



**Report to the
Colorado General Assembly**

**Use of Recreational
Marijuana Sales Tax
Revenues Interim
Study Committee**

Prepared by

*The Colorado Legislative Council
Research Publication No. 645
December 2014*

Use of Recreational Marijuana Sales Tax Revenues Interim Committee

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Lauren Schierer, Fiscal Analyst
Matt Kiszka, Research Analyst

Office of Legislative Legal Services

Jeremiah Berry, Senior Attorney
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Nichole Myers, Senior Staff Attorney

December 2014

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ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
E-mail: lcs.ga@state.co.us
303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

December 2014

To Members of the Sixty-ninth General Assembly:

Submitted herewith is the final report of the Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee. This committee was requested and created pursuant to Interim Committee Letter 2014-6. The purpose of this committee is to evaluate and make recommendations regarding appropriate uses of sales tax revenue generated by recreational marijuana sales in Colorado.

At its meeting on October 15, 2014, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2015 session was approved.

Sincerely,

/s/ Representative Mark Ferrandino
Chairman

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This report is also available on line at:

www.colorado.gov/lcs/marijuanacommittee

Committee Charge

The Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee, as requested by Interim Committee Letter 2014-6, was charged with evaluating and making recommendations regarding appropriate uses of sales tax revenue generated by recreational marijuana sales in Colorado. The committee, at a minimum, was required to examine:

- the appropriation and prioritization of recreational marijuana sales tax revenue;
- the impact of the sale of retail marijuana on underage use, substance abuse, and abuse prevention measures; and
- best practices and evidence-based programs for addressing marijuana-related impacts.

Committee Activities

The Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee met four times in the 2014 interim. The committee discussed numerous topics relating to marijuana tax revenues, the regulation of medical and recreational marijuana, programs funded with marijuana revenues, and the impact of marijuana legalization on the state and local communities.

Marijuana Tax Revenue

Legislative Council Staff and the Department of Revenue provided the committee with an update on projected and actual marijuana tax revenues at the August 12 meeting. Legislative Council Staff discussed the state's marijuana tax revenue forecast and the potential reasons revenue had come in below the forecast. These included the slower than anticipated roll-out of retail marijuana stores; the challenges involved in predicting the size of a brand new market for a previously illegal product, such as estimating the population of adult users, average usage per adult, and consumption by tourists; and stronger than anticipated effects of the medical, black, and gray markets on retail sales. It was noted that fewer people had moved from the medical market to the retail market than anticipated and that the number of red card holders in the state had in fact increased since legalization. Legislative Council Staff also discussed how it had adjusted average consumption rates used in the forecast from 3.5 ounces per user per year to 1.9 ounces per user per year following legalization and the availability of more reliable consumption data.

The committee discussed the exemption to the state excise tax that allows a medical marijuana business to make a one-time transfer of its inventory without applying the tax when transitioning to operations as a retail marijuana business. This exemption lowered excise tax collections in the first year of legalization because all retail marijuana businesses were initially required to be a licensed medical marijuana business.

The committee also discussed the share of marijuana tax revenues transferred to local governments and the feasibility of a local excise tax, which county representatives said would be beneficial to jurisdictions that have relatively low marijuana sales but large cultivation facilities operating within their boundaries. Bill B addresses this issue by giving counties and municipalities the authority to levy, collect, and enforce excise taxes on the first sale or transfer of unprocessed marijuana from a retail marijuana cultivation facility, subject to voter approval.

Regulation of Marijuana

Regulation of marijuana was a topic of discussion at several of the meetings of the committee. At the August 12 meeting, the Department of Revenue provided an update on rule-making concerning the medical and retail marijuana markets and discussed recent trends in the marijuana industry. At the August 28 meeting, the Department of Public Health and Environment presented on the medical marijuana registry and state laws and regulations concerning patients joining the medical marijuana registry, the number of plants that may be grown by patients and caregivers, and the medical necessity exceptions on plant limits. At both meetings, the committee discussed the interaction between the recreational and medical marijuana markets, the role of medical marijuana caregivers, diversion of marijuana from the medical market, and other regulatory issues affecting recreational marijuana tax collections.

On several occasions, committee members expressed concerns that some persons buying medical marijuana are doing so to avoid higher taxes in the recreational market. The committee also discussed the large number of marijuana plants grown by some patients and caregivers under the medical necessity exemption to the six-plant limit, how this exemption may lead to the diversion of marijuana, and the impact of large, unregulated grow operations by caregivers on local communities. Bill A was proposed by the committee to address some of these concerns by tightening certain aspects of marijuana regulation, including registration of caregivers, informed consent by medical marijuana patients, and information-sharing between state agencies.

Programs Funded with Marijuana Revenues

At the August 12 meeting, Andrew Freedman, state director of marijuana coordination, discussed the Governor's priorities for spending marijuana tax revenues, which focused on youth prevention, substance abuse treatment, public awareness about health impacts of marijuana, and improving data collection. At the August 28 committee meeting, presentations were given by several state agencies on programs funded through Senate Bill 14-215, including the Colorado Department of Education, the Department of Health Care Policy and Financing, the Department of Human Services, and the Department of Public Health and Environment.

The Colorado Department of Education presented on its School Health Professional Program related to the prevention and monitoring of marijuana use among youth. This program also aims to increase the number of school nurses across the state. The Department of Health Care Policy and Financing presented on the school-based substance abuse prevention and intervention program and the school-based substance use disorder prevention and early intervention services through Behavioral Health Organizations. These programs aim to reduce underage marijuana use, increase behavioral health programming in school districts, and provide grant funding. The Department of Human Services presented on their new community service programs across the state that will work to reduce underage marijuana use.

The Department of Public Health and Environment presented on its public awareness campaign for retail marijuana. According to the presenters, the department is working to promote safe, legal, and responsible use of retail marijuana. The department is currently working on an 18-month public awareness campaign focused on the health effects of marijuana and its use, an ongoing education and prevention campaign, and maintaining a website.

Impacts of Marijuana Legalization

The committee heard presentations from local law enforcement, substance abuse providers, the Department of Revenue, and the Department of Public Health and Environment on the impact of marijuana legalization. These discussions centered on public safety concerns, youth prevention, and reducing substance abuse.

At the August 28 meeting, representatives of local law enforcement discussed public safety concerns, citizens driving under the influence, youth use, legal and illegal marijuana distribution, and diversion of marijuana to the black market and other states. Law enforcement officials also expressed concern over civil liability for police officers when confiscating plants from alleged illegal grow operations. Further, they stated that adequate funding and technology advancements are still needed to properly enforce marijuana laws in the state.

At the September 8 meeting, substance abuse providers presented on the level of substance use and abuse in Colorado among youths and adults, treatment services available, and the need for additional funding for existing programs to accommodate more patients. The substance abuse providers highlighted the high demand for treatment services and the lack of adequate funding. Substance abuse providers also discussed substance abuse prevention strategies currently underway within the state and explained how an expanded substance abuse treatment benefit would enhance care for Medicaid beneficiaries.

At the August 12 meeting, the Department of Revenue discussed its rule-making to address issues such as over-consumption of marijuana edibles, standardizing THC content labeling, and edible serving sizes. The Marijuana Enforcement Division is also working to increase regulations concerning medical marijuana cardholders and on the creation of a responsible vendor program. The division representatives also discussed the four branch offices that have opened across the state.

At the August 28 committee meeting, the Department of Public Health and Environment discussed its rule-making efforts with the Board of Health concerning medical marijuana. The department highlighted the need to create and amend rules concerning proof of residency requirements for medical marijuana applicants, and to change caregiver patient limits.

Public Comment

The committee heard testimony from the public at each of its meetings. Among others, representatives of the marijuana industry, medical marijuana patient advocates, and substance abuse providers provided information to the committee at its first three meetings. At the October 1 meeting, medical marijuana patient advocates and an official from the City and County of Denver testified concerning the proposed legislation (Bill A) being considered by the committee.

Summary of Recommendations

As a result of the committee's deliberations, the Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee recommended two bills for consideration in the 2015 legislative session. At its meeting on October 15, 2014, the Legislative Council approved both of the committee's recommended bills for introduction. The bills are described below.

Bill A — Marijuana Issues Not Regulated by Department of Revenue

This bill makes several changes concerning medical marijuana and caregivers. The bill requires caregivers to register with the Department of Public Health and Environment in addition to the Department of Revenue, as required under current law. Caregivers who fail to register with either agency are prohibited from acting as a caregiver in the future and may be subject to prosecution under existing criminal offenses. The bill also requires the State Board of Medical Examiners to issue guidelines on medical marijuana recommendations by physicians for severe pain and informed consent for patients receiving marijuana from caregivers. The bill requires the Department of Revenue and the Department of Public Health and Environment to share the minimum amount of information necessary to ensure that a medical marijuana patient has only one caregiver and is not using both a caregiver and a medical marijuana center. Any costs under the bill will be paid from the Marijuana Tax Cash Fund.

Bill B — Local Government Retail Marijuana Taxes

The bill clarifies that counties and municipalities are authorized, subject to voter approval, to levy, collect, and enforce a sales tax on all sales of retail marijuana and retail marijuana products by retailers. In addition, the bill gives counties and municipalities the authority, subject to voter approval, to levy, collect, and enforce a local excise tax on the first transfer of unprocessed marijuana from a retail marijuana cultivation facility.

Resource Materials

Summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. The meeting summaries are also available on the Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee's website at:

www.colorado.gov/lcs/marijuanacommittee

Meeting Date and Topics Discussed

August 12, 2014

- ◆ Overview of the duties and responsibilities of the committee
- ◆ Marijuana tax revenue forecast
- ◆ Overview of the recreational marijuana market, revenue collection, and regulation
- ◆ Programs and initiatives funded by marijuana tax revenues
- ◆ Public comment

August 28, 2014

- ◆ Medical marijuana issues and public awareness campaigns
- ◆ Youth marijuana prevention initiatives
- ◆ Law enforcement issues
- ◆ Public comment
- ◆ Bill drafting time line and procedures

September 8, 2014

- ◆ Panel presentation with substance abuse service providers
- ◆ Bill requests and recommendations
- ◆ Discussion and consideration of proposed legislation
- ◆ Public comment

October 1, 2014

- ◆ Discussion and consideration of proposed legislation
- ◆ Public comment
- ◆ Final action on proposed legislation

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 15-0106.02 Michael Dohr x4347

SENATE BILL

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Singer,

Senate Committees

House Committees

A BILL FOR AN ACT

101 CONCERNING MARIJUANA ISSUES THAT ARE NOT REGULATED BY THE
102 DEPARTMENT OF REVENUE.

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>.)

Marijuana Revenues Interim Committee. The bill requires the Colorado medical board to adopt rules regarding guidelines for physicians who make medical marijuana recommendations for patients suffering from severe pain.

The bill requires the state health agency to adopt rules regarding

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

DRAFT Dashes through the words indicate deletions from existing statute.

guidelines for primary caregivers to give informed consent to patients that the products they cultivate or produce may contain contaminants and that the THC levels are not verified.

The bill requires all primary caregivers to register with the state health agency and the state medical marijuana licensing authority (licensing authority). Any primary caregiver who is not registered shall register within 10 days of being informed of the duty to register. If a person fails to register after such 10 days, the state health agency and licensing authority shall prohibit the person from ever registering and acting as a primary caregiver.

The bill requires the licensing authority and the state health agency to share the minimum amount of information necessary to ensure that a medical marijuana patient has only one caregiver and is not using a primary caregiver and a medical marijuana center.

The bill permits moneys in the marijuana tax fund to be used to fund the implementation of any bills approved by the marijuana revenues interim committee.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Colorado authorizes the sale and use of small amounts of
5 medical and retail marijuana;

6 (b) The sale and use of medical marijuana is limited to those
7 Colorado residents who have a physician's recommendation that they
8 have a debilitating medical condition that could benefit from the use of
9 medical marijuana; and

10 (c) The state imposes a higher tax rate on retail marijuana than on
11 medical marijuana, as well as an additional excise tax.

12 (2) Therefore, it is important for the state to ensure that those
13 people who are accessing and engaging in the medical marijuana system
14 are qualified to do so. Otherwise, the state and local governments will be
15 deprived of valuable tax revenue.

16 (3) Now then, the general assembly hereby enacts the following

1 protections to ensure that access to the medical marijuana market is
2 limited to Colorado residents who have a physician's recommendation
3 that they have a debilitating medical condition that could benefit from the
4 use of medical marijuana.

5 **SECTION 2.** In Colorado Revised Statutes, **add** 12-36-141 as
6 follows:

7 **12-36-141. Medical marijuana recommendations - rules.** THE
8 BOARD SHALL ADOPT RULES ESTABLISHING GUIDELINES FOR PHYSICIANS
9 MAKING MEDICAL MARIJUANA RECOMMENDATIONS FOR PATIENTS WHO
10 SUFFER FROM SEVERE PAIN.

11 **SECTION 3.** In Colorado Revised Statutes, 25-1.5-106, **amend**
12 (3) (a) (VII), (3) (a) (VIII), (7) (e), and (8) (a); and **add** (3) (a) (IX) as
13 follows:

14 **25-1.5-106. Medical marijuana program - powers and duties**
15 **of state health agency - rules - medical review board - medical**
16 **marijuana program cash fund - subaccount - created - repeal.**

17 (3) **Rule-making.** (a) The state health agency shall, pursuant to section
18 14 of article XVIII of the state constitution, promulgate rules of
19 administration concerning the implementation of the medical marijuana
20 program that specifically govern the following:

21 (VII) The manner in which the state health agency may consider
22 adding debilitating medical conditions to the list of debilitating medical
23 conditions contained in section 14 of article XVIII of the state
24 constitution; ~~and~~

25 (VIII) A waiver process to allow a homebound patient who is on
26 the registry to have a primary caregiver transport the patient's medical
27 marijuana from a licensed medical marijuana center to the patient; AND

28 (IX) GUIDELINES FOR PRIMARY CAREGIVERS TO GIVE INFORMED

1 CONSENT TO PATIENTS THAT THE PRODUCTS THEY CULTIVATE OR PRODUCE
2 MAY CONTAIN CONTAMINANTS AND THAT THE THC LEVELS ARE NOT
3 VERIFIED.

4 (7) **Primary caregivers.** (e) (I) (A) A primary caregiver ~~who~~
5 ~~cultivates medical marijuana for his or her patients~~ shall register the
6 ~~location of his or her cultivation operation~~ with THE STATE HEALTH
7 AGENCY AND THE state medical marijuana licensing authority; ~~and~~ SHALL
8 provide THE LOCATION OF ANY CULTIVATION OPERATION, the registration
9 identification number of each patient, AND THE NUMBER OF PLANTS THAT
10 THE CAREGIVER IS AUTHORIZED TO CULTIVATE TO THE STATE HEALTH
11 AGENCY AND the state licensing authority; AND SHALL UPDATE THE
12 REGISTRATION INFORMATION WITHIN TEN DAYS AFTER ANY OF THE
13 INFORMATION CHANGES. THE STATE HEALTH AGENCY SHALL ISSUE A
14 PRIMARY CAREGIVER REGISTRY CARD TO EACH PRIMARY CAREGIVER WHO
15 REGISTERS. A PERSON MAY NOT REGISTER AS A PRIMARY CAREGIVER IF HE
16 OR SHE IS LICENSED AS A MEDICAL MARIJUANA BUSINESS AS DESCRIBED
17 IN PART 4 OF ARTICLE 43.3 OF TITLE 12, C.R.S., OR A RETAIL MARIJUANA
18 BUSINESS AS DESCRIBED IN PART 4 OF ARTICLE 43.4 OF TITLE 12, C.R.S.

19 (B) A PRIMARY CAREGIVER WHO FAILS TO REGISTER WITH THE
20 STATE HEALTH AGENCY OR THE STATE MEDICAL MARIJUANA LICENSING
21 AUTHORITY SHALL REGISTER WITH THE APPROPRIATE AGENCY WITHIN TEN
22 DAYS OF BEING INFORMED OF THE DUTY TO REGISTER BY LAW
23 ENFORCEMENT, THE STATE HEALTH AGENCY, OR THE STATE LICENSING
24 AUTHORITY.

25 (C) IF A PERSON FAILS TO REGISTER PURSUANT TO
26 SUB-SUBPARAGRAPHS (A) AND (B) OF THIS SUBPARAGRAPH (I), THE STATE
27 HEALTH AGENCY AND THE STATE MEDICAL MARIJUANA LICENSING
28 AUTHORITY SHALL PROHIBIT THE PERSON FROM EVER REGISTERING AND

1 ACTING AS A PRIMARY CAREGIVER. THE PERSON SHALL BE SUBJECT TO
2 ANY CHARGEABLE CRIMINAL OFFENSES.

3 (D) IF A PRIMARY CAREGIVER IS CHARGED WITH FAILURE TO
4 REGISTER, A LAW ENFORCEMENT AGENCY SHALL NOT BE CIVILLY LIABLE
5 FOR THE LOSS OR DESTRUCTION OF THE PRIMARY CAREGIVER'S MEDICAL
6 MARIJUANA PLANTS.

7 (II) THE STATE HEALTH AGENCY AND THE STATE MEDICAL
8 MARIJUANA LICENSING AUTHORITY SHALL SHARE THE MINIMUM
9 NECESSARY INFORMATION AS ALLOWED BY THE FEDERAL "HEALTH
10 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB. L.
11 104-191, AS AMENDED, SUCH AS PATIENT AND CAREGIVER IDENTIFICATION
12 NUMBERS, TO ENSURE THAT A PATIENT DOES NOT HAVE MORE THAN ONE
13 PRIMARY CAREGIVER, OR HAVE BOTH A CAREGIVER AND A MEDICAL
14 MARIJUANA CENTER, CULTIVATING MEDICAL MARIJUANA ON HIS OR HER
15 BEHALF AT ANY GIVEN TIME.

16 (III) The information provided to the state medical marijuana
17 licensing authority pursuant to this paragraph (e) shall not be provided to
18 the public and ~~shall be~~ IS confidential. The state licensing authority shall
19 verify the location of a primary caregiver cultivation operation to a local
20 government or law enforcement agency upon receiving an
21 address-specific request for verification. The location of the cultivation
22 operation ~~shall~~ MUST comply with all applicable local laws, rules, or
23 regulations.

24 (8) **Patient - primary caregiver relationship.** (a) (I) A person
25 shall be listed as a primary caregiver for no more than five patients on the
26 medical marijuana program registry at any given time; except that the
27 state health agency may allow a primary caregiver to serve more than five
28 patients in exceptional circumstances. In determining whether exceptional

1 circumstances exist, the state health agency may consider the proximity
2 of medical marijuana centers to the patient.

3 (II) A PRIMARY CAREGIVER MAY NOT CULTIVATE MORE THAN SIX
4 PLANTS FOR EACH PATIENT REGISTERED TO THE CAREGIVER AT ANY GIVEN
5 TIME. THE STATE HEALTH AGENCY SHALL VERIFY THROUGH THE
6 EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE ALL MEDICALLY
7 NECESSARY EXTENDED PLANT COUNTS. A primary caregiver shall
8 maintain a list of his or her patients including the registry identification
9 card number of each patient at all times.

10 **SECTION 4.** In Colorado Revised Statutes, 39-28.8-501, **amend**
11 (2) (b) (XIV) and (2) (b) (XV); and **add** (2) (b) (XVI) as follows:

12 **39-28.8-501. Marijuana tax cash fund - creation - distribution**
13 **- repeal.** (2) (b) Subject to the limitations in subsection (5) of this
14 section, any moneys in the fund that are not appropriated to the
15 department of revenue pursuant to paragraph (a) of this subsection (2) are
16 subject to annual appropriation by the general assembly for any fiscal
17 year following the fiscal year in which they were received by the state.
18 The general assembly shall initially appropriate moneys in the fund based
19 on the most recent estimate of revenue prepared by the staff of the
20 legislative council or the department of revenue for the applicable fiscal
21 year. The general assembly may appropriate moneys in the fund for the
22 following purposes:

23 (XIV) The industrial hemp grant research program created in
24 section 35-61-104.5, C.R.S.; and

25 (XV) For the start-up expenses of the division of financial
26 services related to the regulation of marijuana financial services
27 cooperatives pursuant to article 33 of title 11, C.R.S., and until the state
28 commissioner of financial services first collects assessments on such

1 cooperatives; AND

2 (XVI) FOR THE IMPLEMENTATION OF LEGISLATION APPROVED BY
3 THE MARIJUANA REVENUES INTERIM COMMITTEE DURING THE 2014
4 INTERIM.

5 **SECTION 5. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

BILL B

LLS NO. 15-0107.01 Nicole Myers x4326

HOUSE BILL

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

(None),

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF CERTAIN LOCAL GOVERNMENTS TO**
102 **IMPLEMENT SPECIFIED TAXES ON RETAIL MARIJUANA SUBJECT**
103 **TO APPROVAL BY THE ELIGIBLE ELECTORS OF THE LOCAL**
104 **GOVERNMENT.**

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>.)

Marijuana Revenues Interim Committee. Currently, any county or municipality that allows the sale of retail marijuana is authorized to levy the standard county or municipal sales tax on the sale of retail

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17

marijuana in addition to the state retail marijuana sales tax and the state retail marijuana excise tax.

The bill clarifies that counties and municipalities are authorized, subject to voter approval, to levy, collect, and enforce a sales tax on all sales of retail marijuana and retail marijuana products by retailer, in addition to any sales tax imposed by the state or by the county or municipality as applicable.

In addition, the bill authorizes, subject to voter approval, any county and any municipality to levy, collect, and enforce an excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility, in addition to any sales tax imposed by the state or by the county or municipality, as applicable, and in addition to the state excise tax imposed on retail marijuana.

The bill specifies that an additional sales tax or excise tax may not be levied until the proposed tax has been referred to and approved by the eligible electors of the county or municipality, as applicable. A county or municipality may refer the proposed tax to the eligible electors only on the date of the state general election, on the first Tuesday in November of an odd-numbered year, or on the date of a municipal biennial election.

Any retail marijuana sales tax or excise tax imposed by a county or municipality shall not be collected, administered, or enforced by the department of revenue. Instead, such tax shall be collected, administered, and enforced by the county or municipality imposing the tax.

A county or municipality in which the eligible electors have approved an additional sales tax on the sale of retail marijuana or excise tax on the first transfer of unprocessed retail marijuana may credit the revenues collected from the taxes to the general fund of the county or municipality or to any special fund created in the county or municipality's treasury. The governing body of a county or municipality may use the revenues collected from the taxes for any purpose as determined by the governing body or the electors of the county or municipality, as applicable.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 29-2-114 and
3 29-2-115 as follows:

4 **29-2-114. Retail marijuana sales tax - county - municipality -**
5 **election.** (1) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
6 SECTION 29-2-103 AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND
7 NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), EACH

1 COUNTY IN THE STATE IS AUTHORIZED TO LEVY, COLLECT, AND ENFORCE
2 A COUNTY SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL
3 MARIJUANA PRODUCTS BY A RETAILER. A COUNTY MAY LEVY, COLLECT,
4 AND ENFORCE A SALES TAX PURSUANT TO THIS SUBSECTION (1), IN WHOLE
5 OR IN PART, IN LESS THAN THE ENTIRE COUNTY WHEN THE CONDITIONS
6 SPECIFIED IN SECTION 29-2-103 (2) (b) AND (2) (c) ARE SATISFIED.

7 (b) NO SALES TAX SHALL BE LEVIED PURSUANT TO THE PROVISIONS
8 OF PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL THE PROPOSAL HAS
9 BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE
10 COUNTY IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE. ANY
11 PROPOSAL FOR THE LEVY OF A SALES TAX IN ACCORDANCE WITH
12 PARAGRAPH (a) OF THIS SUBSECTION (1) MAY BE SUBMITTED TO THE
13 ELIGIBLE ELECTORS OF THE COUNTY ONLY ON THE DATE OF THE STATE
14 GENERAL ELECTION OR ON THE FIRST TUESDAY IN NOVEMBER OF AN
15 ODD-NUMBERED YEAR, AND ANY ELECTION ON THE PROPOSAL MUST BE
16 CONDUCTED BY THE COUNTY CLERK AND RECORDER IN ACCORDANCE
17 WITH THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF
18 TITLE 1, C.R.S.

19 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
20 SECTION 29-2-102 AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND
21 NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), EACH
22 MUNICIPALITY IN THE STATE IS AUTHORIZED TO LEVY, COLLECT, AND
23 ENFORCE A MUNICIPAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA
24 AND RETAIL MARIJUANA PRODUCTS BY A RETAILER.

25 (b) NO SALES TAX SHALL BE LEVIED PURSUANT TO THE PROVISIONS
26 OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE PROPOSAL HAS
27 BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE
28 MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 10 OF

1 TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF A SALES TAX IN
2 ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) MAY BE
3 SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY ON THE
4 DATE OF THE STATE GENERAL ELECTION, ON THE FIRST TUESDAY IN
5 NOVEMBER OF AN ODD-NUMBERED YEAR, OR ON THE DATE OF A
6 MUNICIPAL BIENNIAL ELECTION. ANY ELECTION ON THE PROPOSAL MUST
7 BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN ACCORDANCE
8 WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10
9 OF TITLE 31, C.R.S.

10 (3) (a) NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, ANY
11 RETAIL MARIJUANA SALES TAX IMPOSED BY A COUNTY OR MUNICIPALITY
12 PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED,
13 OR ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE
14 COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR
15 MUNICIPALITY IMPOSING THE TAX.

16 (b) A COUNTY OR MUNICIPALITY IN WHICH A TAX IS IMPOSED
17 PURSUANT TO THIS SECTION MAY AUTHORIZE A RETAIL MARIJUANA STORE
18 TO RETAIN A PERCENTAGE, TO BE DETERMINED BY THE COUNTY OR
19 MUNICIPALITY, OF THE RETAIL MARIJUANA SALES TAX COLLECTED
20 PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION TO COVER THE
21 EXPENSES OF COLLECTING AND REMITTING THE TAX TO THE COUNTY OR
22 MUNICIPALITY.

23 (4) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE
24 ELECTORS HAVE APPROVED A SALES TAX PURSUANT TO THIS SECTION MAY
25 CREDIT THE REVENUES COLLECTED FROM THE TAX TO THE GENERAL FUND
26 OF THE COUNTY OR MUNICIPALITY OR TO ANY SPECIAL FUND CREATED IN
27 THE COUNTY OR MUNICIPALITY'S TREASURY. THE GOVERNING BODY OF A
28 COUNTY OR MUNICIPALITY MAY USE THE REVENUES COLLECTED FROM THE

1 TAX IMPOSED PURSUANT TO THIS SECTION FOR ANY PURPOSE AS
2 DETERMINED BY THE GOVERNING BODY OR THE ELECTORS OF THE COUNTY
3 OR MUNICIPALITY, AS APPLICABLE.

4 (5) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED
5 TO INVALIDATE THE PRESUMED LEGALITY OF ANY COUNTY OR MUNICIPAL
6 SALES TAX IMPOSED ON THE SALE OF RETAIL OR MEDICAL MARIJUANA,
7 RETAIL OR MEDICAL MARIJUANA PRODUCTS, OR RETAIL OR MEDICAL
8 MARIJUANA PARAPHERNALIA THAT IS IN ADDITION TO ANY SALES TAX
9 IMPOSED PURSUANT TO SECTION 29-2-103 AND ARTICLES 26 AND 28.8 OF
10 TITLE 39, C.R.S., AND THAT WAS APPROVED BY THE ELIGIBLE ELECTORS
11 OF THE COUNTY OR MUNICIPALITY PRIOR TO THE EFFECTIVE DATE OF THIS
12 SUBSECTION (5).

13 **29-2-115. Retail marijuana excise tax - county - municipality**
14 **- election.** (1) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
15 SECTIONS 29-2-103 AND 29-2-114(1) AND ARTICLES 26 AND 28.8 OF TITLE
16 39, C.R.S., AND IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
17 ARTICLE 28.8 OF TITLE 39, C.R.S., EACH COUNTY IN THE STATE IS
18 AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A COUNTY EXCISE TAX ON
19 THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A
20 RETAIL MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE IMPOSED
21 AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST
22 SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL
23 MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
24 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
25 RETAIL MARIJUANA CULTIVATION FACILITY.

26 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
27 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL THE
28 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE

1 ELECTORS OF THE COUNTY. THE ADOPTION PROCEDURES FOR A
2 COUNTYWIDE SALES TAX, USE TAX, OR BOTH, AS SPECIFIED IN THIS
3 ARTICLE, SHALL APPLY TO THE REFERRAL AND APPROVAL OF AN EXCISE
4 TAX PURSUANT TO THIS SUBSECTION (1). ANY PROPOSAL FOR THE LEVY OF
5 AN EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS
6 SUBSECTION (1) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE
7 COUNTY ONLY ON THE DATE OF THE STATE GENERAL ELECTION OR ON THE
8 FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY
9 ELECTION ON THE PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK
10 AND RECORDER IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF
11 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S.

12 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
13 SECTIONS 29-2-102 AND 29-2-114(2) AND ARTICLES 26 AND 28.8 OF TITLE
14 39, C.R.S., AND IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
15 ARTICLE 28.8 OF TITLE 39, C.R.S., EACH MUNICIPALITY IN THE STATE IS
16 AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A MUNICIPAL EXCISE TAX
17 ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY
18 A RETAIL MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE
19 IMPOSED AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION
20 FACILITY FIRST SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA
21 FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL
22 MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA
23 STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY.

24 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
25 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE
26 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE
27 ELECTORS OF THE MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS
28 OF ARTICLE 10 OF TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF AN

1 EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION
2 (2) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY
3 ON THE DATE OF THE STATE GENERAL ELECTION, ON THE FIRST TUESDAY
4 IN NOVEMBER OF AN ODD-NUMBERED YEAR, OR ON THE DATE OF A
5 MUNICIPAL BIENNIAL ELECTION. ANY ELECTION ON THE PROPOSAL SHALL
6 BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN ACCORDANCE
7 WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10
8 OF TITLE 31, C.R.S.

9 (3) ANY EXCISE TAX IMPOSED BY A COUNTY OR MUNICIPALITY
10 PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED,
11 OR ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE
12 COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR
13 MUNICIPALITY IMPOSING THE TAX.

14 (4) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE
15 ELECTORS HAVE APPROVED AN EXCISE TAX PURSUANT TO THIS SECTION
16 MAY CREDIT THE REVENUES COLLECTED FROM THE TAX TO THE GENERAL
17 FUND OF THE COUNTY OR MUNICIPALITY OR TO ANY SPECIAL FUND
18 CREATED IN THE COUNTY OR MUNICIPALITY'S TREASURY. THE GOVERNING
19 BODY OF A COUNTY OR MUNICIPALITY MAY USE THE REVENUES
20 COLLECTED FROM THE TAX IMPOSED PURSUANT TO THIS SECTION FOR ANY
21 PURPOSE AS DETERMINED BY THE GOVERNING BODY OR THE ELECTORS OF
22 THE COUNTY OR MUNICIPALITY, AS APPLICABLE.

23 (5) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED
24 TO INVALIDATE THE PRESUMED LEGALITY OF ANY COUNTY OR MUNICIPAL
25 EXCISE TAX IMPOSED ON THE FIRST SALE OR TRANSFER OF UNPROCESSED
26 RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY THAT
27 IS IN ADDITION TO ANY EXCISE TAX IMPOSED PURSUANT TO ARTICLE 28.8
28 OF TITLE 39, C.R.S., AND THAT WAS APPROVED BY THE ELIGIBLE

1 ELECTORS OF THE COUNTY OR MUNICIPALITY PRIOR TO THE EFFECTIVE
2 DATE OF THIS SUBSECTION (5).

3 **SECTION 2. Applicability.** This act applies to retail marijuana
4 sales and excise taxes levied by a county or municipality on or after
5 January 1, 2014.

6 **SECTION 3. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.