

**Retail Marijuana Taxes
(Text of House Bill 13-1318)**

1 **Text of Measure:**

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

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

5 **ARTICLE 28.8**
6 **Taxes on Marijuana and Marijuana Products**

7 PART 1
8 DEFINITIONS

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

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

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

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

27 (4) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND
28 ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9

1 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED
2 THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

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

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

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

19 (8) "RETAIL MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY
20 LICENSED TO CULTIVATE, PREPARE, AND PACKAGE RETAIL MARIJUANA AND SELL
21 RETAIL MARIJUANA TO RETAIL MARIJUANA STORES, TO RETAIL MARIJUANA
22 PRODUCT MANUFACTURING FACILITIES, AND TO OTHER RETAIL MARIJUANA
23 CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

24 (9) "RETAIL MARIJUANA PRODUCTS" MEANS CONCENTRATED RETAIL
25 MARIJUANA PRODUCTS AND RETAIL MARIJUANA PRODUCTS THAT ARE COMPRISED
26 OF RETAIL MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR
27 CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS,
28 AND TINCTURES.

29 (10) "RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN
30 ENTITY LICENSED TO PURCHASE RETAIL MARIJUANA; MANUFACTURE, PREPARE,
31 AND PACKAGE RETAIL MARIJUANA PRODUCTS; AND SELL RETAIL MARIJUANA AND
32 RETAIL MARIJUANA PRODUCTS TO OTHER RETAIL MARIJUANA PRODUCT
33 MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO
34 CONSUMERS.

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

4 (12) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED BY THE
5 DEPARTMENT TO PURCHASE RETAIL MARIJUANA FROM RETAIL MARIJUANA
6 CULTIVATION FACILITIES AND RETAIL MARIJUANA AND RETAIL MARIJUANA
7 PRODUCTS FROM RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES AND
8 TO SELL RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS TO CONSUMERS.

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

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

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

18 PART 2
19 RETAIL MARIJUANA SALES TAX

20 **39-28.8-201. Retail marijuana sales tax - administration -**
21 **enforcement.** THE TAX IMPOSED PURSUANT TO THIS PART 2 SHALL BE
22 ADMINISTERED AND ENFORCED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE
23 21 OF THIS TITLE AND PART 1 OF ARTICLE 26 OF THIS TITLE, INCLUDING, WITHOUT
24 LIMITATION, ANY PENALTIES FOR FAILURE TO MAKE ANY RETURN OR TO COLLECT
25 OR PAY ANY TAX; EXCEPT THAT, IN THE EVENT OF A CONFLICT BETWEEN THE
26 PROVISIONS OF THIS PART 2 AND THE PROVISIONS OF ARTICLE 21 OF THIS TITLE OR
27 PART 1 OF ARTICLE 26 OF THIS TITLE, THE PROVISIONS OF THIS PART 2 SHALL
28 CONTROL.

29 **39-28.8-202. Retail marijuana sales tax.** (1) (a) IN ADDITION TO THE
30 TAX IMPOSED PURSUANT TO PART 1 OF ARTICLE 26 OF THIS TITLE AND THE SALES
31 TAX IMPOSED BY A LOCAL GOVERNMENT PURSUANT TO TITLE 29, 30, 31, OR 32,
32 BEGINNING JANUARY 1, 2014, THERE IS IMPOSED UPON ALL SALES OF RETAIL
33 MARIJUANA AND RETAIL MARIJUANA PRODUCTS BY A RETAILER A TAX AT THE
34 RATE OF TEN PERCENT OF THE AMOUNT OF THE SALE, TO BE COMPUTED IN

1 ACCORDANCE WITH SCHEDULES OR FORMS PRESCRIBED BY THE EXECUTIVE
2 DIRECTOR OF THE DEPARTMENT; EXCEPT THAT A RETAIL MARIJUANA STORE IS NOT
3 ALLOWED TO RETAIN ANY PORTION OF THE RETAIL MARIJUANA SALES TAX
4 COLLECTED PURSUANT TO THIS PART 2 TO COVER THE EXPENSES OF COLLECTING
5 AND REMITTING THE TAX AND EXCEPT THAT THE DEPARTMENT OF REVENUE MAY
6 REQUIRE A RETAILER TO MAKE RETURNS AND REMIT THE TAX DESCRIBED IN THIS
7 PART 2 BY ELECTRONIC MEANS.

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

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

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

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

27 (3) THE DEPARTMENT MAY REQUIRE RETAIL MARIJUANA STORES TO FILE
28 TAX RETURNS AND REMIT PAYMENTS DUE PURSUANT TO THIS PART 2
29 ELECTRONICALLY. THE DEPARTMENT SHALL PROMULGATE RULES GOVERNING
30 ELECTRONIC PAYMENT AND FILING.

31 **39-28.8-203. Disposition of collections.** (1) THE PROCEEDS OF ALL
32 MONEYS COLLECTED FROM THE RETAIL MARIJUANA SALES TAX SHALL BE CREDITED
33 TO THE OLD AGE PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE
34 STATE CONSTITUTION IN ACCORDANCE WITH PARAGRAPHS (a) AND (f) OF SECTION
35 2 OF ARTICLE XXIV OF THE STATE CONSTITUTION. FOR EACH FISCAL YEAR IN

1 WHICH A TAX IS COLLECTED PURSUANT TO THIS PART 2, AN AMOUNT SHALL BE
2 DISTRIBUTED FROM THE GENERAL FUND AS FOLLOWS:

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

14 (II) THE DEPARTMENT OF REVENUE SHALL CERTIFY TO THE STATE
15 TREASURER, AT LEAST ANNUALLY, THE PERCENTAGE FOR APPORTIONMENT TO
16 EACH LOCAL GOVERNMENT, AND THE PERCENTAGE FOR APPORTIONMENT SO
17 CERTIFIED SHALL BE APPLIED BY SAID DEPARTMENT IN ALL DISTRIBUTIONS TO
18 LOCAL GOVERNMENTS UNTIL CHANGED BY CERTIFICATION TO THE STATE
19 TREASURER.

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

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

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

34 (VI) NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO PREVENT
35 A LOCAL GOVERNMENT FROM IMPOSING, LEVYING, AND COLLECTING ANY FEE OR

1 ANY TAX UPON THE SALE OF RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS
2 OR UPON THE OCCUPATION OR PRIVILEGE OF SELLING RETAIL MARIJUANA
3 PRODUCTS, NOR SHALL THE PROVISIONS OF THIS PARAGRAPH (a) BE INTERPRETED
4 TO AFFECT ANY EXISTING AUTHORITY OF A LOCAL GOVERNMENT TO IMPOSE A TAX
5 ON RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS TO BE USED FOR LOCAL
6 AND MUNICIPAL PURPOSES; HOWEVER, ANY LOCAL TAX IMPOSED AT OTHER THAN
7 THE LOCAL JURISDICTION'S GENERAL SALES TAX RATE SHALL NOT BE COLLECTED,
8 ADMINISTERED, AND ENFORCED BY THE DEPARTMENT OF REVENUE PURSUANT TO
9 SECTION 29-2-106, C.R.S., BUT SHALL INSTEAD BE COLLECTED, ADMINISTERED,
10 AND ENFORCED BY THE LOCAL GOVERNMENT ITSELF.

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

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

29 **39-28.8-204. Revenue and spending limitations.** NOTWITHSTANDING
30 ANY LIMITATIONS ON REVENUE, SPENDING, OR APPROPRIATIONS CONTAINED IN
31 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER PROVISION
32 OF LAW, ANY REVENUES GENERATED BY THE RETAIL MARIJUANA SALES TAX
33 IMPOSED PURSUANT TO THIS PART 2 AS APPROVED BY THE VOTERS AT THE
34 STATEWIDE ELECTION IN NOVEMBER 2013, MAY BE COLLECTED AND SPENT AS
35 VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE VOTER APPROVAL
36 SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF THIS
37 ARTICLE.

1 **39-28.8-205. Rules.** THE DEPARTMENT SHALL PROMULGATE RULES FOR
2 THE IMPLEMENTATION OF THIS PART 2 IN ACCORDANCE WITH THE "STATE
3 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

4 PART 3
5 RETAIL MARIJUANA EXCISE TAX

6 **39-28.8-301. Retail marijuana excise tax - administration -**
7 **enforcement.** THE TAX IMPOSED PURSUANT TO THIS PART 3 SHALL BE
8 ADMINISTERED AND ENFORCED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE
9 21 OF THIS TITLE AND PART 1 OF ARTICLE 26 OF THIS TITLE, INCLUDING, WITHOUT
10 LIMITATION, ANY PENALTIES FOR FAILURE TO MAKE ANY RETURN OR TO COLLECT
11 OR PAY ANY TAX; EXCEPT THAT, IN THE EVENT OF A CONFLICT BETWEEN THE
12 PROVISIONS OF THIS PART 3 AND THE PROVISIONS OF ARTICLE 21 OF THIS TITLE OR
13 PART 1 OF ARTICLE 26 OF THIS TITLE, THE PROVISIONS OF THIS PART 3 SHALL
14 CONTROL.

15 **39-28.8-302. Retail marijuana - excise tax levied at first transfer from**
16 **retail marijuana cultivation facility - tax rate.** (1) (a) BEGINNING JANUARY 1,
17 2014, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION
18 (1), THERE IS LEVIED AND SHALL BE COLLECTED, IN ADDITION TO THE SALES TAX
19 IMPOSED PURSUANT TO PART 1 OF ARTICLE 26 OF THIS TITLE AND PART 2 OF THIS
20 ARTICLE, A TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL
21 MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY, AT A RATE OF
22 FIFTEEN PERCENT OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL
23 MARIJUANA. THE TAX SHALL BE IMPOSED AT THE TIME WHEN THE RETAIL
24 MARIJUANA CULTIVATION FACILITY FIRST SELLS OR TRANSFERS UNPROCESSED
25 RETAIL MARIJUANA FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A
26 RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA
27 STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY.

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

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

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

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

13 **39-28.8-303. Books and records to be preserved.** (1) EVERY RETAIL
14 MARIJUANA CULTIVATION FACILITY SHALL KEEP AT EACH LICENSED PLACE OF
15 BUSINESS COMPLETE AND ACCURATE ELECTRONIC RECORDS FOR THAT PLACE OF
16 BUSINESS, INCLUDING ITEMIZED INVOICES OF ALL RETAIL MARIJUANA GROWN,
17 HELD, SHIPPED, OR OTHERWISE TRANSPORTED OR SOLD TO RETAIL MARIJUANA
18 PRODUCT MANUFACTURING FACILITIES, RETAIL MARIJUANA STORES, OR OTHER
19 RETAIL MARIJUANA CULTIVATION FACILITIES IN THIS STATE.

20 (2) THE RECORDS REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL
21 INCLUDE THE NAMES AND ADDRESSES OF RETAIL MARIJUANA PRODUCT
22 MANUFACTURING FACILITIES, RETAIL MARIJUANA STORES, OR OTHER RETAIL
23 MARIJUANA CULTIVATION FACILITIES TO WHICH UNPROCESSED RETAIL MARIJUANA
24 IS SOLD OR TRANSFERRED, THE INVENTORY OF ALL UNPROCESSED RETAIL
25 MARIJUANA ON HAND, AND OTHER PERTINENT PAPERS AND DOCUMENTS RELATING
26 TO THE SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA.

27 (3) A RETAIL MARIJUANA CULTIVATION FACILITY SHALL KEEP ITEMIZED
28 INVOICES OF ALL UNPROCESSED MARIJUANA TRANSFERRED TO RETAIL MARIJUANA
29 STORES OWNED OR CONTROLLED BY THE OWNERS OF THE RETAIL MARIJUANA
30 CULTIVATION FACILITY.

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

1 **39-28.8-304. Returns and remittance of tax - civil penalty.** (1) EVERY
2 RETAIL MARIJUANA CULTIVATION FACILITY SHALL FILE A RETURN WITH THE
3 DEPARTMENT EACH MONTH. THE RETURN, WHICH SHALL BE UPON FORMS
4 PRESCRIBED AND FURNISHED BY THE DEPARTMENT, SHALL CONTAIN, AMONG
5 OTHER THINGS, THE TOTAL AMOUNT OF UNPROCESSED RETAIL MARIJUANA SOLD
6 OR TRANSFERRED DURING THE PRECEDING MONTH AND THE TAX DUE THEREON.

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

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

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

26 **39-28.8-305. Distribution of tax collected.** (1) ALL MONEYS RECEIVED
27 AND COLLECTED IN PAYMENT OF THE TAX IMPOSED BY THE PROVISIONS OF THIS
28 PART 3 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL
29 DISTRIBUTE THE MONEY AS FOLLOWS:

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

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

4 **39-28.8-306. Prohibited acts - penalties.** IT IS UNLAWFUL FOR ANY
5 RETAIL MARIJUANA CULTIVATION FACILITY TO SELL OR TRANSFER RETAIL
6 MARIJUANA WITHOUT A LICENSE AS REQUIRED BY LAW, OR TO WILLFULLY MAKE
7 ANY FALSE OR FRAUDULENT RETURN OR FALSE STATEMENT ON ANY RETURN, OR
8 TO WILLFULLY EVADE THE PAYMENT OF THE TAX, OR ANY PART THEREOF, AS
9 IMPOSED BY THIS PART 3. ANY RETAIL MARIJUANA CULTIVATION FACILITY OR
10 AGENT THEREOF WHO WILLFULLY VIOLATES ANY PROVISION OF THIS PART 3 SHALL
11 BE PUNISHED AS PROVIDED BY SECTION 39-21-118.

12 **39-28.8-307. Revenue and spending limitations.** NOTWITHSTANDING
13 ANY LIMITATIONS ON REVENUE, SPENDING, OR APPROPRIATIONS CONTAINED IN
14 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER PROVISION
15 OF LAW, ANY REVENUES GENERATED BY THE RETAIL MARIJUANA EXCISE TAX
16 IMPOSED PURSUANT TO THIS PART 3 AS APPROVED BY THE VOTERS AT THE
17 STATEWIDE ELECTION IN NOVEMBER 2013 MAY BE COLLECTED AND SPENT AS
18 VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE VOTER APPROVAL
19 SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF THIS
20 ARTICLE.

21 **39-28.8-308. Rules.** THE DEPARTMENT SHALL PROMULGATE RULES FOR
22 THE IMPLEMENTATION OF THIS PART 3 IN ACCORDANCE WITH THE "STATE
23 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

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

27 **39-28.8-401. Submission of ballot questions regarding imposition of**
28 **retail marijuana sales and excise tax.** (1) THE SECRETARY OF STATE SHALL
29 SUBMIT A BALLOT QUESTION TO A VOTE OF THE REGISTERED ELECTORS OF THE
30 STATE OF COLORADO AT THE STATEWIDE ELECTION TO BE HELD IN NOVEMBER
31 2013, FOR THEIR APPROVAL OR REJECTION. FOR PURPOSES OF TITLE 1, C.R.S., THE
32 BALLOT QUESTION IS A PROPOSITION. EACH ELECTOR VOTING AT SAID NOVEMBER
33 ELECTION SHALL CAST A VOTE AS PROVIDED BY LAW EITHER "YES/FOR" OR
34 "NO/AGAINST" ON THE PROPOSITION: "SHALL STATE TAXES BE INCREASED BY
35 \$70,000,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS

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

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

19 **39-28.8-402. Repeal of article.** (1) THIS ARTICLE IS REPEALED, EFFECTIVE
20 FEBRUARY 1, 2014, IF THE VOTERS AT THE NOVEMBER 2013 STATEWIDE ELECTION
21 DO NOT APPROVE THE QUESTION DESCRIBED IN SECTION 39-28.8-401 AND THE
22 GOVERNOR ISSUES AN OFFICIAL DECLARATION OF THE VOTE THEREON.

23 (2) THIS SECTION IS REPEALED, EFFECTIVE FEBRUARY 1, 2014, IF THE
24 VOTERS AT THE NOVEMBER 2013 STATEWIDE ELECTION APPROVE THE QUESTION
25 DESCRIBED IN SECTION 39-28.8-401 AND THE GOVERNOR ISSUES AN OFFICIAL
26 DECLARATION OF THE VOTE THEREON.

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

29 **12-43.3-501. Marijuana cash fund.** (1) All moneys collected by the state
30 licensing authority pursuant to this article shall be transmitted to the state
31 treasurer, who shall credit the same to the ~~medical~~ marijuana license cash fund,
32 which fund is hereby created and referred to in this section as the "fund". The
33 moneys in the fund shall be subject to annual appropriation by the general
34 assembly to the department of revenue for the direct and indirect costs associated
35 with implementing this article AND ARTICLE 28.8 OF TITLE 39, C.R.S. Any moneys
36 in the fund not expended for the purpose of this article OR ARTICLE 28.8 OF TITLE

1 39, C.R.S., may be invested by the state treasurer as provided by law. All interest
2 and income derived from the investment and deposit of moneys in the fund shall
3 be credited to the fund. Any unexpended and unencumbered moneys remaining
4 in the fund at the end of a fiscal year shall remain in the fund and shall not be
5 credited or transferred to the general fund or another fund.

6 **SECTION 3.** In Colorado Revised Statutes, **add** 17-18-109 as follows:

7 **17-18-109. Appropriation to comply with section 2-2-703 - HB**
8 **13-1318 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING
9 STATUTORY APPROPRIATION, OR SO MUCH THEREOF AS MAY BE NECESSARY, IS
10 MADE IN ORDER TO IMPLEMENT HOUSE BILL 13-1318, ENACTED IN 2013:

11 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION TO ANY
12 OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT,
13 OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE
14 SUM OF TWENTY THOUSAND EIGHT HUNDRED SIXTEEN DOLLARS (\$20,816).

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

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

20 **SECTION 4. Appropriation.** In addition to any other appropriation,
21 there is hereby appropriated, out of any moneys in the marijuana cash fund
22 created in section 12-43.3-501 (1) (a), Colorado Revised Statutes, not otherwise
23 appropriated, to the department of revenue, for the fiscal year beginning July 1,
24 2013, the sum of \$4,246,090 and 11.5 FTE, or so much thereof as may be
25 necessary, to be allocated for the implementation of this act as follows:

26	Executive Director's Office, Personal	
27	Services and Operating Expenses	\$92,376 and 1.5 FTE
28	Executive Director's Office, Vehicle Lease	
29	Payments	\$9,956
30	Taxation Business Group, CITA Annual	
31	Maintenance and Support	\$3,400,000

1 Taxation Business Group,
2 Taxation and Compliance Division \$576,696 and 8.3 FTE

3 Taxation Business Group,
4 Taxpayer Services Division \$167,062 and 1.7 FTE

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

7 (2) (a) Sections 3 and 4 of this act take effect only if, at the November
8 2013 statewide election, a majority of voters approve the ballot question
9 submitted pursuant to section 39-28.8-401, Colorado Revised Statutes, enacted
10 in section 1 of this act.

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

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