

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

LLS NO. R13-1020.01 Sharon Eubanks x4336

SCR13-003

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House Committees

SENATE CONCURRENT RESOLUTION 13-003

101 **SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF**
102 **COLORADO AMENDMENTS TO THE COLORADO CONSTITUTION**
103 **CONCERNING MARIJUANA, AND, IN CONNECTION THEREWITH,**
104 **ALLOWING THE REGISTERED ELECTORS TO VOTE ON TWO**
105 **SEPARATE BUT RELATED QUESTIONS: 1) IMPOSING A STATE**
106 **EXCISE TAX OF 15% ON THE FIRST SALE OR TRANSFER OF**
107 **UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA**
108 **CULTIVATION FACILITY, IMPOSING AN ADDITIONAL STATE SALES**
109 **TAX OF 15% ON THE SALE OF RETAIL MARIJUANA AND RETAIL**
110 **MARIJUANA PRODUCTS, ALLOWING THE GENERAL ASSEMBLY TO**
111 **DECREASE OR INCREASE THE RATE OF EITHER OR BOTH TAXES**
112 **WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF**

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.

101 EITHER TAX DOES NOT EXCEED 15%, AND ALLOWING THE
102 RESULTING TAX REVENUES TO BE COLLECTED AND SPENT
103 REGARDLESS OF ANY LIMITATIONS IMPOSED BY LAW; AND 2) IF
104 A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION FAIL
105 TO APPROVE THE IMPOSITION OF A STATE EXCISE TAX AND A
106 STATE SALES TAX ON RETAIL MARIJUANA AT THE ELECTION
107 HELD IN NOVEMBER OF 2013, MAKING THE IMPLEMENTATION OF
108 REGULATED MARIJUANA CONDITIONAL UPON VOTER APPROVAL
109 OF THE IMPOSITION OF NEW STATE TAXES OR INCREASES IN
110 STATE TAX RATES SUFFICIENT TO ANNUALLY FUND THE
111 ESTIMATED COSTS OF STATE REGULATION OF MARIJUANA.

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not reflect any amendments that may be subsequently adopted. If this resolution passes third reading in the house of introduction, a resolution summary that applies to the reengrossed version of this resolution will be available at <http://www.leg.state.co.us/billsummaries>.)

The concurrent resolution submits two questions concerning marijuana to the voters of the state at the statewide election to be held in November of 2013. If the voters approve the first question, the concurrent resolution will impose a state sales tax and a state excise tax on retail marijuana, legalized by section 16 of article XVIII of the state constitution, as follows:

Excise tax. Beginning January 1, 2014, the concurrent resolution will impose a tax on the first 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 of revenue, and the tax will be 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 tax rate that is lower than 15% of the average market rate by a bill enacted by the general assembly that becomes law. 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.

Sales tax. Beginning January 1, 2014, the concurrent resolution will impose a tax of 15% on the sale of retail marijuana or retail marijuana products to a consumer by a retail marijuana store. The tax to be 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 that becomes law. 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.

If the voters approve the first question, the state will be allowed to collect and spend any revenues generated by the retail marijuana excise and sales taxes as voter-approved revenue changes.

If the voters do not approve the first question to impose a state sales tax and a state excise tax on retail marijuana and the voters approve the second question, the concurrent resolution will suspend all provisions of section 16 of article XVIII of the state constitution relating to the regulation of marijuana until such time as voters approve the imposition of new state taxes or increases in state tax rates sufficient to fund the estimated costs of state regulation of marijuana.

1 *Be It Resolved by the Senate of the Sixty-ninth General Assembly*
2 *of the State of Colorado, the House of Representatives concurring herein:*

3 **SECTION 1.** At the statewide election to be held on the first
4 Tuesday of November in 2013, there shall be submitted to the registered
5 electors of the state of Colorado, for their approval or rejection, the
6 following amendments to the constitution of the state of Colorado, to wit:

7 In the constitution of the state of Colorado, section 16 of article
8 XVIII, add (5) (d.1), (5) (d.2), add (5) (d.3), and (5) (k) as follows:

9 **Section 16. Personal use and regulation of marijuana.**
10 **(5) Regulation of marijuana.** (d.1) (I) BEGINNING JANUARY 1, 2014,

1 EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS
2 PARAGRAPH (d.1), THERE IS LEVIED AND SHALL BE COLLECTED, IN
3 ADDITION TO THE SALES TAX IMPOSED PURSUANT TO PART 1 OF ARTICLE
4 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR LAW, AND
5 PARAGRAPH (d.2) OF THIS SUBSECTION (5), A TAX ON THE FIRST SALE OR
6 TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA
7 CULTIVATION FACILITY, AT A RATE OF FIFTEEN PERCENT OF THE AVERAGE
8 MARKET RATE OF THE UNPROCESSED RETAIL MARIJUANA. THE TAX SHALL
9 BE IMPOSED AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION
10 FACILITY FIRST SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA
11 FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL
12 MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA
13 STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY.

14 (II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (d) OF
15 THIS SUBSECTION (5) TO THE CONTRARY, THE FIFTEEN PERCENT TAX RATE
16 SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d.1) IS THE
17 MAXIMUM TAX RATE THAT MAY BE IMPOSED PURSUANT TO THIS
18 PARAGRAPH (d.1). AT ANY TIME ON OR AFTER JANUARY 1, 2014, THE
19 GENERAL ASSEMBLY MAY, BY A BILL ENACTED BY THE GENERAL
20 ASSEMBLY THAT BECOMES LAW:

21 (A) ESTABLISH A TAX RATE TO BE IMPOSED PURSUANT TO THIS
22 PARAGRAPH (d.1) THAT IS LOWER THAN FIFTEEN PERCENT OF THE
23 AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA AT THE
24 TIME THAT IT IS SOLD OR TRANSFERRED; OR

25 (B) AFTER ESTABLISHING A TAX RATE THAT IS LOWER THAN
26 FIFTEEN PERCENT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH
27 (d.1), INCREASE THE TAX RATE TO BE IMPOSED PURSUANT TO THIS

1 PARAGRAPH (d.1); EXCEPT THAT, IN NO EVENT SHALL THE GENERAL
2 ASSEMBLY INCREASE THE TAX RATE ABOVE FIFTEEN PERCENT OF THE
3 AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA AT THE
4 TIME THAT IT IS SOLD OR TRANSFERRED. NOTWITHSTANDING ANY OTHER
5 PROVISION OF LAW, AN INCREASE IN THE TAX RATE PURSUANT TO THIS
6 SUB-SUBPARAGRAPH (B) SHALL NOT REQUIRE VOTER APPROVAL
7 SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT TO SECTION
8 20 (4) (a) OF ARTICLE X OF THIS CONSTITUTION.

9 (III) THE TAX IMPOSED PURSUANT TO SUBPARAGRAPH (I) OF THIS
10 PARAGRAPH (d.1) SHALL NOT BE LEVIED ON THE SALE OR TRANSFER OF
11 UNPROCESSED MARIJUANA BY A MARIJUANA CULTIVATION FACILITY TO A
12 MEDICAL MARIJUANA CENTER.

13 (d.2) (I) IN ADDITION TO THE TAX IMPOSED PURSUANT TO PART 1
14 OF ARTICLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR LAW,
15 AND THE SALES TAX IMPOSED BY A LOCAL GOVERNMENT PURSUANT TO
16 TITLE 29, 30, 31, OR 32, COLORADO REVISED STATUTES, OR ANY
17 SUCCESSOR STATUTES, BEGINNING JANUARY 1, 2014, THERE IS IMPOSED
18 UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA
19 PRODUCTS BY A RETAILER A TAX AT THE RATE OF FIFTEEN PERCENT OF THE
20 AMOUNT OF THE SALE, TO BE COMPUTED IN ACCORDANCE WITH
21 SCHEDULES OR FORMS PRESCRIBED BY THE EXECUTIVE DIRECTOR OF THE
22 DEPARTMENT.

23 (II) THE FIFTEEN PERCENT TAX RATE SPECIFIED IN SUBPARAGRAPH
24 (I) OF THIS PARAGRAPH (d.2) IS THE MAXIMUM TAX RATE THAT MAY BE
25 IMPOSED PURSUANT TO THIS SECTION. AT ANY TIME ON OR AFTER
26 JANUARY 1, 2014, THE GENERAL ASSEMBLY MAY, BY A BILL ENACTED BY
27 THE GENERAL ASSEMBLY THAT BECOMES LAW:

1 (A) ESTABLISH A TAX RATE TO BE IMPOSED PURSUANT TO THIS
2 PARAGRAPH (d.2) THAT IS LOWER THAN FIFTEEN PERCENT OF THE SALE OF
3 RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS; OR

4 (B) AFTER ESTABLISHING A TAX RATE THAT IS LOWER THAN
5 FIFTEEN PERCENT PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS
6 SUBPARAGRAPH (II), INCREASE THE TAX RATE TO BE IMPOSED PURSUANT
7 TO THIS PARAGRAPH (d.2); EXCEPT THAT, IN NO EVENT SHALL THE
8 GENERAL ASSEMBLY INCREASE THE TAX RATE ABOVE FIFTEEN PERCENT OF
9 THE SALE OF RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS.
10 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INCREASE IN THE
11 TAX RATE PURSUANT TO THIS SUBPARAGRAPH (II) SHALL NOT REQUIRE
12 VOTER APPROVAL SUBSEQUENT TO THE VOTER APPROVAL REQUIRED
13 PURSUANT TO SECTION 20 (4) (a) OF ARTICLE X OF THIS CONSTITUTION.

14 (III) NOTHING IN THIS PARAGRAPH (d.2) SHALL BE CONSTRUED TO
15 IMPOSE A TAX ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO
16 ANY PERSON BY A MEDICAL MARIJUANA CENTER.

17 (d.3) NOTWITHSTANDING ANY LIMITATIONS ON REVENUE,
18 SPENDING, OR APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X
19 OF THE STATE CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY
20 REVENUES GENERATED BY THE RETAIL MARIJUANA EXCISE AND SALES
21 TAXES IMPOSED PURSUANT TO PARAGRAPHS (d.1) AND (d.2) OF THIS
22 SUBSECTION (5), AS APPROVED BY THE VOTERS AT THE STATEWIDE
23 ELECTION HELD IN NOVEMBER OF 2013, MAY BE COLLECTED AND SPENT AS
24 VOTER-APPROVED REVENUE CHANGES WITHOUT ADDITIONAL VOTER
25 APPROVAL.

26 (5) (k) (I) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO
27 THE CONTRARY:

1 (A) EXCEPT FOR THE LIMITATION ON THE RATE OF ANY EXCISE TAX
2 IMPOSED BY PARAGRAPH (d) AND THE PROVISIONS OF PARAGRAPH (j) OF
3 THIS SUBSECTION (5), THE IMPLEMENTATION OF THIS SUBSECTION (5)
4 SHALL BE CONDITIONAL UPON THE ELECTORS APPROVING AT A STATEWIDE
5 ELECTION ONE OR MORE NEW TAXES OR INCREASES IN EXISTING TAX RATES
6 SUFFICIENT TO FUND THE ESTIMATED COSTS OF STATE REGULATION OF
7 MARIJUANA;

8 (B) ANY REGULATIONS ADOPTED BY THE DEPARTMENT, ANY
9 ORDINANCES OR REGULATIONS ADOPTED BY ANY LOCALITY, AND ANY
10 LICENSES ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THIS
11 SUBSECTION (5) PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH (k)
12 SHALL BE EFFECTIVE AND ENFORCEABLE ONLY UPON THE ELECTORS
13 APPROVING AT A STATEWIDE ELECTION ONE OR MORE NEW TAXES OR
14 INCREASES IN EXISTING TAX RATES SUFFICIENT TO FUND THE ESTIMATED
15 COSTS OF STATE REGULATION OF MARIJUANA; AND

16 (C) UNLESS ELECTORS APPROVE THE TAXES SET FORTH IN
17 PARAGRAPHS (d.1) AND (d.2) OF THIS SUBSECTION (5) AT THE STATEWIDE
18 ELECTION HELD ON NOVEMBER 5, 2013, ANY DATE SPECIFIED IN THIS
19 SUBSECTION (5) SHALL MEAN THAT DATE OF THE CALENDAR YEAR
20 IMMEDIATELY SUBSEQUENT TO THE STATEWIDE ELECTION AT WHICH THE
21 ELECTORS APPROVE ONE OR MORE NEW TAXES OR INCREASES IN EXISTING
22 TAX RATES SUFFICIENT TO FUND THE ESTIMATED COSTS OF STATE
23 REGULATION.

24 (II) THIS PARAGRAPH (k) SHALL TAKE EFFECT NOVEMBER 5, 2013.

25 **SECTION 2.** Each elector voting at said election and desirous of
26 voting for or against said amendments shall cast a vote as provided by law
27 either "Yes/For" or "No/Against" on each of the two separate but related

1 questions set forth in the proposition:

2 "Concerning marijuana:

3 (1) Shall state taxes on retail marijuana be increased by
4 \$_____ annually in the first full fiscal year and by such amounts as
5 are raised thereafter by amendments to the Colorado constitution, and, in
6 connection therewith, imposing an excise tax of 15% on the first sale or
7 transfer of unprocessed retail marijuana by a retail marijuana cultivation
8 facility; imposing an additional sales tax of 15% on the sale of retail
9 marijuana and retail marijuana products, allowing the rate of either or
10 both taxes to be decreased or increased without further voter approval so
11 long as the rate of either tax does not exceed 15%; and allowing the
12 resulting tax revenues to be collected and spent notwithstanding any
13 limitations provided by law?

14 (2) Shall the implementation of subsection (5) of section 16 of
15 article XVIII of the Colorado constitution relating to the regulation of
16 marijuana be conditional upon voter approval of the imposition of one or
17 more state taxes or increases in state tax rates that will provide sufficient
18 revenues to annually fund the estimated costs of state regulation of
19 marijuana if a majority of the electors voting on the question fail to
20 approve the imposition of a state excise tax and a state sales tax on retail
21 marijuana at the November 2013 election?"

22 **SECTION 3.** (1) The votes cast for the adoption or rejection of
23 said amendments shall be canvassed and the result determined in the
24 manner provided by law for the canvassing of votes for representatives
25 in Congress.

26 (2) (a) If a majority of the electors voting on the question set forth
27 in subsection (1) of the proposition shall have voted "Yes/For", said

1 amendment to add paragraphs (d.1), (d.2), and (d.3) to section 16 (5) of
2 article XVIII shall become a part of the state constitution; and

3 (b) If a majority of the electors voting on the question set forth in
4 subsection (2) of the proposition shall have voted "Yes/For" and if a
5 majority of the electors voting on the question set forth in subsection (1)
6 of the proposition shall have voted "No/Against", said amendment to
7 amend subsection (9) of section 16 of article XVIII shall become a part
8 of the state constitution.