A BILL FOR AN ACT

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

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 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  *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. As used in this article, unless the context otherwise requires:

(1) "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.

(2) "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.

(3) "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.

(4) "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.

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

(6) "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.

(7) "Average market rate" means the average price, as determined by the department on a biannual basis, 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.

(8) "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.

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

(10) "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.

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

(12) "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.

(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.

PART 2

RETAIL MARIJUANA SALES TAX

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 part 1 of article 26 of this title; except that, in the event of a conflict between the provisions of this part 2 and the provisions of part 1 of article 26 of this title, the provisions of this part 2...
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 fifteen 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.

(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 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.

39-28.8-203. Disposition of collections. (1) The proceeds of
all money 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 ten 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 that may be apportioned to all local governments
pursuant to this paragraph (a). 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 THAT MAY BE APPORTIONED TO ALL LOCAL GOVERNMENTS PURSUANT TO THIS PARAGRAPHER (a).

(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) MONEY 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.

(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 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.

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,
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 part 1 of article 26 of this title; except that, in the event of a conflict between the provisions of this part 3 and the provisions of 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 quarter. 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 quarter 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. If any retail marijuana cultivation facility is delinquent in remitting the tax, other than in unusual circumstances shown to the satisfaction of the executive director of the department, the penalty imposed under section 39-28.8-307 shall apply.

(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 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 AND SHALL REMIT THIS AMOUNT IN THE NEXT PAYMENT TO THE DEPARTMENT UNDER SECTION 39-28.8-304.

(b) ANY CLAIM FOR A 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 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

-15-
owed shall be reduced by the amount paid to the department.

(2) As used in this section, "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 to be claimed as a deduction pursuant to section 166 of the federal "Internal Revenue Code of 1986", as amended. A bad debt shall not include any interest on the wholesale price of unprocessed retail marijuana, uncollectible amounts on property that remain in the possession of the retail marijuana cultivation facility until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or any portion of the debt recovered, 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 moneys 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 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.
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. 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 taxes on retail marijuana be increased by $_____ annually in the first full fiscal year and by such amounts as are raised annually thereafter by amendments to the Colorado Revised Statutes, and, in connection therewith, in addition to any state or local government sales tax, imposing a retail marijuana sales tax not to exceed 15% on the sale of retail marijuana and retail marijuana products, allowing the general assembly to decrease or increase the rate of the retail marijuana sales tax without further voter approval so long as the rate does not exceed 15%, imposing a retail marijuana excise tax to be imposed when unprocessed retail marijuana is first sold or transferred by a retail marijuana cultivation facility to a retail marijuana product manufacturing facility, retail marijuana store, or another retail marijuana cultivation facility, allowing the general assembly to decrease or increase the rate of the retail marijuana excise tax without further voter approval so long as the rate does not exceed 15%, and allowing any additional tax revenue 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. 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.