF THIS SUBSECTION (1), THERE IS LEVIED AND SHALL BE COLLECTED, IN ADDITION TO THE SALES TAX IMPOSED PURSUANT TO PART 1 OF ARTICLE 26 OF THIS TITLE AND PART 2 OF THIS ARTICLE, A TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY, AT A RATE OF FIFTEEN PERCENT OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL MARIJUANA. THE TAX SHALL BE IMPOSED AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST SELLS OR TRANSfers UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY.

(b) The fifteen percent tax rate specified in paragraph (a) of this subsection (1) is the maximum tax rate that may be imposed pursuant to this section. At any time on or after January 1, 2014, the General Assembly may, by a bill enacted by the General Assembly and signed into law by the Governor:

(I) establish a tax rate to be imposed pursuant to this subsection (1) that is lower than fifteen percent of the average market rate of unprocessed retail marijuana at the time that it is sold or transferred; or

(II) after establishing a tax rate that is lower than fifteen percent pursuant to subparagraph (I) of this paragraph (b), increase the tax rate to be imposed pursuant to this subsection (1); except that, in no event shall the General Assembly increase the tax rate above fifteen percent of the average market rate of unprocessed retail marijuana at the
TIME THAT IT IS SOLD OR TRANSFERRED. NOTWITHSTANDING ANY OTHER
PROVISION OF LAW, AN INCREASE IN THE TAX RATE PURSUANT TO THIS
SUBPARAGRAPH (II) SHALL NOT REQUIRE VOTER APPROVAL SUBSEQUENT
TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF THIS
ARTICLE.

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

39-28.8-303. Books and records to be preserved. (1) Every
retail marijuana cultivation facility shall keep at each licensed
place of business complete and accurate electronic records for
that place of business, including itemized invoices of all retail
marijuana grown, held, shipped, or otherwise transported or
sold to retail marijuana product manufacturing facilities, retail
marijuana stores, or other retail marijuana cultivation
facilities in this state.

(2) The records required by subsection (1) of this section
shall include the names and addresses of retail marijuana
product manufacturing facilities, retail marijuana stores, or
other retail marijuana cultivation facilities to which
unprocessed retail marijuana is sold or transferred, the
inventory of all unprocessed retail marijuana on hand, and
other pertinent papers and documents relating to the sale or
transfer of unprocessed retail marijuana.

(3) A retail marijuana cultivation facility shall keep
itemized invoices of all unprocessed marijuana transferred to
RETAIL MARIJUANA STORES OWNED OR CONTROLLED BY THE OWNERS OF THE RETAIL MARIJUANA CULTIVATION FACILITY.

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

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


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

(2) EVERY RETAIL MARIJUANA CULTIVATION FACILITY SHALL FILE A RETURN WITH THE DEPARTMENT BY THE TWENTIETH DAY OF THE MONTH FOLLOWING THE MONTH REPORTED AND WITH THE REPORT SHALL REMIT THE AMOUNT OF TAX DUE.

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


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

(1) (a) The department shall give credit to a retail marijuana cultivation facility for all taxes levied and paid pursuant to this part 3 that are a tax on bad debts. Such credit shall offset taxes levied pursuant to this part 3 only. The department shall only give credit if the bad debt has been charged off as uncollectible on the books of the retail marijuana cultivation facility. Subsequent to receiving the credit, if the retail marijuana cultivation facility receives a payment for the bad debt, the retail marijuana cultivation facility shall be liable to the department for the amount received up to the amount of the credit received and shall remit this amount in the next payment to the department under section 39-28.8-304.

(b) Any claim for a tax on bad debt credit under this subsection (1) shall be supported by all of the following:
(I) A COPY OF THE ORIGINAL INVOICE ISSUED BY THE RETAIL MARIJUANA CULTIVATION FACILITY;

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

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

(c) IF THE DEPARTMENT GIVES CREDIT TO A RETAIL MARIJUANA CULTIVATION FACILITY FOR A TAX ON BAD DEBT, THE ENTITY THAT ORDERED AND RECEIVED THE UNPROCESSED RETAIL MARIJUANA BUT DID NOT PAY THE RETAIL MARIJUANA CULTIVATION FACILITY FOR IT SHALL BE LIABLE IN AN AMOUNT EQUAL TO THE CREDIT FOR THE TAX IMPOSED IN THIS ARTICLE ON THE UNPROCESSED RETAIL MARIJUANA. SUBSEQUENT TO RECEIVING THE CREDIT, IF THE RETAIL MARIJUANA CULTIVATION FACILITY RECEIVES A PAYMENT FOR THE BAD DEBT AND THE RETAIL MARIJUANA CULTIVATION FACILITY MAKES A PAYMENT TO THE DEPARTMENT, THE AMOUNT OF TAXES OWED SHALL BE REDUCED BY THE AMOUNT PAID TO THE DEPARTMENT.

(2) AS USED IN THIS SECTION, "TAX ON BAD DEBT" MEANS THE TAXES ATTRIBUTABLE TO ANY PORTION OF A DEBT THAT IS RELATED TO A SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA SUBJECT TO TAX
UNDER THIS PART 3, THAT IS NOT OTHERWISE DEDUCTIBLE OR
EXCLUDABLE, THAT HAS BECOME WORTHLESS OR UNCOLLECTIBLE IN THE
TIME AFTER THE TAX HAS BEEN PAID PURSUANT TO SECTION 39-28.8-304,
AND THAT IS ELIGIBLE, OR WOULD BE ELIGIBLE BUT FOR THE PROVISIONS
OF SECTION 280E OF THE INTERNAL REVENUE CODE, TO BE CLAIMED AS A
DEDUCTION PURSUANT TO SECTION 166 OF THE FEDERAL "INTERNAL
REVENUE CODE OF 1986", AS AMENDED. "TAX ON BAD DEBT" SHALL NOT
INCLUDE THE TAX RELATED TO UNCOLLECTIBLE AMOUNTS ON PROPERTY
THAT REMAIN IN THE POSSESSION OF THE RETAIL MARIJUANA CULTIVATION
FACILITY UNTIL THE FULL PURCHASE PRICE IS PAID, AN ACCOUNT
RECEIVABLE THAT HAS BEEN SOLD TO A THIRD PARTY FOR COLLECTION, OR
REPOSSESSED PROPERTY.

39-28.8-306. Distribution of tax collected. (1) All monies
received and collected in payment of the tax imposed by the
provisions of this Part 3 shall be transmitted to the state
treasurer, who shall distribute the money as follows:

(a) The first forty million dollars received and collected
annually shall be transferred to the public school capital
construction assistance fund created by Article 43.7 of Title 22,
C.R.S., or to any successor fund dedicated to a similar purpose;
and

(b) Any amount remaining after the transfer pursuant to
paragraph (a) of this subsection (1) shall be transferred to the
marijuana cash fund created in Section 12-43.3-501, C.R.S.

39-28.8-307. Prohibited acts - penalties. It is unlawful for
any retail marijuana cultivation facility to sell or transfer
retail marijuana without a license as required by law, or to
WILLFULLY MAKE ANY FALSE OR FRAUDULENT RETURN OR FALSE STATEMENT ON ANY RETURN, OR TO WILLFULLY EVADE THE PAYMENT OF THE TAX, OR ANY PART THEREOF, AS IMPOSED BY THIS PART 3. ANY RETAIL MARIJUANA CULTIVATION FACILITY OR AGENT THEREOF WHO WILLFULLY VIOLATES ANY PROVISION OF THIS PART 3 SHALL BE PUNISHED AS PROVIDED BY SECTION 39-21-118.

39-28.8-308. Revenue and spending limitations. Notwithstanding any limitations on revenue, spending, or appropriations contained in section 20 of article X of the state constitution or any other provision of law, any revenues generated by the retail marijuana excise tax imposed pursuant to this part 3 as approved by the voters at the statewide election in November 2013 may be collected and spent as voter-approved revenue changes and shall not require voter approval subsequent to the voter approval required pursuant to part 4 of this article.

39-28.8-309. Rules. The department shall promulgate rules for the implementation of this part 3 in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

PART 4

SUBMISSION OF BALLOT QUESTIONS REGARDING RETAIL MARIJUANA SALES AND EXCISE TAX

39-28.8-401. Submission of ballot questions regarding imposition of retail marijuana sales and excise tax. (1) The secretary of state shall submit a ballot question to a vote of the registered electors of the state of Colorado at the
STATEWIDE ELECTION TO BE HELD IN NOVEMBER 2013, FOR THEIR
APPROVAL OR REJECTION. FOR PURPOSES OF TITLE 1, C.R.S., THE BALLOT
QUESTION IS A PROPOSITION. EACH ELECTOR VOTING AT SAID NOVEMBER
ELECTION SHALL CAST A VOTE AS PROVIDED BY LAW EITHER "YES/For" OR
"No/Against" ON THE PROPOSITION: "SHALL STATE TAXES BE INCREASED
BY $70,000,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH
AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN EXCISE
TAX OF 15% WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR
TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY WITH THE
FIRST FORTY MILLION DOLLARS OF TAX REVENUES BEING USED FOR PUBLIC
SCHOOL CAPITAL CONSTRUCTION AS REQUIRED BY THE STATE
CONSTITUTION, AND BY IMPOSING AN ADDITIONAL SALES TAX OF 10% ON
THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH
THE TAX REVENUES BEING USED FOR THE ENFORCEMENT OF REGULATIONS
ON THE RETAIL MARIJUANA INDUSTRY, WITH SUCH TAXES BEING
NECESSARY TO IMPLEMENT THE USE AND REGULATION OF RETAIL
MARIJUANA AS APPROVED BY THE VOTERS, WITH THE RATE OF EITHER OR
BOTH TAXES BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT
FURTHER VOTER APPROVAL SO LONG AS THE RATE OF EITHER TAX DOES
NOT EXCEED 15%, AND WITH THE RESULTING TAX REVENUE BEING
ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY
LIMITATIONS PROVIDED BY LAW?"

(2) THE VOTES CAST FOR THE ADOPTION OR REJECTION OF THE
QUESTION SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION
SHALL BE CANVASSED AND THE RESULT DETERMINED IN THE MANNER
PROVIDED BY LAW FOR THE CANVASSING OF VOTES FOR REPRESENTATIVES
IN CONGRESS.
SECTION 2. In Colorado Revised Statutes, 12-43.3-501, amend (1) as follows:

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

SECTION 3. In Colorado Revised Statutes, add 17-18-108 as follows:

17-18-108. Appropriation to comply with section 2-2-703 - HB 13-1318 - repeal. (1) Pursuant to section 2-2-703, C.R.S., the following statutory appropriation, or so much thereof as may be necessary, is made in order to implement House Bill 13-1318, enacted in 2013;

(a) For the fiscal year beginning July 1, 2014, in addition to any other appropriation, there is hereby appropriated to the department, out of any moneys in the general fund not otherwise appropriated, the sum of twenty thousand eight
HUNDRED SIXTEEN DOLLARS ($20,816).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the marijuana cash fund created in section 12-43.3-501 (1) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2013, the sum of $4,113,952 and 11.5 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

Executive Director's Office, Personal Services and Operating Expenses $93,415 and 1.5 FTE
Executive Director's Office, Vehicle Lease Payments $19,913
Taxation Business Group, CITA Annual Maintenance and Support $3,400,000
Taxation Business Group, Taxation and Compliance Division $516,455 and 8.3 FTE
Taxation Business Group, Taxpayer Services Division $84,169 and 1.7 FTE

SECTION 5. Effective date. (1) Except as specified in subsection (2) of this section, this act takes effect upon passage.

(2) (a) Sections 3 and 4 of this act take effect only if, at the November 2013 statewide election, a majority of voters approve the ballot question submitted pursuant to section 39-28.8-401, Colorado Revised Statutes, enacted in section 1 of this act.

(b) If the voters at the November 2013 statewide election approve the ballot question described in paragraph (a) of this subsection (2), then
sections 3 and 4 of this act take effect on the date of the official
declaration of the vote thereon by the governor.

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