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, AND, IN CONNECTION
THEREWITH, MAKING AN APPROPRIATION.

Bill Summary

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

Subject to voter approval at the statewide election in November
2013, the bill imposes a sales tax and an excise tax on the sale of retail marijuana, which was legalized by section 16 of article XVIII of the state constitution.

**Sales tax:** Beginning January 1, 2014, the bill imposes a tax of 15% on the sale of retail marijuana or retail marijuana products to a consumer by a retail marijuana store. The tax imposed is in addition to the 2.9% state sales tax and any local government sales tax that is imposed on the sale of all property and services pursuant to current law.

On or after January 1, 2014, the general assembly is authorized to establish a rate that is lower than 15% by a bill enacted by the general assembly and signed into law by the governor. After establishing a tax rate that is lower 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.
Be it enacted by the General Assembly of the State of Colorado:

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

ARTICLE 28.8
Taxes on Marijuana and Marijuana Products

PART 1
DEFINITIONS

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

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

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

(3) "DEPARTMENT" means the Department of Revenue.
(4) "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.

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

(6) "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.

(7) "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.

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

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

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

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

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

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

(14) "Transfer" means to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

(15) "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
Article 21 of this title and Part 1 of Article 26 of this title,
including, without limitation, any penalties for failure to make
any return or to collect or pay any tax; except that, in the
event of a conflict between the provisions of this Part 2 and the
provisions of Article 21 of this title or Part 1 of Article 26 of this
title, the provisions of this Part 2 shall control.

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

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

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

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

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

39-28.8-203. Disposition of collections. (1) The proceeds of
ALL MONEYS COLLECTED FROM THE RETAIL MARIJUANA SALES TAX SHALL BE CREDITED TO THE OLD AGE PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE CONSTITUTION IN ACCORDANCE WITH PARAGRAPHS (a) AND (f) OF SECTION 2 OF ARTICLE XXIV OF THE STATE CONSTITUTION. FOR EACH FISCAL YEAR IN WHICH A TAX IS COLLECTED PURSUANT TO THIS PART 2, AN AMOUNT SHALL BE DISTRIBUTED FROM THE GENERAL FUND AS FOLLOWS:

(a) (I) AN AMOUNT EQUAL TO FIFTEEN PERCENT OF THE GROSS RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT SHALL BE APPORTIONED TO LOCAL GOVERNMENTS. THE CITY OR TOWN SHARE SHALL BE APPORTIONED ACCORDING TO THE PERCENTAGE THAT RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT WITHIN THE BOUNDARIES OF THE CITY OR TOWN BEARS TO THE TOTAL RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT. THE COUNTY SHARE SHALL BE APPORTIONED ACCORDING TO THE PERCENTAGE THAT RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT IN THE UNINCORPORATED AREA OF THE COUNTY BEARS TO TOTAL RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT.

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

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

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

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

(VI) NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO
PREVENT A LOCAL GOVERNMENT FROM IMPOSING, LEVYING, AND
COLLECTING ANY FEE OR ANY TAX UPON THE SALE OF RETAIL MARIJUANA
OR RETAIL MARIJUANA PRODUCTS OR UPON THE OCCUPATION OR PRIVILEGE
OF SELLING RETAIL MARIJUANA PRODUCTS, NOR SHALL THE PROVISIONS OF
THIS PARAGRAPH (a) BE INTERPRETED TO AFFECT ANY EXISTING
AUTHORITY OF A LOCAL GOVERNMENT TO IMPOSE A TAX ON RETAIL
MARIJUANA OR RETAIL MARIJUANA PRODUCTS TO BE USED FOR LOCAL AND
MUNICIPAL PURPOSES; HOWEVER, ANY LOCAL TAX IMPOSED AT OTHER
THAN THE LOCAL JURISDICTION’S GENERAL SALES TAX RATE SHALL NOT BE
COLLECTED, ADMINISTERED, AND ENFORCED BY THE DEPARTMENT OF
REVENUE PURSUANT TO SECTION 29-2-106, C.R.S., BUT SHALL INSTEAD BE
COLLECTED, ADMINISTERED, AND ENFORCED BY THE LOCAL GOVERNMENT
ITSELF.
(b) Following apportionment of local government shares pursuant to paragraph (a) of this subsection (1), an amount equal to all remaining revenues collected shall be transferred from the general fund to the marijuana cash fund created in section 12-43.3-501, C.R.S., to be used for the enforcement of regulations on the retail marijuana industry and for the other purposes of the fund as determined by the general assembly. The general assembly shall make appropriations from the marijuana cash fund for the expenses of the administration of this section.

(2) On or before April 1, 2014, and on or before April 1 each year thereafter through April 1, 2016, the finance committees of the house of representatives and the senate, or any successor committees, shall review the provisions of paragraph (a) of subsection (1) of this section to determine whether the percentage of the tax imposed pursuant to this part 2 that is apportioned to local governments is appropriate. The finance committees may request assistance and input from the department of revenue and the department of local affairs in making this determination.

39-28.8-204. Revenue and spending limitations.

Notwithstanding any limitations on revenue, spending, or appropriations contained in section 20 of article X of the state constitution or any other provision of law, any revenues generated by the retail marijuana sales tax imposed pursuant to this part 2 as approved by the voters at the statewide election in November 2013, may be collected and spent as voter-approved revenue changes and shall not require voter approval.
SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF
THIS ARTICLE.

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

PART 3

RETAIL MARIJUANA EXCISE TAX

39-28.8-301. Retail marijuana excise tax - administration -
enforcement. The tax imposed pursuant to this part 3 shall be
administered and enforced in accordance with the provisions of
article 21 of this title and part 1 of article 26 of this title,
including, without limitation, any penalties for failure to make
any return or to collect or pay any tax; except that, in the
event of a conflict between the provisions of this part 3 and the
provisions of article 21 of this title or part 1 of article 26 of this
title, the provisions of this part 3 shall control.

39-28.8-302. Retail marijuana - excise tax levied at first
transfer from retail marijuana cultivation facility - tax rate.
(1) (a) Beginning January 1, 2014, except as otherwise provided
in paragraph (b) of this subsection (1), there is levied and shall
be collected, in addition to the sales tax imposed pursuant to
part 1 of article 26 of this title and part 2 of this article, a tax
on the first sale or transfer of unprocessed retail marijuana by
a retail marijuana cultivation facility, at a rate of fifteen
percent of the average market rate of the unprocessed retail
marijuana. The tax shall be imposed at the time when the retail
MARIJUANA CULTIVATION FACILITY FIRST SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY.

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

(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) 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.


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

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

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

(4) A RETAIL MARIJUANA CULTIVATION FACILITY SHALL FILE WITH
THE DEPARTMENT EVIDENCE OF A SURETY BOND ISSUED BY A COMPANY
AUTHORIZED TO DO BUSINESS IN THIS STATE FOR THE BENEFIT OF THE
DEPARTMENT IN AN AMOUNT EQUAL TO TWO MONTHS OF THE FACILITY’S
ANTICIPATED LIABILITY FOR THE TAX IMPOSED PURSUANT TO THIS PART 3.
The amount of the facility’s anticipated tax liability shall be
determined solely in the discretion of the retail marijuana
cultivation facility. The department may require a facility to
file or a facility may choose to file a replacement surety bond
IF THE AMOUNT OF THE FACILITY’S ACTUAL TAX LIABILITY CHANGES AFTER
THE FACILITY HAS FILED A BOND WITH THE DEPARTMENT PURSUANT TO
THIS SUBSECTION (4).

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39-28.8-305. Distribution of tax collected. (1) All money
received and collected in payment of the tax imposed by the
provisions of this Part 3 shall be transmitted to the state
treasurer, who shall distribute the money as follows:

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

and

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

39-28.8-306. 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.

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.

39-28.8-308. Rules. The department shall promulgate rules
for the implementation of this part 3 in accordance with the
"State Administrative Procedure Act", article 4 of title 24,
C.R.S.

PART 4

SUBMISSION OF BALLOT QUESTIONS REGARDING
RETAIL MARIJUANA SALES AND EXCISE TAX

39-28.8-401. Submission of ballot questions regarding
imposition of retail marijuana sales and excise tax. (1) The
secretary of state shall submit a ballot question to a vote of
the registered electors of the state of Colorado at the
statewide election to be held in November 2013, for their
approval or rejection. For purposes of title 1, C.R.S., the ballot
question is a proposition. Each elector voting at said November
election shall cast a vote as provided by law either "Yes/For" or
"No/Against" on the proposition: "Shall state taxes be increased
by $70,000,000 annually in the first full fiscal year and by such
amounts as are raised annually thereafter by imposing an excise
tax of 15% when unprocessed retail marijuana is first sold or
TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY WITH THE
FIRST $40,000,000 OF TAX REVENUES BEING USED FOR PUBLIC SCHOOL
CAPITAL CONSTRUCTION AS REQUIRED BY THE STATE CONSTITUTION, AND
BY IMPOSING AN ADDITIONAL SALES TAX OF 10% ON THE SALE OF RETAIL
MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE TAX REVENUES
BEING USED TO FUND THE ENFORCEMENT OF REGULATIONS ON THE RETAIL
MARIJUANA INDUSTRY AND OTHER COSTS RELATED TO THE
IMPLEMENTATION OF THE USE AND REGULATION OF RETAIL MARIJUANA AS
APPROVED BY THE VOTERS, WITH THE RATE OF EITHER OR BOTH TAXES
BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER
VOTER APPROVAL SO LONG AS THE RATE OF EITHER TAX DOES NOT EXCEED
15%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE
COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED
BY LAW?"

(2) The votes cast for the adoption or rejection of the
question submitted pursuant to subsection (1) of this section
shall be canvassed and the result determined in the manner
provided by law for the canvassing of votes for representatives
in congress.

39-28.8-402. Repeal of article. (1) This article is repealed,
effective February 1, 2014, if the voters at the November 2013
statewide election do not approve the question described in
section 39-28.8-401 and the governor issues an official
declaration of the vote thereon.

(2) This section is repealed, effective February 1, 2014, if
the voters at the November 2013 statewide election approve the
question described in section 39-28.8-401 and the governor issues
AN OFFICIAL DECLARATION OF THE VOTE THEREON.

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 AND ARTICLE 28.8 OF TITLE 39, C.R.S. Any moneys in the fund not expended for the purpose of this article OR ARTICLE 28.8 OF TITLE 39, C.R.S., may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

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

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

(a) For the fiscal year beginning July 1, 2014, in addition to any other appropriation, there is hereby appropriated to the
DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY THOUSAND EIGHT HUNDRED SIXTEEN DOLLARS ($20,816).

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

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

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

   Executive Director's Office, Personal Services and Operating Expenses $92,376 and 1.5 FTE
   Executive Director's Office, Vehicle Lease Payments $9,956
   Taxation Business Group, CITA Annual Maintenance and Support $3,400,000
   Taxation Business Group, Taxation and Compliance Division $576,696 and 8.3 FTE
   Taxation Business Group, Taxpayer Services Division $167,062 and 1.7 FTE

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

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

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

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