

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 13-0929.01 Nicole Myers x4326

HOUSE BILL 13-1318

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

Jahn,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

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

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.

SENATE
3rd Reading Unamended
May 8, 2013

SENATE
Amended 2nd Reading
May 7, 2013

HOUSE
3rd Reading Unamended
April 30, 2013

HOUSE
Amended 2nd Reading
April 29, 2013

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:*

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

4 **ARTICLE 28.8**

5 **Taxes on Marijuana and Marijuana Products**

6 **PART 1**

7 **DEFINITIONS**

8 **39-28.8-101. Definitions.** UNLESS THE CONTEXT OTHERWISE
9 REQUIRES, ANY TERMS NOT DEFINED IN THIS ARTICLE SHALL HAVE THE
10 MEANINGS SET FORTH IN ARTICLE 26 OF THIS TITLE. AS USED IN THIS
11 ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

12 **(1) "AVERAGE MARKET RATE"** MEANS THE AVERAGE PRICE, AS
13 DETERMINED BY THE DEPARTMENT ON A BIENNIAL BASIS IN SIX-MONTH
14 INTERVALS, OF ALL UNPROCESSED RETAIL MARIJUANA THAT IS SOLD OR
15 TRANSFERRED FROM RETAIL MARIJUANA CULTIVATION FACILITIES IN THE
16 STATE TO RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES,
17 RETAIL MARIJUANA STORES, OR OTHER RETAIL MARIJUANA CULTIVATION
18 FACILITIES. AN "AVERAGE MARKET RATE" MAY BE BASED ON THE
19 PURCHASER OR TRANSFEREE OF UNPROCESSED RETAIL MARIJUANA OR ON
20 THE NATURE OF THE UNPROCESSED RETAIL MARIJUANA THAT IS SOLD OR
21 TRANSFERRED.

22 **(2) "CONSUMER"** MEANS A PERSON TWENTY-ONE YEARS OF AGE OR
23 OLDER WHO PURCHASES RETAIL MARIJUANA OR RETAIL MARIJUANA
24 PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR
25 OLDER BUT NOT FOR RESALE TO OTHERS.

26 **(3) "DEPARTMENT"** MEANS THE DEPARTMENT OF REVENUE.

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

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

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

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

23 (8) "RETAIL MARIJUANA CULTIVATION FACILITY" MEANS AN
24 ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE RETAIL
25 MARIJUANA AND SELL RETAIL MARIJUANA TO RETAIL MARIJUANA STORES,
26 TO RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO
27 OTHER RETAIL MARIJUANA CULTIVATION FACILITIES, BUT NOT TO

1 CONSUMERS.

2 (9) "RETAIL MARIJUANA PRODUCTS" MEANS CONCENTRATED
3 RETAIL MARIJUANA PRODUCTS AND RETAIL MARIJUANA PRODUCTS THAT
4 ARE COMPRISED OF RETAIL MARIJUANA AND OTHER INGREDIENTS AND ARE
5 INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO,
6 EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

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

13 (11) "RETAIL MARIJUANA SALES TAX" MEANS THE SALES TAX
14 IMPOSED ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS
15 PURSUANT TO PART 2 OF THIS ARTICLE.

16 (12) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED BY
17 THE DEPARTMENT TO PURCHASE RETAIL MARIJUANA FROM RETAIL
18 MARIJUANA CULTIVATION FACILITIES AND RETAIL MARIJUANA AND RETAIL
19 MARIJUANA PRODUCTS FROM RETAIL MARIJUANA PRODUCT
20 MANUFACTURING FACILITIES AND TO SELL RETAIL MARIJUANA AND RETAIL
21 MARIJUANA PRODUCTS TO CONSUMERS.

22 (13) "SALE" MEANS ANY EXCHANGE OR BARTER, IN ANY MANNER
23 OR BY ANY MEANS WHATSOEVER, FOR CONSIDERATION.

24 (14) "TRANSFER" MEANS TO GRANT, CONVEY, HAND OVER, ASSIGN,
25 SELL, EXCHANGE, OR BARTER, IN ANY MANNER OR BY ANY MEANS, WITH
26 OR WITHOUT CONSIDERATION.

27 (15) "UNPROCESSED RETAIL MARIJUANA" MEANS MARIJUANA AT

1 THE TIME OF THE FIRST TRANSFER OR SALE FROM A RETAIL MARIJUANA
2 CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
3 MANUFACTURING FACILITY OR A RETAIL MARIJUANA STORE.

4 PART 2

5 RETAIL MARIJUANA SALES TAX

6 **39-28.8-201. Retail marijuana sales tax - administration -**
7 **enforcement.** THE TAX IMPOSED PURSUANT TO THIS PART 2 SHALL BE
8 ADMINISTERED AND ENFORCED IN ACCORDANCE WITH THE PROVISIONS OF
9 ARTICLE 21 OF THIS TITLE AND PART 1 OF ARTICLE 26 OF THIS TITLE,
10 INCLUDING, WITHOUT LIMITATION, ANY PENALTIES FOR FAILURE TO MAKE
11 ANY RETURN OR TO COLLECT OR PAY ANY TAX; EXCEPT THAT, IN THE
12 EVENT OF A CONFLICT BETWEEN THE PROVISIONS OF THIS PART 2 AND THE
13 PROVISIONS OF ARTICLE 21 OF THIS TITLE OR PART 1 OF ARTICLE 26 OF THIS
14 TITLE, THE PROVISIONS OF THIS PART 2 SHALL CONTROL.

15 **39-28.8-202. Retail marijuana sales tax.** (1) (a) IN ADDITION TO
16 THE TAX IMPOSED PURSUANT TO PART 1 OF ARTICLE 26 OF THIS TITLE AND
17 THE SALES TAX IMPOSED BY A LOCAL GOVERNMENT PURSUANT TO TITLE
18 29, 30, 31, OR 32, BEGINNING JANUARY 1, 2014, THERE IS IMPOSED UPON
19 ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS BY
20 A RETAILER A TAX AT THE RATE OF TEN PERCENT OF THE AMOUNT OF THE
21 SALE, TO BE COMPUTED IN ACCORDANCE WITH SCHEDULES OR FORMS
22 PRESCRIBED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT; EXCEPT
23 THAT A RETAIL MARIJUANA STORE IS NOT ALLOWED TO RETAIN ANY
24 PORTION OF THE RETAIL MARIJUANA SALES TAX COLLECTED PURSUANT TO
25 THIS PART 2 TO COVER THE EXPENSES OF COLLECTING AND REMITTING THE
26 TAX AND EXCEPT THAT THE DEPARTMENT OF REVENUE MAY REQUIRE A
27 RETAILER TO MAKE RETURNS AND REMIT THE TAX DESCRIBED IN THIS PART

1 2 BY ELECTRONIC MEANS.

2 (b) THE MAXIMUM TAX RATE THAT MAY BE IMPOSED PURSUANT TO
3 THIS SECTION IS FIFTEEN PERCENT. AT ANY TIME ON OR AFTER JANUARY
4 1, 2014, THE GENERAL ASSEMBLY MAY, BY A BILL ENACTED BY THE
5 GENERAL ASSEMBLY AND THAT BECOMES LAW:

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

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

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

22 (3) THE DEPARTMENT MAY REQUIRE RETAIL MARIJUANA STORES
23 TO FILE TAX RETURNS AND REMIT PAYMENTS DUE PURSUANT TO THIS PART
24 2 ELECTRONICALLY. THE DEPARTMENT SHALL PROMULGATE RULES
25 GOVERNING ELECTRONIC PAYMENT AND FILING.

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27 **39-28.8-203. Disposition of collections.** (1) THE PROCEEDS OF

1 ALL MONEYS COLLECTED FROM THE RETAIL MARIJUANA SALES TAX SHALL
2 BE CREDITED TO THE OLD AGE PENSION FUND CREATED IN SECTION 1 OF
3 ARTICLE XXIV OF THE STATE CONSTITUTION IN ACCORDANCE WITH
4 PARAGRAPHS (a) AND (f) OF SECTION 2 OF ARTICLE XXIV OF THE STATE
5 CONSTITUTION. FOR EACH FISCAL YEAR IN WHICH A TAX IS COLLECTED
6 PURSUANT TO THIS PART 2, AN AMOUNT SHALL BE DISTRIBUTED FROM THE
7 GENERAL FUND AS FOLLOWS:

8 (a) (I) AN AMOUNT EQUAL TO FIFTEEN PERCENT OF THE GROSS
9 RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE
10 DEPARTMENT SHALL BE APPORTIONED TO LOCAL GOVERNMENTS. THE CITY
11 OR TOWN SHARE SHALL BE APPORTIONED ACCORDING TO THE PERCENTAGE
12 THAT RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE
13 DEPARTMENT WITHIN THE BOUNDARIES OF THE CITY OR TOWN BEARS TO
14 THE TOTAL RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE
15 DEPARTMENT. THE COUNTY SHARE SHALL BE APPORTIONED ACCORDING
16 TO THE PERCENTAGE THAT RETAIL MARIJUANA SALES TAX REVENUES
17 COLLECTED BY THE DEPARTMENT IN THE UNINCORPORATED AREA OF THE
18 COUNTY BEARS TO TOTAL RETAIL MARIJUANA SALES TAX REVENUES
19 COLLECTED BY THE DEPARTMENT.

20 (II) THE DEPARTMENT OF REVENUE SHALL CERTIFY TO THE STATE
21 TREASURER, AT LEAST ANNUALLY, THE PERCENTAGE FOR APPORTIONMENT
22 TO EACH LOCAL GOVERNMENT, AND THE PERCENTAGE FOR
23 APPORTIONMENT SO CERTIFIED SHALL BE APPLIED BY SAID DEPARTMENT
24 IN ALL DISTRIBUTIONS TO LOCAL GOVERNMENTS UNTIL CHANGED BY
25 CERTIFICATION TO THE STATE TREASURER.

26 (III) DISTRIBUTION TO EACH LOCAL GOVERNMENT PURSUANT TO
27 THIS PARAGRAPH (a) SHALL BE MADE MONTHLY, NO LATER THAN THE

1 FIFTEENTH DAY OF THE SECOND SUCCESSIVE MONTH AFTER THE MONTH
2 FOR WHICH RETAIL MARIJUANA SALES TAX COLLECTIONS ARE MADE.

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

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

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

1 (b) FOLLOWING APPORTIONMENT OF LOCAL GOVERNMENT SHARES
2 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), AN AMOUNT EQUAL
3 TO ALL REMAINING REVENUES COLLECTED SHALL BE TRANSFERRED FROM
4 THE GENERAL FUND TO THE MARIJUANA CASH FUND CREATED IN SECTION
5 12-43.3-501, C.R.S., TO BE USED FOR THE ENFORCEMENT OF REGULATIONS
6 ON THE RETAIL MARIJUANA INDUSTRY AND FOR THE OTHER PURPOSES OF
7 THE FUND AS DETERMINED BY THE GENERAL ASSEMBLY. THE GENERAL
8 ASSEMBLY SHALL MAKE APPROPRIATIONS FROM THE MARIJUANA CASH
9 FUND FOR THE EXPENSES OF THE ADMINISTRATION OF THIS SECTION.

10 (2) ON OR BEFORE APRIL 1, 2014, AND ON OR BEFORE APRIL 1
11 EACH YEAR THEREAFTER THROUGH APRIL 1, 2016, THE FINANCE
12 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR
13 ANY SUCCESSOR COMMITTEES, SHALL REVIEW THE PROVISIONS OF
14 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION TO DETERMINE
15 WHETHER THE PERCENTAGE OF THE TAX IMPOSED PURSUANT TO THIS PART
16 2 THAT IS APPORTIONED TO LOCAL GOVERNMENTS IS APPROPRIATE. THE
17 FINANCE COMMITTEES MAY REQUEST ASSISTANCE AND INPUT FROM THE
18 DEPARTMENT OF REVENUE AND THE DEPARTMENT OF LOCAL AFFAIRS IN
19 MAKING THIS DETERMINATION.

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

1 SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF
2 THIS ARTICLE.

3 **39-28.8-205. Rules.** THE DEPARTMENT SHALL PROMULGATE RULES
4 FOR THE IMPLEMENTATION OF THIS PART 2 IN ACCORDANCE WITH THE
5 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
6 C.R.S.

7 PART 3

8 RETAIL MARIJUANA EXCISE TAX

9 **39-28.8-301. Retail marijuana excise tax - administration -**
10 **enforcement.** THE TAX IMPOSED PURSUANT TO THIS PART 3 SHALL BE
11 ADMINISTERED AND ENFORCED IN ACCORDANCE WITH THE PROVISIONS OF
12 ARTICLE 21 OF THIS TITLE AND PART 1 OF ARTICLE 26 OF THIS TITLE,
13 INCLUDING, WITHOUT LIMITATION, ANY PENALTIES FOR FAILURE TO MAKE
14 ANY RETURN OR TO COLLECT OR PAY ANY TAX; EXCEPT THAT, IN THE
15 EVENT OF A CONFLICT BETWEEN THE PROVISIONS OF THIS PART 3 AND THE
16 PROVISIONS OF ARTICLE 21 OF THIS TITLE OR PART 1 OF ARTICLE 26 OF THIS
17 TITLE, THE PROVISIONS OF THIS PART 3 SHALL CONTROL.

18 **39-28.8-302. Retail marijuana - excise tax levied at first**
19 **transfer from retail marijuana cultivation facility - tax rate.**

20 (1) (a) BEGINNING JANUARY 1, 2014, EXCEPT AS OTHERWISE PROVIDED
21 IN PARAGRAPH (b) OF THIS SUBSECTION (1), THERE IS LEVIED AND SHALL
22 BE COLLECTED, IN ADDITION TO THE SALES TAX IMPOSED PURSUANT TO
23 PART 1 OF ARTICLE 26 OF THIS TITLE AND PART 2 OF THIS ARTICLE, A TAX
24 ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY
25 A RETAIL MARIJUANA CULTIVATION FACILITY, AT A RATE OF FIFTEEN
26 PERCENT OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL
27 MARIJUANA. THE TAX SHALL BE IMPOSED AT THE TIME WHEN THE RETAIL

1 MARIJUANA CULTIVATION FACILITY FIRST SELLS OR TRANSFERS
2 UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL MARIJUANA
3 CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
4 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
5 RETAIL MARIJUANA CULTIVATION FACILITY.

6 (b) THE FIFTEEN PERCENT TAX RATE SPECIFIED IN PARAGRAPH (a)
7 OF THIS SUBSECTION (1) IS THE MAXIMUM TAX RATE THAT MAY BE
8 IMPOSED PURSUANT TO THIS SECTION. AT ANY TIME ON OR AFTER
9 JANUARY 1, 2014, THE GENERAL ASSEMBLY MAY, BY A BILL ENACTED BY
10 THE GENERAL ASSEMBLY AND THAT BECOMES LAW:

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

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

26 (2) THE TAX IMPOSED PURSUANT TO SUBSECTION (1) OF THIS
27 SECTION SHALL NOT BE LEVIED ON THE SALE OR TRANSFER OF

1 UNPROCESSED MARIJUANA BY A MARIJUANA CULTIVATION FACILITY TO A
2 MEDICAL MARIJUANA CENTER.

3 **39-28.8-303. Books and records to be preserved.** (1) EVERY
4 RETAIL MARIJUANA CULTIVATION FACILITY SHALL KEEP AT EACH LICENSED
5 PLACE OF BUSINESS COMPLETE AND ACCURATE ELECTRONIC RECORDS FOR
6 THAT PLACE OF BUSINESS, INCLUDING ITEMIZED INVOICES OF ALL RETAIL
7 MARIJUANA GROWN, HELD, SHIPPED, OR OTHERWISE TRANSPORTED OR
8 SOLD TO RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES,
9 RETAIL MARIJUANA STORES, OR OTHER RETAIL MARIJUANA CULTIVATION
10 FACILITIES IN THIS STATE.

11 (2) THE RECORDS REQUIRED BY SUBSECTION (1) OF THIS SECTION
12 SHALL INCLUDE THE NAMES AND ADDRESSES OF RETAIL MARIJUANA
13 PRODUCT MANUFACTURING FACILITIES, RETAIL MARIJUANA STORES, OR
14 OTHER RETAIL MARIJUANA CULTIVATION FACILITIES TO WHICH
15 UNPROCESSED RETAIL MARIJUANA IS SOLD OR TRANSFERRED, THE
16 INVENTORY OF ALL UNPROCESSED RETAIL MARIJUANA ON HAND, AND
17 OTHER PERTINENT PAPERS AND DOCUMENTS RELATING TO THE SALE OR
18 TRANSFER OF UNPROCESSED RETAIL MARIJUANA.

19 (3) A RETAIL MARIJUANA CULTIVATION FACILITY SHALL KEEP
20 ITEMIZED INVOICES OF ALL UNPROCESSED MARIJUANA TRANSFERRED TO
21 RETAIL MARIJUANA STORES OWNED OR CONTROLLED BY THE OWNERS OF
22 THE RETAIL MARIJUANA CULTIVATION FACILITY.

23 (4) EVERY RETAIL MARIJUANA STORE SHALL KEEP AT ITS PLACE
24 OF BUSINESS COMPLETE AND ACCURATE RECORDS TO SHOW THAT ALL
25 RETAIL MARIJUANA RECEIVED BY THE RETAIL MARIJUANA STORE WAS
26 PURCHASED FROM A RETAIL MARIJUANA CULTIVATION FACILITY. THE
27 RETAIL MARIJUANA STORE SHALL PROVIDE A COPY OF SUCH RECORDS TO

1 THE DEPARTMENT IF SO REQUESTED. THE DEPARTMENT MAY ESTABLISH
2 THE ACCEPTABLE FORM OF SUCH RECORDS.

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4 **39-28.8-304. Returns and remittance of tax - civil penalty.**

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

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

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 (4) A RETAIL MARIJUANA CULTIVATION FACILITY SHALL FILE WITH
20 THE DEPARTMENT EVIDENCE OF A SURETY BOND ISSUED BY A COMPANY
21 AUTHORIZED TO DO BUSINESS IN THIS STATE FOR THE BENEFIT OF THE
22 DEPARTMENT IN AN AMOUNT EQUAL TO TWO MONTHS OF THE FACILITY'S
23 ANTICIPATED LIABILITY FOR THE TAX IMPOSED PURSUANT TO THIS PART 3.
24 THE AMOUNT OF THE FACILITY'S ANTICIPATED TAX LIABILITY SHALL BE
25 DETERMINED SOLELY IN THE DISCRETION OF THE RETAIL MARIJUANA
26 CULTIVATION FACILITY. THE DEPARTMENT MAY REQUIRE A FACILITY TO
27 FILE OR A FACILITY MAY CHOOSE TO FILE A REPLACEMENT SURETY BOND

1 IF THE AMOUNT OF THE FACILITY'S ACTUAL TAX LIABILITY CHANGES AFTER
2 THE FACILITY HAS FILED A BOND WITH THE DEPARTMENT PURSUANT TO
3 THIS SUBSECTION (4).

4

5 39-28.8-305. Distribution of tax collected. (1) ALL MONEYS
6 RECEIVED AND COLLECTED IN PAYMENT OF THE TAX IMPOSED BY THE
7 PROVISIONS OF THIS PART 3 SHALL BE TRANSMITTED TO THE STATE
8 TREASURER, WHO SHALL DISTRIBUTE THE MONEY AS FOLLOWS:

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

14 (b) ANY AMOUNT REMAINING AFTER THE TRANSFER PURSUANT TO
15 PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE TRANSFERRED TO THE
16 MARIJUANA CASH FUND CREATED IN SECTION 12-43.3-501, C.R.S.

17 39-28.8-306. Prohibited acts - penalties. IT IS UNLAWFUL FOR
18 ANY RETAIL MARIJUANA CULTIVATION FACILITY TO SELL OR TRANSFER
19 RETAIL MARIJUANA WITHOUT A LICENSE AS REQUIRED BY LAW, OR TO
20 WILLFULLY MAKE ANY FALSE OR FRAUDULENT RETURN OR FALSE
21 STATEMENT ON ANY RETURN, OR TO WILLFULLY EVADE THE PAYMENT OF
22 THE TAX, OR ANY PART THEREOF, AS IMPOSED BY THIS PART 3. ANY RETAIL
23 MARIJUANA CULTIVATION FACILITY OR AGENT THEREOF WHO WILLFULLY
24 VIOLATES ANY PROVISION OF THIS PART 3 SHALL BE PUNISHED AS
25 PROVIDED BY SECTION 39-21-118.

26 39-28.8-307. Revenue and spending limitations.
27 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR

1 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE
2 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUES
3 GENERATED BY THE RETAIL MARIJUANA EXCISE TAX IMPOSED PURSUANT
4 TO THIS PART 3 AS APPROVED BY THE VOTERS AT THE STATEWIDE
5 ELECTION IN NOVEMBER 2013 MAY BE COLLECTED AND SPENT AS
6 VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE VOTER
7 APPROVAL SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT
8 TO PART 4 OF THIS ARTICLE.

9 **39-28.8-308. Rules.** THE DEPARTMENT SHALL PROMULGATE RULES
10 FOR THE IMPLEMENTATION OF THIS PART 3 IN ACCORDANCE WITH THE
11 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
12 C.R.S.

13 PART 4

14 SUBMISSION OF BALLOT QUESTIONS REGARDING
15 RETAIL MARIJUANA SALES AND EXCISE TAX

16 **39-28.8-401. Submission of ballot questions regarding**
17 **imposition of retail marijuana sales and excise tax.** (1) THE
18 SECRETARY OF STATE SHALL SUBMIT A BALLOT QUESTION TO A VOTE OF
19 THE REGISTERED ELECTORS OF THE STATE OF COLORADO AT THE
20 STATEWIDE ELECTION TO BE HELD IN NOVEMBER 2013, FOR THEIR
21 APPROVAL OR REJECTION. FOR PURPOSES OF TITLE 1, C.R.S., THE BALLOT
22 QUESTION IS A PROPOSITION. EACH ELECTOR VOTING AT SAID NOVEMBER
23 ELECTION SHALL CAST A VOTE AS PROVIDED BY LAW EITHER "YES/FOR" OR
24 "NO/AGAINST" ON THE PROPOSITION: "SHALL STATE TAXES BE INCREASED
25 BY \$70,000,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH
26 AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN EXCISE
27 TAX OF 15% WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR

1 TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY WITH THE
2 FIRST \$40,000,000 OF TAX REVENUES BEING USED FOR PUBLIC SCHOOL
3 CAPITAL CONSTRUCTION AS REQUIRED BY THE STATE CONSTITUTION, AND
4 BY IMPOSING AN ADDITIONAL SALES TAX OF 10% ON THE SALE OF RETAIL
5 MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE TAX REVENUES
6 BEING USED TO FUND THE ENFORCEMENT OF REGULATIONS ON THE RETAIL
7 MARIJUANA INDUSTRY AND OTHER COSTS RELATED TO THE
8 IMPLEMENTATION OF THE USE AND REGULATION OF RETAIL MARIJUANA AS
9 APPROVED BY THE VOTERS, WITH THE RATE OF EITHER OR BOTH TAXES
10 BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER
11 VOTER APPROVAL SO LONG AS THE RATE OF EITHER TAX DOES NOT EXCEED
12 15%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE
13 COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED
14 BY LAW?"

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

20 **39-28.8-402. Repeal of article.** (1) THIS ARTICLE IS REPEALED,
21 EFFECTIVE FEBRUARY 1, 2014, IF THE VOTERS AT THE NOVEMBER 2013
22 STATEWIDE ELECTION DO NOT APPROVE THE QUESTION DESCRIBED IN
23 SECTION 39-28.8-401 AND THE GOVERNOR ISSUES AN OFFICIAL
24 DECLARATION OF THE VOTE THEREON.

25 (2) THIS SECTION IS REPEALED, EFFECTIVE FEBRUARY 1, 2014, IF
26 THE VOTERS AT THE NOVEMBER 2013 STATEWIDE ELECTION APPROVE THE
27 QUESTION DESCRIBED IN SECTION 39-28.8-401 AND THE GOVERNOR ISSUES

1 AN OFFICIAL DECLARATION OF THE VOTE THEREON.

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

4 **12-43.3-501. Marijuana cash fund.** (1) All moneys collected by
5 the state licensing authority pursuant to this article shall be transmitted to
6 the state treasurer, who shall credit the same to the ~~medical~~ marijuana
7 ~~license~~ cash fund, which fund is hereby created and referred to in this
8 section as the "fund". The moneys in the fund shall be subject to annual
9 appropriation by the general assembly to the department of revenue for
10 the direct and indirect costs associated with implementing this article AND
11 ARTICLE 28.8 OF TITLE 39, C.R.S. Any moneys in the fund not expended
12 for the purpose of this article OR ARTICLE 28.8 OF TITLE 39, C.R.S., may
13 be invested by the state treasurer as provided by law. All interest and
14 income derived from the investment and deposit of moneys in the fund
15 shall be credited to the fund. Any unexpended and unencumbered moneys
16 remaining in the fund at the end of a fiscal year shall remain in the fund
17 and shall not be credited or transferred to the general fund or another
18 fund.

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

21 **17-18-108. Appropriation to comply with section 2-2-703 - HB**
22 **13-1318 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
23 FOLLOWING STATUTORY APPROPRIATION, OR SO MUCH THEREOF AS MAY
24 BE NECESSARY, IS MADE IN ORDER TO IMPLEMENT HOUSE BILL 13-1318,
25 ENACTED IN 2013:

26 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
27 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE

1 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
2 OTHERWISE APPROPRIATED, THE SUM OF TWENTY THOUSAND EIGHT
3 HUNDRED SIXTEEN DOLLARS (\$20,816).

4 (b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION
5 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
6 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
7 OTHERWISE APPROPRIATED, THE SUM OF FOURTEEN THOUSAND NINE
8 HUNDRED EIGHTY-SEVEN DOLLARS (\$14,987).

9 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

10 **SECTION 4. Appropriation.** In addition to any other
11 appropriation, there is hereby appropriated, out of any moneys in the
12 marijuana cash fund created in section 12-43.3-501 (1) (a), Colorado
13 Revised Statutes, not otherwise appropriated, to the department of
14 revenue, for the fiscal year beginning July 1, 2013, the sum of \$4,246,090
15 and 11.5 FTE, or so much thereof as may be necessary, to be allocated for
16 the implementation of this act as follows:

17	Executive Director's Office, Personal	
18	Services and Operating Expenses	<u>\$92,376</u> and 1.5 FTE
19	Executive Director's Office, Vehicle Lease	
20	Payments	<u>\$9,956</u>
21	Taxation Business Group, CITA Annual	
22	Maintenance and Support	\$3,400,000
23	Taxation Business Group,	
24	Taxation and Compliance Division	<u>\$576,696</u> and 8.3 FTE
25	Taxation Business Group,	
26	Taxpayer Services Division	<u>\$167,062</u> and 1.7 FTE

27 **SECTION 5. Effective date.** (1) Except as specified in

1 subsection (2) of this section, this act takes effect upon passage.

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

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

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