

## Amendment S State Personnel System

1     **Amendment S proposes amending the Colorado Constitution to:**

- 2             ◆ increase the number and types of state employees who may be exempt  
3             from the state civil service system, also known as the state personnel  
4             system;
- 5             ◆ change testing and hiring procedures for filling vacancies in the state  
6             personnel system;
- 7             ◆ expand hiring preferences for veterans; and
- 8             ◆ adjust the terms of service and duties for members of the State  
9             Personnel Board, and the standard to remove certain members.

10    **Summary and Analysis**

11             Amendment S makes changes to the state personnel system, impacting  
12             approximately 32,500 individuals in full- and part-time permanent positions in state  
13             government. The measure applies only to classified employees in the state personnel  
14             system and does not affect nonclassified employees (about 41,000 individuals), most  
15             of whom work in the legislative and judicial branches and at institutions of higher  
16             education. All employees are covered under applicable state and federal employment  
17             laws, such as those protecting against discrimination.

18             ***State personnel system.*** In 1918, Colorado voters amended the state  
19             constitution to create the state civil service system. In 1970, the system was updated  
20             and renamed the state personnel system. It currently requires that:

- 21             • employees be hired and promoted according to merit and fitness;  
22             • job candidates be scored and ranked using a competitive exam;  
23             • hiring decisions be made from among job candidates with the  
24             three highest scores on competitive exams;  
25             • eligible veterans be able to receive a hiring preference for only  
26             one position;  
27             • positions be filled by Colorado residents unless certain conditions are  
28             met; and  
29             • employees provide 12 months of satisfactory service before becoming  
30             certified as classified.

31             Other portions of the system are governed by state law or rule, including  
32             processes to evaluate candidates and job performance, respond to grievances, and  
33             terminate employment. The system is administered by the state personnel director

1 (head of the Department of Personnel and Administration), with oversight from the  
2 independent State Personnel Board.

3 **Exemption from the state personnel system.** Exempted positions are  
4 specifically listed in the state constitution and include most employees of the state  
5 courts, the legislature, and the state's institutions of higher education, as well as  
6 department heads and members of certain boards and commissions. Political  
7 appointees serving the administration of the Governor and Lieutenant Governor are  
8 also exempt. Similar to the private sector, exempted employees and their state  
9 agency employers may each end the employment relationship at any time. In these  
10 positions, there are no universal standards for evaluating candidates, assessing job  
11 performance, or responding to grievances.

12 Amendment S allows the state personnel director to exempt certain additional  
13 management and support positions, up to 1 percent of the total number of employees  
14 in the state personnel system. Based on the current figure of about 32,500 classified  
15 employees, the measure allows an estimated 325 new positions to be exempted.  
16 Currently, most departments have only one exempt position, the department head. If  
17 voters approve Amendment S, additional exemptions may include deputy department  
18 heads, chief financial officers, public information officers, legislative liaisons, human  
19 resource directors, executive assistants to department heads, and members of the  
20 senior executive service (SES). The SES is a performance pay plan authorized by  
21 state statute to compensate up to 125 positions with a high level of management  
22 responsibility. SES positions are currently allocated according to department size, and  
23 new exemptions may be similarly distributed.

24 **Evaluating and hiring job candidates.** Currently, candidates must be ranked  
25 based on the results of a competitive exam using criteria set by each department and  
26 following rules issued by the State Personnel Board. In practice, each candidate is  
27 awarded up to 100 points based on the results of his or her exam, with additional  
28 points awarded if he or she qualifies for a veterans' preference. The measure allows  
29 for the use of other objective methods to evaluate, compare, and rank job candidates.  
30 These other methods may include written exams, oral boards, search committees, or  
31 the use of non-numerical criteria, as long as they meet professionally accepted  
32 standards.

33 Current law requires hiring managers to choose among the three candidates with  
34 the highest scores. Amendment S allows the top six candidates to be considered,  
35 regardless of the evaluation and ranking method used. Under the measure, the state  
36 personnel director, rather than the State Personnel Board, will be required to issue  
37 rules for the evaluation and ranking of candidates through the public rule-making  
38 process.

39 **Hiring preferences for veterans.** Under the current evaluation process, an  
40 eligible veteran or his or her surviving spouse receives five additional points on his or  
41 her competitive exam score. A disabled veteran receives ten additional points. Once  
42 an individual has been hired by the state using a veterans' preference, he or she may  
43 not apply the preference again to another position. Amendment S allows a veteran to

1 continue to use preference points when applying for most other positions in the  
2 system.

3 **Hiring temporary employees.** Colorado's constitution allows for temporary  
4 employment of persons for up to 6 months to address a short-term or urgent hiring  
5 need. State rules clarify that a temporary appointment may not exceed 6 months  
6 within a 12-month period. The measure extends the time limit for temporary  
7 employment to 9 months, and state rules may be adjusted accordingly.

8 **Residency.** Colorado's constitution requires that positions within the personnel  
9 system be filled by residents of Colorado unless the State Personnel Board finds the  
10 position requires special education or special qualifications and the position cannot be  
11 readily filled by a Colorado resident. Amendment S gives the state personnel director  
12 the authority to waive residency requirements as well. It also eliminates the residency  
13 requirement for positions located within 30 miles of the state border.

14 **State personnel system oversight.** The five-member State Personnel Board,  
15 which includes three members appointed by the Governor and two members elected  
16 by classified employees, sets policy for the system. None of the members may be a  
17 state employee. Currently, board members may serve an unlimited number of  
18 five-year terms and may only be removed for cause. The board is responsible for  
19 setting rules for conducting competitive exams used to evaluate candidates for  
20 positions in the system, approving exemptions from residency requirements, and  
21 hearing appeals to certain decisions made by the state personnel director.

22 If approved, Amendment S:

- 23 • reduces board terms from five years to three years for members  
24 appointed or elected after January 1, 2013;
- 25 • limits board members from serving more than two terms;
- 26 • allows two appointees to serve or be removed at the Governor's  
27 pleasure;
- 28 • removes the authority of the board to set rules for the process and  
29 criteria used to evaluate and hire candidates for positions in the system;  
30 and
- 31 • allows the state personnel director to set the rules for evaluating and  
32 hiring candidates and to approve residency exemptions.

*For information on those issue committees that support or oppose the  
measures on the ballot at the November 6, 2012, election, go to the  
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*<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>*

## 1 **Arguments For**

2 1) State employees provide a wide variety of services to meet the needs of  
3 citizens, and the public deserves the most qualified employees to do the job. The  
4 current hiring process limits the pool of eligible candidates and may favor the best  
5 test-takers over applicants with practical experience. The measure expands the pool  
6 of eligible candidates and allows state agencies to consider other objective methods  
7 for evaluating job applicants. An improved applicant evaluation process increases the  
8 ability of state to hire the best candidate for each position.

9 2) The measure updates the state personnel system to better align the state with  
10 current business practices and make it more efficient and accountable to Colorado  
11 taxpayers. It gives the Governor the ability to hire key staff, allowing for a quicker  
12 implementation of the policy agenda he or she is elected to enact. Under the  
13 measure, the state is better equipped to complete special projects and respond to  
14 seasonal demands with temporary employees who are allowed to work nine months  
15 rather than six. It also allows for the hiring of nonresidents in positions located close  
16 to the state border, helping state agencies to identify the best candidates for  
17 difficult-to-fill positions in a timely manner and from a wider applicant pool.  
18 Additionally, the measure recognizes the sacrifice of veterans, allowing them to use a  
19 hiring preference whenever they apply for a state position, rather than only once.

## 20 **Arguments Against**

21 1) The measure gives the Governor and political appointees, including the state  
22 personnel director, too much power over the state's personnel system. The  
23 Governor's administration will be able to exempt about 325 additional positions from  
24 the system, and members of the constitutionally independent State Personnel Board  
25 could be removed without cause. Also, the state personnel director, appointed by the  
26 Governor, will now have policymaking authority over areas of the system that the  
27 board has traditionally overseen, including job candidate evaluation and exemption  
28 from residency requirements. This overlap in authority could lead to potential conflicts  
29 between the director and the board and create confusion for candidates and  
30 employees.

31 2) The state personnel system exists, in part, to protect state employees from  
32 undue political influence, and this measure removes some of those protections,  
33 making the system more vulnerable to favoritism and abuse. Evaluating qualifications,  
34 rather than using numerical exam scores, makes it more difficult for state agencies to  
35 objectively compare candidates. The new system could make it easier to hire persons  
36 based on political or personal connections rather than merit and result in more  
37 appeals of hiring decisions. In addition, the new exemptions could displace  
38 experienced existing state employees with political appointees. This may result in the  
39 loss of institutional knowledge and subject traditionally neutral positions, such as chief  
40 financial officers and human resource directors, to political pressure.

1     **Estimate of Fiscal Impact**

2             Allowing certain state jobs to be filled by nonresidents could affect state and local  
3 government revenue, mainly sales taxes and vehicle fees. Positions filled by a  
4 nonresident that would have otherwise been filled by a Colorado resident will reduce  
5 revenue, and positions that would have otherwise gone unfilled will increase revenue.  
6 Changing the rules for hiring state employees could also affect expenditures, but the  
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# Last Draft as Mailed to Interested Parties

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9             Personnel Board, and the standard to remove certain members.

10    **Summary and Analysis**

11            The State of Colorado employs about 74,150 individuals in full- and part-time  
12            positions within the executive, legislative, and judicial branches of government. These  
13            positions are generally categorized as classified (about 33,000 current employees) or  
14            nonclassified (about 41,150 current employees). All employees are covered under  
15            applicable state and federal employment laws, such as those protecting against  
16            discrimination. The measure applies only to classified employees in the state  
17            personnel system.

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37 financial officers and human resource directors, to political pressure.

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3 government revenue, mainly sales taxes and vehicle fees. Positions filled by a  
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7 overall impact is not expected to be significant.

# Last Draft Comments from Interested Parties

## Amendment S State Personnel System

### Stephanie Donner, representing the Office of the Governor:

My suggested changes to p. 4, lines 7-16:

The measure updates the state personnel system and makes it more efficient and accountable to Colorado taxpayers. The measure recognizes the sacrifice of veterans, allowing them to use a hiring preference whenever they apply for a state position, rather than only once. It gives the Governor the ability to hire key staff, allowing for a quicker implementation of the policy agenda he or she is elected to enact. Under the measure, the state is better equipped to complete special projects and respond to seasonal demands with temporary employees who are allowed to work nine months rather than six. Additionally, it also allows for the hiring of nonresidents in positions located close to the state border, helping state agencies to identify the best candidates for difficult-to-fill positions in a timely manner and from a wider applicant pool.

### MaryKathryn Hurd, representing the Department of Personnel and Administration:

Below are four issues of concern we've identified with Amendment S -Draft three that we would like Legislative Council to consider in their final drafting of the blue book language.

1. Page 1 line 11- the # of total state employees listed is 74,150. From DPA's research (chart below) we have that number as closer to 100,000 total, with 69k+ from Higher Ed. When leg council checked this number with Higher Ed, Higher Ed stated that over 50% of that 69k are temporary employees, therefore leg council decided they would not include those numbers in this write up. Because this legislation affects temporary employees the number of total state employees should reflect temporary employees and the language on page 1 line 11 should read:

a. "The State of Colorado employs about 100,000 full time, part time and temporary employees within the executive, legislative and judicial branches of government."

|                               | March 2012     | Employee Count |
|-------------------------------|----------------|----------------|
| <b>General<br/>Government</b> | Classified     | 23,771         |
|                               | Non-Classified | 5,619          |
|                               | Temporary      | 1,397          |
|                               | Total          | 30,787         |
| <b>Higher<br/>Education</b>   | Classified     | 8,780          |
|                               | Non-Classified | 61,146*        |
|                               | Temporary      | na             |
|                               | Total          | 69,926         |

# Last Draft Comments from Interested Parties

## **MaryKathryn Hurd, representing the Department of Personnel and Administration: (Cont.)**

2. Nowhere in the write up is it addressed that this is a much needed modernization of a system that hasn't been significantly updated since 1920.
  
3. Request to change ordering of language on page 2 to move "Hiring preferences for veterans" as the first point on that page, with "Evaluating and hiring job candidates" as second and "Exemption from the state personnel system" as third. We would like to see the sections of the personnel system listed in the order of the number of people they are likely to impact. If not willing to put veterans first, then we would ask for "Evaluating and hiring job candidates" to be listed as first, veterans second, exemptions last.
  
4. Page 1 line 11; include in the first sentence of this paragraph that this measure only applies to 30k employees. It is an important point for the reader to understand that it does not impact all state employees and we feel this is lost in the current wording of the paragraph and not explicitly said until the last sentence in line 16. We would suggest that the following language be added as the first sentence on page 1, line 11:
  - a. "The proposed amendment impacts approximately 33,000 individuals in full and part-time positions within the State of Colorado's classified personnel system, who work in the executive, legislative and legal branches of state government."

The remainder of the paragraph on page 1, lines 13-16 can remain the same. If the above language is not considered, we would strongly suggest a clarification of some sort to allow the reader to understand from the beginning of the paragraph that this will only affect ~33,000 classified state employees.

Please let me know if you have any questions or concerns regarding our comments above. We appreciate your consideration of these changes.

AMENDMENT S  
STATE PERSONNEL SYSTEM  
CONTACT LIST

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AMENDMENT S  
STATE PERSONNEL SYSTEM  
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**Amendment S**  
**State Personnel System**

1 **Ballot Title:** Shall there be an amendment to the Colorado constitution  
2 concerning the state personnel system, and, in connection therewith, expanding  
3 the veterans' preference; increasing the number of candidates eligible to be  
4 appointed to a position; adjusting the duration of allowable temporary  
5 employment; allowing the flexibility to remove a limited number of positions  
6 from the system; modifying the residency requirement; adjusting the terms of  
7 service for members of the state personnel board; and requiring merit-based  
8 appointments to be made through a comparative analysis process?

9 **Text of Measure:**

10 *Be It Resolved by the House of Representatives of the Sixty-eighth General*  
11 *Assembly of the State of Colorado, the Senate concurring herein:*

12 **SECTION 1.** At the next election at which such question may be  
13 submitted, there shall be submitted to the registered electors of the state of  
14 Colorado, for their approval or rejection, the following amendment to the  
15 constitution of the state of Colorado, to wit:

16 In the constitution of the state of Colorado, section 13 of article XII,  
17 **amend** (1), (2), (5), (6), and (9) as follows:

18 **Section 13. State personnel system - merit system.** (1) Appointments  
19 and promotions to offices and employments in the STATE personnel system ~~of the~~  
20 ~~state~~ shall be made according to merit and fitness, to be ascertained by  
21 ~~competitive tests of competence~~ A COMPARATIVE ANALYSIS OF CANDIDATES  
22 BASED ON OBJECTIVE CRITERIA without regard to race, creed, ~~or~~ color, or political  
23 affiliation. A NUMERICAL OR NONNUMERICAL METHOD MAY BE USED FOR THE  
24 COMPARATIVE ANALYSIS OF CANDIDATES.

25 (2) (a) The STATE personnel system ~~of the state~~ shall comprise all  
26 appointive public officers and employees of the state, except the following:

27 (I) Members of the public utilities commission, the industrial commission  
28 of Colorado, the state board of land commissioners, the Colorado tax  
29 commission, the state parole board, and the state personnel board;

1 (II) Members of any board or commission serving without compensation  
2 except for per diem allowances provided by law and reimbursement of expenses;

3 (III) The employees in the offices of the governor and the lieutenant  
4 governor whose functions are confined to such offices and whose duties are  
5 concerned only with the administration thereof;

6 (IV) Appointees to fill vacancies in elective offices;

7 (V) One deputy of each elective officer other than the governor and  
8 lieutenant governor specified in section 1 of article IV of this constitution;

9 (VI) Officers otherwise specified in this constitution;

10 (VII) Faculty members of educational institutions and departments not  
11 reformatory or charitable in character, and such administrators thereof as may be  
12 exempt by law;

13 (VIII) Students and inmates in state educational or other institutions  
14 employed therein;

15 (IX) Attorneys at law serving as assistant attorneys general; ~~and~~

16 (X) Members, officers, and employees of the legislative and judicial  
17 departments of the state, unless otherwise specifically provided in this  
18 constitution;

19 (XI) SUBJECT TO THE APPROVAL OF THE STATE PERSONNEL DIRECTOR, THE  
20 FOLLOWING PERSONS FROM EACH PRINCIPAL DEPARTMENT: DEPUTY DEPARTMENT  
21 HEADS, CHIEF FINANCIAL OFFICERS, PUBLIC INFORMATION OFFICERS, LEGISLATIVE  
22 LIAISONS, HUMAN RESOURCE DIRECTORS, AND EXECUTIVE ASSISTANTS TO THE  
23 DEPARTMENT HEADS; AND

24 (XII) SUBJECT TO THE APPROVAL OF THE STATE PERSONNEL DIRECTOR,  
25 SENIOR EXECUTIVE SERVICE EMPLOYEES.

26 (b) THE TOTAL NUMBER OF EMPLOYEES EXEMPTED FROM THE STATE  
27 PERSONNEL SYSTEM PURSUANT TO SUBPARAGRAPHS (XI) AND (XII) OF  
28 PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL NOT EXCEED AN AMOUNT EQUAL  
29 TO ONE PERCENT OF THE TOTAL NUMBER OF PERSONS IN THE STATE PERSONNEL  
30 SYSTEM.

1           (5) The person to be appointed to any position under the STATE personnel  
2 system shall be one of the ~~three~~ SIX persons ranking highest on the eligible list for  
3 such position, or such lesser number as qualify, as determined from ~~competitive~~  
4 ~~tests of competence~~ THE COMPARATIVE ANALYSIS PROCESS, subject to limitations  
5 set forth in rules of the state personnel board applicable to multiple appointments  
6 from any such list.

7           (6) (a) EXCEPT AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (6),  
8 all appointees shall reside in the state, but applications need not be limited to  
9 residents of the state as to those positions ~~found by~~ the state personnel board ~~to~~  
10 ~~require special education or training or special professional or technical~~  
11 ~~qualifications and which~~ OR THE STATE PERSONNEL DIRECTOR DETERMINES cannot  
12 be readily filled from among residents of this state.

13           (b) IF A POSITION IS FOR WORK THAT IS TO BE PERFORMED PRIMARILY AT  
14 A LOCATION THAT IS WITHIN THIRTY MILES OF THE STATE BORDER:

15           (I) APPLICATIONS FOR THE POSITION ARE NOT LIMITED TO RESIDENTS OF  
16 THE STATE; AND

17           (II) AN APPOINTEE TO THE POSITION IS NOT REQUIRED TO BE A RESIDENT  
18 OF THE STATE.

19           (9) (a) The state personnel director may authorize the temporary  
20 employment of persons, not to exceed ~~six~~ NINE months, during which time an  
21 eligible list shall be provided for permanent positions. No other temporary or  
22 emergency employment shall be permitted under the STATE personnel system.

23           (b) NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (9) SHALL BE  
24 CONSTRUED AS PERMITTING THE APPOINTMENT OF A TEMPORARY EMPLOYEE FOR  
25 THE PURPOSE OF ELIMINATING A PERMANENT POSITION FROM THE STATE  
26 PERSONNEL SYSTEM.

27           In the constitution of the state of Colorado, section 14 of article XII,  
28 **amend** (1), (2), and (3) as follows:

29           **Section 14. State personnel board - state personnel director.** (1) There  
30 is hereby created a state personnel board to consist of five members, three of  
31 whom shall be appointed by the governor with the consent of the senate, and two  
32 of whom shall be elected by persons certified to classes and positions in the state  
33 personnel system in the manner prescribed by law. Each member APPOINTED OR

1 ELECTED PRIOR TO JANUARY 1, 2013, shall ~~be appointed or elected~~ SERVE for a  
2 term of five years. ~~and may succeed himself, but of the members first selected,~~  
3 ~~the members appointed by the governor shall serve for terms of one, two, and~~  
4 ~~three years, respectively, and the members elected shall serve for terms of four~~  
5 ~~and five years, respectively.~~ EACH MEMBER APPOINTED OR ELECTED ON OR AFTER  
6 JANUARY 1, 2013, SHALL SERVE FOR A TERM OF THREE YEARS. NO MEMBER SHALL  
7 SERVE MORE THAN TWO TERMS OF OFFICE, REGARDLESS OF WHETHER A TERM IS A  
8 FULL TERM OR A PARTIAL TERM FILLING A VACANCY. Each member of the board  
9 shall be a qualified elector of the state, but shall not be otherwise an officer or  
10 employee of the state or of any state employee organization, and shall receive  
11 such compensation as shall be fixed by law.

12 (2) (a) ~~Any member of the board~~ TWO OF THE APPOINTED MEMBERS OF  
13 THE STATE PERSONNEL BOARD SERVE AT THE PLEASURE OF THE GOVERNOR. BOTH  
14 ELECTED MEMBERS OF THE BOARD AND THE APPOINTED MEMBER SPECIFIED IN  
15 PARAGRAPH (b) OF THIS SUBSECTION (2) may be removed by the governor for  
16 willful misconduct in office, willful failure or inability to perform his OR HER  
17 duties, final conviction of a felony or of any other offense involving moral  
18 turpitude, or by reason of permanent disability interfering with the performance  
19 of his OR HER duties, which removal shall be subject to judicial review. Any  
20 vacancy in office shall be filled in the same manner as the selection of the person  
21 vacating the office, and for the unexpired term.

22 (b) THE MEMBER OF THE BOARD WHO IS APPOINTED FOR A TERM  
23 COMMENCING ON JULY 1, 2013, AND THE SUCCESSORS TO THAT POSITION DO NOT  
24 SERVE AT THE PLEASURE OF THE GOVERNOR.

25 (3) The state personnel board shall adopt, and may from time to time  
26 amend or repeal, rules to implement the provisions of this section and sections 13  
27 and 15 of this article, as amended, and laws enacted pursuant thereto, including  
28 but not limited to rules concerning standardization of positions, determination of  
29 grades of positions, standards of efficient and competent service, ~~the conduct of~~  
30 ~~competitive examinations of competence~~, grievance procedures, appeals from  
31 actions by appointing authorities, and conduct of hearings by hearing officers  
32 where authorized by law.

33 In the constitution of the state of Colorado, section 15 of article XII,  
34 **amend** (1), (3), (4), (5), and (7); and **repeal** (6) as follows:

35 **Section 15. Veterans' preference.** (1) (a) (I) ~~The passing grade on each~~  
36 ~~competitive examination~~ THE MINIMUM REQUIREMENTS FOR A CANDIDATE TO BE

1 PLACED ON AN ELIGIBLE LIST FOR A POSITION shall be the same for each candidate  
2 for appointment or employment in the STATE personnel system ~~of the state~~ or in  
3 any comparable civil service or merit system of any agency or political  
4 subdivision of the state, including any municipality chartered or to be chartered  
5 under article XX of this constitution.

6 (II) IF A NUMERICAL METHOD IS USED FOR THE COMPARATIVE ANALYSIS  
7 BASED ON OBJECTIVE CRITERIA, APPLICANTS ENTITLED TO PREFERENCE UNDER  
8 THIS SECTION SHALL BE GIVEN PREFERENCE IN ACCORDANCE WITH PARAGRAPHS  
9 (b) TO (e) OF THIS SUBSECTION (1). IF A NONNUMERICAL METHOD IS USED,  
10 APPLICANTS ENTITLED TO PREFERENCE UNDER THIS SECTION SHALL BE ADDED TO  
11 THE INTERVIEW ELIGIBLE LIST.

12 (b) Five points shall be added to the ~~grade~~ COMPARATIVE ANALYSIS SCORE  
13 of each candidate ~~on each such examination, except any promotional~~  
14 ~~examination~~, who is separated under honorable conditions and who, other than  
15 for training purposes, (i) served in any branch of the armed forces of the United  
16 States during any period of any declared war or any undeclared war or other  
17 armed hostilities against an armed foreign enemy, or (ii) served on active duty in  
18 any such branch in any campaign or expedition for which a campaign badge is  
19 authorized.

20 (c) Ten points shall be added to the ~~passing grade~~ COMPARATIVE  
21 ANALYSIS SCORE of any candidate ~~of each such examination, except any~~  
22 ~~promotional examination~~, who has so served, other than for training purposes,  
23 and who, because of disability incurred in the line of duty, is receiving monetary  
24 compensation or disability retired benefits by reason of public laws administered  
25 by the department of defense or the veterans administration, or any successor  
26 thereto.

27 (d) Five points shall be added to the ~~passing grade~~ COMPARATIVE  
28 ANALYSIS SCORE of any candidate ~~of each such examination, except any~~  
29 ~~promotional examination~~, who is the surviving spouse of any person who was or  
30 would have been entitled to additional points under paragraph (b) or (c) of this  
31 subsection (1) or of any person who died during such service or as a result of  
32 service-connected cause while on active duty in any such branch, other than for  
33 training purposes.

34 (e) No more than a total of ten points shall be added to the ~~passing grade~~  
35 COMPARATIVE ANALYSIS SCORE of any such candidate pursuant to this subsection  
36 (1).

1 (3) (a) When a reduction in the work force of the state or any such  
2 political subdivision thereof becomes necessary because of lack of work or  
3 curtailment of funds, employees not eligible for ~~added points~~ PREFERENCE under  
4 subsection (1) of this section shall be separated before those so entitled who have  
5 the same or more service in the employment of the state or such political  
6 subdivision, counting both military service for which such ~~points are added~~  
7 PREFERENCE IS GIVEN and such employment with the state or such political  
8 subdivision, as the case may be, from which the employee is to be separated.

9 (b) In the case of such a person eligible for ~~added points~~ PREFERENCE who  
10 has completed twenty or more years of active military service, no military service  
11 shall be counted in determining length of service in respect to such retention  
12 rights. In the case of such a person who has completed less than twenty years of  
13 such military service, no more than ten years of service under subsection (1) (b)  
14 (i) and (ii) shall be counted in determining such length of service for such  
15 retention rights.

16 (4) The state personnel board and each comparable supervisory or  
17 administrative board of any such civil service or merit system of any agency of  
18 the state or any such political subdivision thereof shall implement the provisions  
19 of this section to assure that all persons entitled to ~~added points and~~ preference  
20 in ~~examinations~~ A COMPARATIVE ANALYSIS and retention shall enjoy their full  
21 privileges and rights granted by this section.

22 (5) ~~Any examination which is a promotional examination, but which NO~~  
23 ~~PERSON SHALL RECEIVE PREFERENCE PURSUANT TO THIS SECTION WITH RESPECT~~  
24 ~~TO A PROMOTIONAL OPPORTUNITY. ANY PROMOTIONAL OPPORTUNITY THAT is also~~  
25 ~~open to persons other than employees for whom such appointment would be a~~  
26 ~~promotion, shall be considered a promotional examination OPPORTUNITY for the~~  
27 ~~purposes of this section.~~

28 (6) ~~Any other provision of this section to the contrary notwithstanding, no~~  
29 ~~person shall be entitled to the addition of points under this section for more than~~  
30 ~~one appointment or employment with the same jurisdiction, personnel system,~~  
31 ~~civil service, or merit system.~~

32 (7) This section shall be in full force and effect on and after July 1, 1971,  
33 and shall grant veterans' preference to all persons who have served in the armed  
34 forces of the United States in any declared or undeclared war, conflict,  
35 engagement, expedition, or campaign for which a campaign badge has been  
36 authorized, and who meet the requirements of service or disability, or both, as

1 provided in this section. This section shall apply to all public employment  
2 ~~examinations~~ OPPORTUNITIES, except ~~promotional examinations~~ AS SET FORTH IN  
3 SUBSECTION (5) OF THIS SECTION, conducted on or after such date, and it shall be  
4 in all respects self-executing.

5         **SECTION 2.** Each elector voting at said election and desirous of voting  
6 for or against said amendment shall cast a vote as provided by law either "Yes"  
7 or "No" on the proposition: "Shall there be an amendment to the Colorado  
8 constitution concerning the state personnel system, and, in connection therewith,  
9 expanding the veterans' preference; increasing the number of candidates eligible  
10 to be appointed to a position; adjusting the duration of allowable temporary  
11 employment; allowing the flexibility to remove a limited number of positions  
12 from the system; modifying the residency requirement; adjusting the terms of  
13 service for members of the state personnel board; and requiring merit-based  
14 appointments to be made through a comparative analysis process?"

15         **SECTION 3.** The votes cast for the adoption or rejection of said  
16 amendment shall be canvassed and the result determined in the manner provided  
17 by law for the canvassing of votes for representatives in Congress, and if a  
18 majority of the electors voting on the question shall have voted "Yes", the said  
19 amendment shall become a part of the state constitution.

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## Amendment 64 Use and Regulation of Marijuana

1 **Amendment 64 proposes amending the Colorado Constitution to:**

- 2       ♦ regulate the growth, manufacture, and sale of marijuana in a system of  
3       licensed establishments overseen by state and local governments;
- 4       ♦ allow individuals who are 21 years old or older to possess, use, display,  
5       purchase, transport, and transfer—to individuals who are 21 years old  
6       or older—one ounce or less of marijuana;
- 7       ♦ allow individuals who are 21 years old or older to possess, grow,  
8       process, and transport up to six marijuana plants, with certain  
9       restrictions;
- 10       ♦ require the state legislature to enact an excise tax on marijuana sales,  
11       of which the first \$40 million in revenue raised annually must be credited  
12       to a state fund used for constructing public schools. The excise tax  
13       must be approved by a separate statewide vote; and
- 14       ♦ require the state legislature to enact legislation concerning the growth,  
15       processing, and sale of industrial hemp.

16 **Summary and Analysis**

17       Marijuana is a plant that contains the psychoactive component  
18       delta-9 tetrahydrocannabinol (THC). Marijuana can be used in various ways, including  
19       smoking it, inhaling it as vapor, and consuming it in food. Currently, individuals who  
20       grow, transfer, manufacture, possess, or sell marijuana violate federal, state, and, in  
21       some cases, local laws. However, state penalties for marijuana offenses are not as  
22       severe as penalties for many other drug-related offenses. Although the use of  
23       marijuana for medical purposes is not authorized under federal law, Colorado and  
24       several other states have enacted legislation allowing the use of medical marijuana.  
25       To date, state regulation of medical marijuana establishments has generally been  
26       allowed to occur, although the federal government has ordered some businesses to  
27       close.

28       ***Current federal and state penalties for marijuana offenses.*** Sentences for  
29       drug offenses are discretionary, and depend on the law violated and the severity and  
30       circumstances of the crime. Under federal law, penalties for marijuana offenses range  
31       from up to one year in prison and a fine of \$1,000 for a first offense of possession, to  
32       up to life in prison and a fine of \$4 million for the sale of 1,000 kilograms (about  
33       2,200 pounds) or more of marijuana.

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1 Under current state law, marijuana offenses range from a class 2 petty offense to  
2 a class 3 felony. For example, individuals accused of possession of two ounces of  
3 marijuana or less may be required to appear in court and, if convicted, can be fined up  
4 to a maximum of \$100. Other penalties range from no jail time or fine for sharing  
5 small amounts of marijuana without payment, to up to 12 years in prison, a fine of  
6 \$750,000, or both for transferring any amount of marijuana to a person under 15 years  
7 old, provided that the offender is at least 18 years old, or for knowingly distributing  
8 more than 100 pounds of marijuana. Individuals convicted of marijuana offenses are  
9 also required to pay a drug offender surcharge, which may range from \$200 to \$3,000,  
10 depending on the severity of the crime. It is not clear how the state's current criminal  
11 laws would be changed in response to Amendment 64.

12 **Personal use of marijuana.** Under the measure, individuals who are 21 years old  
13 or older (adults) may possess, use, display, purchase, and transport up to one ounce  
14 of marijuana. Adults may share up to one ounce of marijuana with other individuals  
15 who are at least 21 years old, but are not allowed to sell marijuana. The use of  
16 marijuana in public or in a manner that endangers others is prohibited. The measure  
17 allows adults to grow their own marijuana or to purchase marijuana from a licensed  
18 retail marijuana store with proof of age. Adults may possess up to six marijuana  
19 plants, of which three or fewer are mature, flowering plants, as well as the marijuana  
20 harvested from the plants, provided that the plants are kept in an enclosed and locked  
21 space and are not grown openly or publicly. The marijuana harvested must remain on  
22 the premises where the plants were grown. Adults are also permitted to possess, use,  
23 display, purchase, and transport marijuana accessories that are used for the growth,  
24 manufacture, and consumption of marijuana.

25 Amendment 64 states that its provisions are not intended to:

- 26 • allow driving under the influence of or while impaired by marijuana;
- 27 • permit underage access to or use of marijuana;
- 28 • affect the ability of an employer to restrict the use or possession of  
29 marijuana by employees; or
- 30 • prevent a school, hospital, or other property owner from prohibiting or  
31 otherwise regulating the use, possession, growth, manufacture, or sale  
32 of marijuana on the property.

33 **Regulation by the state.** Amendment 64 requires the Colorado Department of  
34 Revenue (DOR) to adopt regulations by July 1, 2013, concerning licensing and  
35 security requirements for marijuana establishments, the prevention of marijuana sales  
36 to underage individuals, labeling requirements for marijuana products, health and  
37 safety standards for marijuana manufacturing, advertising restrictions, and civil  
38 penalties for violations. The measure specifies that the regulations may not prohibit  
39 marijuana establishments or make the operation of such establishments unreasonably  
40 impracticable.

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1 The DOR must also develop a schedule of application, licensing, and renewal  
2 fees. The application fees may not exceed \$5,000, adjusted annually for inflation,  
3 unless the DOR determines that a greater fee is necessary. If a licensed medical  
4 marijuana business applies for a separate license created by the measure, the  
5 application fee may not exceed \$500. The measure does not limit the amounts that  
6 may be charged for licensing and renewal fees. After the DOR receives a license  
7 application from a prospective marijuana establishment, it must forward the application  
8 and half of the application fee to the local government involved. The DOR must issue  
9 or deny the license within 90 days. If the DOR denies the license, it must notify the  
10 applicant in writing of its reason for doing so.

11 In the event that the DOR does not adopt regulations by July 1, 2013, the measure  
12 states that marijuana establishment applicants may apply for an annual license with a  
13 local government. Applicants may only apply for a locally issued license after  
14 October 1, 2013, which is the deadline for local governments to identify which local  
15 agency will process marijuana license applications if necessary. Applicants may also  
16 apply for a locally issued license if the DOR adopts regulations but has not issued any  
17 licenses by January 1, 2014. While operating under a locally issued license, the  
18 marijuana establishments are not subject to regulation by the DOR.

19 **Regulation by local governments.** Local governments may enact regulations  
20 concerning the time, place, manner, and number of marijuana establishments in their  
21 community. In addition, local governments may prohibit the operation of marijuana  
22 establishments through an ordinance or a referred ballot measure; citizens may  
23 pursue such a prohibition through an initiated ballot measure. Even if marijuana  
24 establishments are prohibited by a local government, individuals in that community  
25 who are at least 21 years old may still possess, grow, and use marijuana as allowed  
26 by the measure.

27 **Types of licenses.** Under Amendment 64, marijuana growth, processing, testing,  
28 and sales are authorized to be carried out by four types of regulated marijuana  
29 establishments, which are described in Table 1. The measure directs the DOR to  
30 implement procedures for issuing, renewing, suspending, and revoking licenses for  
31 the establishments.

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1 **Table 1. Types of Licensed Marijuana Establishments Under Amendment 64**

2

| Type of Establishment                    | Activities  | Sale of Marijuana   |
|--|---|---|
| Marijuana Cultivation Facility           | Grows, prepares, and packages marijuana.  | May sell marijuana to other cultivation facilities, manufacturing facilities, or retail marijuana stores.       |
| Marijuana Product Manufacturing Facility | Purchases, manufactures, prepares, and packages marijuana and marijuana products.                           | May sell marijuana and marijuana products to retail stores or other marijuana product manufacturing facilities. |
| Marijuana Testing Facility               | Analyzes and certifies the safety and potency of marijuana.   | Not permitted to sell marijuana.  |
| Retail Marijuana Store                   | Purchases and sells marijuana and marijuana products from cultivation and product manufacturing facilities. | May sell marijuana to consumers who are 21 years old or older.  |

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20 **Taxes.** Under the measure, marijuana is subject to existing state and local sales  
21 taxes and a new state excise tax to be set by the legislature. An excise tax is a tax on  
22 the use or consumption of certain products such as gasoline, alcohol, or cigarettes.  
23 The tax is generally collected at the wholesale level and passed on to consumers in  
24 the retail price. Marijuana cultivation facilities will pay the excise tax when selling  
25 marijuana to either marijuana product manufacturing facilities or to retail marijuana  
26 stores.

27 Amendment 64 requires the legislature to enact the state excise tax; however, the  
28 Taxpayer's Bill of Rights (TABOR) requires a separate statewide vote to approve the  
29 tax and any future tax increases. Under the measure, the excise tax is limited to  
30 15 percent until January 1, 2017, when the legislature may set it at any rate. Each  
31 year, the first \$40 million in revenue raised by the excise tax will be credited to a state  
32 fund used for constructing public schools. Medical marijuana is not subject to the  
33 state excise tax required by the measure, or to any existing state excise tax.

34 **Effect on medical marijuana laws.** Amendment 64 does not change existing  
35 state medical marijuana laws, which allow Colorado citizens who have certain  
36 debilitating medical conditions to use medical marijuana. Medical marijuana patients  
37 and primary caregivers register with the state health agency, and businesses that  
38 grow, manufacture, and sell medical marijuana are regulated by the DOR and by local  
39 licensing authorities throughout the state. Medical marijuana patients are permitted to

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1 possess up to two ounces of marijuana and to grow up to six marijuana plants, with  
2 three or fewer being mature, flowering plants. Caregivers are subject to the same  
3 possession and growth limitations as patients and may serve up to five patients.

4 Under the measure, licensed medical marijuana cultivators, manufacturers, and  
5 dispensaries may apply for a separate marijuana establishment license under the  
6 measure, and are eligible for a reduced application fee. However, medical marijuana  
7 dispensaries may not sell marijuana to retail customers or operate on the same  
8 premises as retail marijuana stores. If competition for licenses exists, applicants with  
9 prior experience producing or distributing medical marijuana and who have complied  
10 with state medical marijuana regulations are granted preference in licensing.

11 **Industrial hemp.** The measure requires the state legislature to enact, by  
12 July 1, 2014, legislation concerning the growth, processing, and sale of industrial  
13 hemp, but does not specify what provisions must be included, or whether such  
14 activities should be authorized. The measure defines industrial hemp as the same  
15 plant as marijuana, but with a THC concentration of no more than three-tenths  
16 percent. THC is the primary psychoactive component of marijuana. Federal law  
17 currently prohibits the growth of industrial hemp, although it is legal to sell imported  
18 hemp and hemp products in the United States. Hemp seeds are sold as food, and  
19 hemp fibers are used to manufacture rope, clothing, and building materials.

20 *For information on those issue committees that support or oppose the*  
21 *measures on the ballot at the November 6, 2012, election, go to the*  
22 *Colorado Secretary of State's elections center web site hyperlink for*  
23 *ballot and initiative information:*  
24 [www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html](http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html)

## 25 **Arguments For**

26 1) Current state policies that criminalize marijuana fail to prevent its use and  
27 availability and have contributed to the growth of an underground market. By creating  
28 a framework for marijuana to be legal, taxed, and regulated under state law,  
29 Amendment 64 provides a new, more logical direction for the state. The use of  
30 marijuana by adults may be less harmful than the use of alcohol or tobacco, both of  
31 which are already legal for adults to use and are regulated by the state. Furthermore,  
32 marijuana may be beneficial for individuals with certain debilitating conditions. The  
33 consequences of burdening adults with a criminal record for the possession of small  
34 amounts of marijuana are too severe, and there are better uses for state resources  
35 than prosecuting such low-level crimes.

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1           2) It is preferable for adults who choose to use marijuana to grow it themselves or  
2 purchase it from licensed businesses that are required to follow health and safety  
3 standards, rather than purchasing products of unknown origin from individuals  
4 involved in the underground market. A regulated market will provide a safer  
5 environment for adults who purchase marijuana and, by requiring age verification, will  
6 restrict underage access to marijuana. The measure will also add needed tax revenue  
7 and job opportunities to the state economy.

8           3) The adoption of Amendment 64 will send a message to the federal government  
9 and other states that marijuana should be legal and regulated and that industrial hemp  
10 should be treated differently than marijuana. Adults should have the choice to use  
11 marijuana, just as they have that choice with other substances such as alcohol and  
12 tobacco. Further, because of its commercial applications in fuel, building materials,  
13 clothing, and food, industrial hemp should be allowed to be grown, processed, and  
14 sold domestically.

## 15   **Arguments Against**

16           1) Even if Amendment 64 is adopted, the possession, manufacture, and sale of  
17 marijuana remain illegal under current federal law, so the adoption of the measure  
18 may expose Colorado consumers, businesses, and governments to federal criminal  
19 charges and other risks. People who invest time and money to open marijuana  
20 establishments have no protections against federal seizure of their money and  
21 property. Because federal banking laws do not allow banks to accept the proceeds of,  
22 or loan money for, activities that are illegal under federal law, marijuana businesses  
23 will likely need to be cash-only businesses. In addition, enhanced federal scrutiny and  
24 competition from retail marijuana establishments could jeopardize the existing medical  
25 marijuana system. The efforts of individuals who feel that marijuana use should be  
26 legal for all adults are more appropriately directed at changing federal law.

27           2) Marijuana impairs users' coordination and reasoning and can lead to addiction.  
28 Allowing state-regulated stores to sell marijuana will make it more accessible, which is  
29 likely to increase use and may give the impression that there are no health risks or  
30 negative consequences to marijuana use. Greater accessibility and acceptance of  
31 marijuana may increase the number of children and young adults who use the drug.  
32 Furthermore, because more people are likely to use marijuana, the number of those  
33 who drive while under the influence of or while impaired by the drug may increase.

34           3) Amendment 64 asks voters to approve a regulatory structure for the sale of  
35 marijuana, but does not specify critical details about what the regulations will entail.  
36 Furthermore, because the provisions of Amendment 64 will be in the state constitution  
37 and not in the state statutes, where most other business regulations appear, there  
38 may be unintended consequences that cannot be easily remedied. For example, the  
39 state legislature cannot adjust the deadlines, fees, and other details regarding the  
40 implementation of the measure. In addition, by constitutionally permitting marijuana  
41 use, the measure, despite its stated intent, could create conflicts with existing  
42 employment, housing, and other laws and policies that ban the use of illegal drugs.

# Revised Final Draft

## 1 **Estimate of Fiscal Impact**

2 Amendment 64 is expected to increase revenue and spending at both the state  
3 and local level. The exact amount of each will depend on the value of marijuana sold,  
4 the regulations and fees adopted by the Department of Revenue (DOR) and local  
5 governments, and future actions taken by the state legislature. The fiscal impact  
6 assumes that the DOR will regulate marijuana under this measure in the same way it  
7 regulates medical marijuana under current law, using some of the same resources.

8 **State revenue.** State revenue from sales taxes and licensing fees is expected to  
9 increase between approximately \$5.0 million and \$22.0 million per year. The measure  
10 also allows a separate excise tax to be levied on wholesale marijuana sales, but that  
11 tax has not been included in this analysis because the tax rate must first be set by the  
12 state legislature and then be approved by voters in a statewide election.

13 **State spending.** Currently, the DOR is allocated \$5.7 million per year for  
14 licensing, regulation, and enforcement costs related to medical marijuana. These  
15 costs will increase by an estimated \$1.3 million in the first year and by \$0.7 million  
16 annually thereafter in order to expand DOR regulation to marijuana establishments  
17 authorized by the measure. These new costs will likely be paid from fees assessed on  
18 marijuana establishments. Although it is not clear how the state's criminal laws would  
19 be changed in response to Amendment 64, if the number of prison sentences for  
20 marijuana offenses decreases, prison costs will be reduced.

21 **Local revenue and spending.** Sales tax revenue for local governments will  
22 increase along with spending for regulation and enforcement. Due to differences in  
23 local tax rates and regulations, the impact to local governments cannot be determined.

# Last Draft as Mailed to Interested Parties

## Amendment 64 Use and Regulation of Marijuana

1 **Amendment 64 proposes amending the Colorado Constitution to:**

- 2       ♦ regulate the growth, manufacture, and sale of marijuana in a system of  
3       licensed establishments overseen by state and local governments;
- 4       ♦ allow individuals who are 21 years old or older to possess, use, display,  
5       purchase, transport, and transfer—to individuals who are 21 years old  
6       or older—one ounce or less of marijuana;
- 7       ♦ allow individuals who are 21 years old or older to possess, grow,  
8       process, and transport up to six marijuana plants, with certain  
9       restrictions;
- 10       ♦ require the state legislature to enact an excise tax on marijuana sales,  
11       of which the first \$40 million in revenue raised annually must be credited  
12       to a state fund used for constructing public schools. The excise tax  
13       must be approved by a separate statewide vote; and
- 14       ♦ require the state legislature to enact legislation concerning the growth,  
15       processing, and sale of industrial hemp.

### 16 **Summary and Analysis**

17       Marijuana is a plant that contains the psychoactive component  
18       delta-9 tetrahydrocannabinol (THC). Marijuana can be consumed in various ways,  
19       including smoking, inhaling, and in food. Currently, individuals who grow, transfer,  
20       manufacture, possess, or sell marijuana violate federal, state, and, in some cases,  
21       local laws. However, state penalties for marijuana offenses are not as severe as  
22       penalties for many other drug-related offenses. Although the use of marijuana for  
23       medical purposes is not authorized under federal law, Colorado and several other  
24       states have enacted legislation allowing the use of medical marijuana. To date, state  
25       regulation of medical marijuana establishments has generally been allowed to occur,  
26       although the federal government has ordered some businesses to close.

27       ***Current federal and state penalties for marijuana offenses.*** Sentences for  
28       drug offenses are discretionary, and depend on the law violated and the severity and  
29       circumstances of the crime. Under federal law, penalties for marijuana offenses range  
30       from up to one year in prison and a fine of \$1,000 for a first offense of possession, to  
31       up to life in prison and a fine of \$4 million for the sale of 1,000 kilograms (about  
32       2,200 pounds) or more of marijuana. Under state law, individuals accused of  
33       possession of two ounces of marijuana or less must appear in court and can be fined  
34       up to a maximum of \$100. Other penalties range from no jail time or fine for sharing

# Last Draft as Mailed to Interested Parties

1 small amounts of marijuana without payment, to up to 12 years in prison, a fine of  
2 \$7,000, or both for knowingly distributing more than 100 pounds of marijuana.

3 **Personal use of marijuana.** Under the measure, individuals who are 21 years old  
4 or older (adults) may possess, use, display, purchase, and transport up to one ounce  
5 of marijuana. Adults may share up to one ounce of marijuana with other individuals  
6 who are at least 21 years old, but are not allowed to sell marijuana. The use of  
7 marijuana in public or in a manner that endangers others is prohibited. The measure  
8 allows adults to grow their own marijuana or to purchase marijuana from a licensed  
9 retail marijuana store with proof of age. Adults may possess up to six marijuana  
10 plants, of which three or fewer are mature, flowering plants, as well as the marijuana  
11 harvested from the plants, provided that the plants are kept in an enclosed and locked  
12 space and are not grown openly or publicly. The marijuana harvested must remain on  
13 the premises where the plants were grown. Adults are also permitted to possess, use,  
14 display, purchase, and transport marijuana accessories that are used for the growth,  
15 manufacture, and consumption of marijuana.

16 Amendment 64 states that its provisions are not intended to:

- 17
- 18 • allow driving under the influence of or while impaired by marijuana;
  - 19 • permit underage access to or use of marijuana;
  - 20 • affect the ability of an employer to restrict the use or possession of  
21 marijuana by employees; or
  - 22 • prevent a school, hospital, or other property owner from prohibiting or  
23 otherwise regulating the use, possession, growth, manufacture, or sale  
of marijuana on the property.

24 **Regulation by the state.** Amendment 64 requires the Colorado Department of  
25 Revenue (DOR) to adopt regulations by July 1, 2013, concerning licensing and  
26 security requirements for marijuana establishments, the prevention of marijuana sales  
27 to underage individuals, labeling requirements for marijuana products, health and  
28 safety standards for marijuana manufacturing, advertising restrictions, and civil  
29 penalties for violations. The measure specifies that the regulations may not prohibit  
30 marijuana establishments or make the operation of such establishments unreasonably  
31 impracticable.

32 The DOR must also develop a schedule of application, licensing, and renewal  
33 fees. The application fees may not exceed \$5,000, adjusted annually for inflation,  
34 unless the DOR determines that a greater fee is necessary. If a licensed medical  
35 marijuana business applies for a separate license created by the measure, the  
36 application fee may not exceed \$500. After the DOR receives a license application  
37 from a prospective marijuana establishment, it must forward the application and half of  
38 the application fee to the local government involved. The DOR must issue or deny the  
39 license within 90 days. If the DOR denies the license, it must notify the applicant in  
40 writing of its reason for doing so.

41 In the event that the DOR does not adopt regulations by July 1, 2013, the measure  
42 states that marijuana establishment applicants may apply for an annual license with a

# Last Draft as Mailed to Interested Parties

1 local government. Applicants may only apply for a locally issued license after  
 2 October 1, 2013, which is the deadline for local governments to identify which local  
 3 agency will process marijuana license applications if necessary. Applicants may also  
 4 apply for a locally issued license if the DOR adopts regulations but has not issued any  
 5 licenses by January 1, 2014. While operating under a locally issued license, the  
 6 marijuana establishments are not subject to regulation by the DOR.

7 **Regulation by local governments.** Local governments may enact regulations  
 8 concerning the time, place, manner, and number of marijuana establishments in their  
 9 community. In addition, local governments may prohibit the operation of marijuana  
 10 establishments through an ordinance or a referred ballot measure; citizens may  
 11 pursue such a prohibition through an initiated ballot measure. Even if marijuana  
 12 establishments are prohibited by a local government, individuals in that community  
 13 who are at least 21 years old may still possess, grow, and use marijuana as allowed  
 14 by the measure.

15 **Types of licenses.** Under Amendment 64, marijuana growth, processing, testing,  
 16 and sales are authorized to be carried out by four types of regulated marijuana  
 17 establishments, which are described in Table 1. The measure directs the DOR to  
 18 implement procedures for issuing, renewing, suspending, and revoking licenses for  
 19 the establishments.

20 **Table 1. Types of Licensed Marijuana Establishments Under Amendment 64**

| Type of Establishment                    | Activities  | Sale of Marijuana   |
|--|---|---|
| Marijuana Cultivation Facility           | Grows, prepares, and packages marijuana.  | May sell marijuana to other cultivation facilities, manufacturing facilities, or retail marijuana stores.       |
| Marijuana Product Manufacturing Facility | Purchases, manufactures, prepares, and packages marijuana and marijuana products.                           | May sell marijuana and marijuana products to retail stores or other marijuana product manufacturing facilities. |
| Marijuana Testing Facility               | Analyzes and certifies the safety and potency of marijuana.   | Not permitted to sell marijuana.  |
| Retail Marijuana Store                   | Purchases and sells marijuana and marijuana products from cultivation and product manufacturing facilities. | May sell marijuana to consumers who are 21 years old or older.  |

## Last Draft as Mailed to Interested Parties

1       **Taxes.** Under the measure, marijuana is subject to existing state and local sales  
2 taxes and a new state excise tax to be set by the legislature. An excise tax is a tax on  
3 the use or consumption of certain products such as gasoline, alcohol, or cigarettes.  
4 The tax is generally collected at the wholesale level and passed on to consumers in  
5 the retail price. Marijuana cultivation facilities will pay the excise tax when selling  
6 marijuana to either marijuana product manufacturing facilities or to retail marijuana  
7 stores.

8       Amendment 64 requires the legislature to enact the state excise tax; however, the  
9 Taxpayer's Bill of Rights (TABOR) requires a separate statewide vote to approve the  
10 tax and any future tax increases. Under the measure, the excise tax is limited to  
11 15 percent until January 1, 2017, when the legislature may set it at any rate. Each  
12 year, the first \$40 million in revenue raised by the excise tax will be credited to a state  
13 fund used for constructing public schools. Medical marijuana is not subject to the  
14 state excise tax required by the measure, or to any existing state excise tax.

15       **Effect on medical marijuana laws.** Amendment 64 does not change existing  
16 state medical marijuana laws, which allow Colorado citizens who have certain  
17 debilitating medical conditions to use medical marijuana. Medical marijuana patients  
18 and primary caregivers register with the state health agency, and businesses that  
19 grow, manufacture, and sell medical marijuana are regulated by the DOR and by local  
20 licensing authorities throughout the state. Medical marijuana patients are permitted to  
21 possess up to two ounces of marijuana and to grow up to six marijuana plants, with  
22 three or fewer being mature, flowering plants. Caregivers are subject to the same  
23 possession and growth limitations as patients and may serve up to five patients.

24       Under the measure, licensed medical marijuana cultivators, manufacturers, and  
25 dispensaries may apply for a separate marijuana establishment license under the  
26 measure, and are eligible for a reduced application fee. However, medical marijuana  
27 dispensaries may not sell marijuana to retail customers or operate on the same  
28 premises as retail marijuana stores. If competition for licenses exists, applicants with  
29 prior experience producing or distributing medical marijuana and who have complied  
30 with state medical marijuana regulations are granted preference in licensing.

31       **Industrial hemp.** The measure requires the state legislature to enact, by  
32 July 1, 2014, legislation concerning the growth, processing, and sale of industrial  
33 hemp, but does not specify what provisions must be included. The measure defines  
34 industrial hemp as the same plant as marijuana, but with a THC concentration of no  
35 more than three-tenths percent. THC is the primary psychoactive component of  
36 marijuana. Federal law currently prohibits the growth of industrial hemp, although it is  
37 legal to sell imported hemp and hemp products in the United States. Hemp seeds are  
38 sold as food, and hemp fibers are used to manufacture rope, clothing, and building  
39 materials.

# Last Draft as Mailed to Interested Parties

1                    *For information on those issue committees that support or oppose the*  
2                    *measures on the ballot at the November 6, 2012, election, go to the*  
3                    *Colorado Secretary of State's elections center web site hyperlink for*  
4                    *ballot and initiative information:*  
5                    [www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html](http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html)

## 6                    **Arguments For**

7                    1) Current state policies that criminalize marijuana fail to prevent its use and  
8                    availability and have contributed to the growth of an underground market. By creating  
9                    a framework for marijuana to be legal, taxed, and regulated under state law,  
10                    Amendment 64 provides a new, more logical direction for the state. The use of  
11                    marijuana by adults may be less harmful than the use of alcohol or tobacco, both of  
12                    which are already legal for adults to use and are regulated by the state. Furthermore,  
13                    marijuana may be beneficial for individuals with certain debilitating conditions. The  
14                    consequences of burdening adults with a criminal record for the possession of small  
15                    amounts of marijuana are too severe, and there are better uses for state resources  
16                    than prosecuting such low-level crimes.

17                    2) It is preferable for adults who choose to use marijuana to grow it themselves or  
18                    purchase it from licensed businesses that have tested and labeled it, rather than  
19                    purchasing untested products of unknown origin from individuals involved in the  
20                    underground market. A regulated market will provide a safer environment for adults  
21                    who purchase marijuana and, by requiring age verification, will restrict underage  
22                    access to marijuana. The measure will also add needed tax revenue and job  
23                    opportunities to the state economy.

24                    3) The adoption of Amendment 64 will send a message to the federal government  
25                    and other states that marijuana should be legal and regulated and that industrial hemp  
26                    should be treated differently than marijuana. Adults should have the choice to use  
27                    marijuana, just as they have that choice with other substances such as alcohol and  
28                    tobacco. Further, because of its commercial applications in fuel, building materials,  
29                    clothing, and food, industrial hemp should be allowed to be grown, processed, and  
30                    sold domestically.

## 31                    **Arguments Against**

32                    1) Even if Amendment 64 is adopted, the possession, manufacture, and sale of  
33                    marijuana remain illegal under current federal law, so the adoption of the measure  
34                    may expose Colorado consumers, businesses, and governments to federal criminal  
35                    charges and other risks. People who invest time and money to open marijuana  
36                    establishments have no protections against federal seizure of their money and  
37                    property. In addition, enhanced federal scrutiny and competition from retail marijuana  
38                    establishments could jeopardize the existing medical marijuana system. The efforts of

# Last Draft as Mailed to Interested Parties

1 individuals who feel that marijuana use should be legal for all adults are more  
2 appropriately directed at changing federal law.

3 2) Marijuana impairs users' coordination and reasoning and can lead to addiction.  
4 Allowing state-regulated stores to sell marijuana will make it more accessible, which is  
5 likely to increase use and may give the impression that there are no health risks or  
6 negative consequences to marijuana use. Greater accessibility and acceptance of  
7 marijuana may increase the number of children and young adults who use the drug.  
8 Furthermore, because more people are likely to use marijuana, the number of those  
9 who drive while under the influence of or while impaired by the drug may increase.

10 3) Amendment 64 asks voters to approve a regulatory structure for the sale of  
11 marijuana, but does not specify critical details about what the regulations will entail.  
12 Furthermore, because the provisions of Amendment 64 will be in the state constitution  
13 and not in the state statutes, where most other business regulations appear, there  
14 may be unintended consequences that cannot be easily remedied. For example, the  
15 state legislature cannot adjust the deadlines, fees, and other details regarding the  
16 implementation of the measure. In addition, by constitutionally permitting marijuana  
17 use, the measure, despite its stated intent, could create conflicts with existing  
18 employment, housing, and other laws and policies that ban the use of illegal drugs.

## 19 **Estimate of Fiscal Impact**

20 Amendment 64 is expected to increase revenue and spending at both the state  
21 and local level. The exact amount of each will depend on the value of marijuana sold,  
22 the regulations and fees adopted by the Department of Revenue (DOR) and local  
23 governments, and future actions taken by the state legislature. The fiscal impact  
24 assumes that the DOR will regulate marijuana under this measure in the same way it  
25 regulates medical marijuana under current law.

26 **State revenue.** State revenue from sales taxes and licensing fees is expected to  
27 increase between approximately \$4.0 million and \$22.0 million per year. The measure  
28 also allows a separate excise tax to be levied on wholesale marijuana sales, but that  
29 tax has not been included in this analysis because the tax rate must first be set by the  
30 state legislature and then be approved by voters in a statewide election.

31 **State spending.** State spending for licensing, regulation, and enforcement will  
32 increase an estimated \$1.4 million in the first year and \$0.9 million annually thereafter,  
33 and will likely be paid from fees assessed on marijuana establishments.

34 **Local revenue and spending.** Sales tax revenue for local governments will  
35 increase along with spending for regulation and enforcement. Due to differences in  
36 local tax rates and regulations, the impact to local governments cannot be determined.

# Last Draft Comments from Interested Parties

## Amendment 64 Use and Regulation of Marijuana

**Dr. Ronald Bartzatt, B.S., M.S., Ph.D., representing himself:**

Do not legalize marijuana use.

Marijuana is toxic and exposes users and non-users to cancer causing chemicals.

Second-hand smoke of marijuana has been shown to have many toxic chemicals known to exist in cigarette second-hand smoke.

Other scientifically demonstrated toxic effects of marijuana use is as follows:

1. Non-users that are exposed to cannabis inhalant may suffer loss of coordination, dizziness, confusion, difficulty walking, blurred vision, and vomiting. Illicit drug use has been shown to be strongly associated with homicide events.

2. Marijuana smoke causes lung damage quickly and could out pace tobacco smoke by as much as 20 years. Studies has shown cannabis usage worsens the course of schizophrenia spectrum disorders and that adolescents possess a greater risk from cannabis than older individuals. Cannabis abuse could be an independent risk factor for the further development of psychotic disorders

3. In laboratory studies it has been observed that THC causes an inhibition of incorporation of 5-3H uridine into ribosomal RNA(17S and 25S RNA) and in synchronized cells the precursor RNA(35SRNA)[30]. THC suppresses the incorporation of 5-3H-uridine, 2-14C-thymidine, and L-3-14C-phenylalanine into RNA and progressive dose-dependent activity of THC on division delays in division synchronized cell c ultures was also correlated with concomitant reduction of division maxima and percent of cells completing division

4. Cannabis induces psychological dependence that is common to all addictive drugs as well as a physical dependence

5. Cannabis usage is being found to have a multitude of physical and mental effects on human beings.

Colorado should NOT LEGALIZE MARIJUANA USE.

Dr. Bartzatt also submitted an article titled "Cannabis toxicity and adverse biological activity" (Attachment A).

# Last Draft Comments from Interested Parties

**Rico Colibri, representing the Cannabis Alliance for Regulation & Education (CARE):**

*Amendment 64 Use and Regulation of Marijuana, page 1*

#8 Please remove “certain” before “restrictions” as it implies a limited restriction when in fact many restrictions including existing criminal laws will still apply. This is misleading and confusing to voters.

#11 Please remove “\$40 million in revenue” as this is a unsubstantiated estimation of potential future tax profits and there are no guarantees that such an amount can be raised through the proposed excise tax. Even if such an excise tax is found to be lawful. This is an attempt to earn votes based on an unfounded speculation of future profits.

#14 Hemp cultivation requires a DEA license. As Amendment 64 is written it does not circumvent that requirement. Additionally the legislature can pass legislation that bans the growth processing and sale of industrial hemp.

*Summary and Analysis, page 1*

#21 Please remove “state penalties for marijuana offenses are not as severe”. All felonies have lifelong ramifications, Amendment 64 does not repeal any of the harsher marijuana penalties for average citizens(not businesses) and convicted felons do not have equal access to housing, employment, education, firearms and child custody for example.

#22 - #26 Please remove this whole section. Amendment 64 does not have any connection to the existing medical marijuana program and this is a blatant attempt to associate the acceptance of medical marijuana use with recreational marijuana use. This is extremely misleading and recreational users would not have a medical necessity affirmative defense nor does Amendment 64 create the same level of protections for marijuana users as Amendment 20 does for patients with debilitating conditions. If the proponents themselves claim Amendment 64 does not modify medical marijuana laws in any manner. How then could this be part of their single subject explanation of Amendment 64? Recent polling shows a wide support for medical marijuana use nationally but does not indicate the same for recreational use. The proponents are trying to confuse the two issues.

*Current federal and state penalties for marijuana offenses, page 2*

#2 Please mention contributing to a minor can result in serious penalties up to 16 years in prison, if I recall accurately, the increased supply will result in a significant increase in such charges as the primary group arrested for marijuana use are below 21. i.e Handing a 20 year old a joint at a party could result in serious charges. Another situation could be a child stealing their parent’s personal marijuana and bringing it to school. There are many serious legal consequences being glossed over here.

# Last Draft Comments from Interested Parties

## Rico Colibri, representing CARE: (Cont.)

### *Personal use of marijuana, page 2*

#10 - #11 Adults will not be able to keep any amount of marijuana grown as implied here. The courts have already ruled on vague constitutional language in the Beinor ruling and unless it is concisely stated no such extra constitutional protections will be assumed. Amendment 64 it self concisely states a limitation of one ounce for adult use. Please clarify this section to reflect that.

### *Amendment 64 states that its provisions are not intended to, page 2*

#17 Marijuana impairment is currently defined as 0 ng/ml of whole blood under the current law. We believe that should be clearly stated as voters have a vested interest to know that driving under any amount of marijuana shall remain unlawful. THC impairment is a hotly contested issue which will affect adult users in a manner not similar to alcohol the misleading campaign slogan most voters will be familiar with at this point. Additionally Amendment 64 suggests such a limitation 6(b) in the constitution and not in statute like alcohol DUI limits which in of it self is legally significant.

#23 Please add language that reflects the serious issue of a bank holding an individuals mortgage. How does one lawfully grow/use any marijuana if banks are federally secured? All mortgages typically have a provision that the property will not be used for illegal activity, which in the case of medical marijuana, included federal law although medical marijuana use was permitted under state law. Which has resulted in housing issues for some medical marijuana patients. This could translate to recreational users who own homes.

### *Regulation by the state, page 2*

#29 Please add Amendment 64 allows marijuana retail stores to be banned at the local level. So the DOR regulations must include provisions that allow local governments to prohibit marijuana establishments. This section could be confusing to voters.

#30-31 Please remove “unreasonable impracticable” which is impossibly vague. This is very confusing and could imply an average citizen has equal access to own a business and that is not true given the application fee of \$5000 alone. Who defines impracticable?

### *Regulation by local governments, page 3*

#20 - #38 Please remove the license chart this does not effect 99.9% of Colorado voters and would only apply to people who want to open a marijuana business. Simply listing the licenses in sentence #15 should suffice. This Blue Book draft appears to be an attempt to rewrite the title set by the Title Board, to add things that were denied in the legal title already set. This is an intentionally wordy Blue Book draft and in our opinion meant to overwhelm the voters from even reading the entire summary. The Blue Book is a brief summary to inform the voters and not meant to be propaganda. In

# Last Draft Comments from Interested Parties

## Rico Colibri, representing CARE: (Cont.)

comparison to support our opinion we are including a copy of the Blue Book for Amendment 20. Please note how much smaller it is.

### *Taxes, page 4*

#11 - #13 please remove "Each year, the first \$40 million in revenue raised by the excise tax will be credited to a state fund used for constructing public schools." This was already stated before and is not TABOR related and is predicting future and unknown profits. Please add excise taxes on illegal substances are constitutionally infirm and may not stand in court. If you keep this sentence, voters should be made aware that the \$40 million being thrown around as a marketing tool is a baseless assumption.

### *Effect on medical marijuana laws, page 4*

#17- #23 Please remove this section. This is the Amendment 64 summary and not Amendment 20's summary. Again the proponents are trying to associate the current medical program with their proposed recreational amendment which is irrelevant and misleading to voters.

#24 to #30 Please add language that reflects that MMJ businesses are already located in the only zoning available for marijuana husbandry and retail sales. Businesses authorized under Amendment 64 will actually compete with medical marijuana businesses if not put them out of business as medical marijuana centers can not operate on the same premises as a retail marijuana store nor can they sell to a recreational users. Coupled with the fact caregivers are banned to make a profit under HB1284, Amendment 64 will absolutely effect the medical marijuana program. It is safe to assume local ordinances and the state medical marijuana code will be modified to take Amendment 64 into account and as such the medical marijuana laws will be significantly affected. For instance a recreational marijuana store will have no incentive to grow marijuana for specific medical treatments and or would their employees have any education on proper medical application of marijuana etc... Amendment 64 is designed to shut down the medical program as demonstrated by the reduced application fee for existing medical marijuana businesses. Many patients may want to know this when they vote.

### *Industrial hemp, page 4*

Hemp cultivation requires a DEA license. As Amendment 64 is written it does not circumvent that requirement. Additionally the legislature can pass legislation that bans the growth, processing and sale of industrial hemp state wide. Hemp is not specifically legalized or even mandated to be regulated. Amendment 64 only directs the General Assembly to consider regulating hemp but provides no guidance therefore hemp farming can still be banned. Please add language that clearly states industrial hemp can be banned and or regulated like recreational marijuana which would make it impractical to farm.

# Last Draft Comments from Interested Parties

**Rico Colibri, representing CARE: (Cont.)**

*Arguments For, page 5*

#7 Please modify “Current state policies that criminalize marijuana” to read; current state policies that criminalize possession of one ounce or less of marijuana or the cultivation of six plants. Amendment 64 does not repeal the majority of arrest-able marijuana laws that continue to criminalize adult possession, cultivation and use of marijuana. Amendment 64 leaves the majority of state criminal marijuana laws in place and to suggest that all adult use and cultivation of marijuana is no longer criminalized is misleading and will result in increased arrests. Please clearly state the exact amount that is no longer criminalized.

#11 Please remove tobacco as adults 18 and over can use tobacco and Amendment 64 does not allow adults 18 to use marijuana and this is an inaccurate analogy given the strict limitations in Amendment 64 for adult use of marijuana.

#12 - #13 Please remove “marijuana may be beneficial for individuals with certain debilitating conditions.” Amendment 64 is not a medical marijuana Amendment and this is confusing to voters about the actual focus of the proposed Amendment.

#14 - #15 Please remove “The consequences of burdening adults with a criminal record for the possession of small amounts of marijuana are too severe”. This statement actually conflicts with their previous statement in sentence #21 - #22 on page 1 “However, state penalties for marijuana offenses are not as severe as penalties for many other drug-related offenses.” This is confusing to voters. We agree the consequences of a marijuana conviction do burden adults however those consequences are not for the possession of one ounce of marijuana or less as authorized under Amendment 64. Possession of one ounce or less of marijuana is a petty offense resulting in a \$100 ticket. The severe consequences are actually for all the other marijuana charges Amendment 64 does not repeal or address especially if you are a young adult 18 - 20, as they are provided no protections under Amendment 64. Which adults are they speaking of?

#17 Change “adults” to adults 21 and over. (through out the Blue Book)

#18 - #20 Please remove both references to “tested”. For example medical marijuana which is heavily regulated is not tested nor would it ever be practical to mandate testing as it would be far to expensive. This is not even the standard in the herbal supplement industry which is regulated by the FDA. This section is misleading and implies a rule not yet created by the DOR that would mandate all marijuana gram by gram would be tested.

#21 Should say “could help restrict underage access”, as it is common knowledge that underage users often enlist the aid of an adult to acquire both alcohol and tobacco and we believe this statement is slightly over the top.

#21- #22 Please remove “A regulated market will provide a safer environment for adults”. Amendment 64 allows local governments to ban marijuana retail stores

# Last Draft Comments from Interested Parties

## Rico Colibri, representing CARE: (Cont.)

(regulated sales) which will result in marijuana stockpiling in home grows which will cause more severe charges as there is no way to prove you grew the marijuana which supposedly you can keep as much as you grow as stated above in the Blue Book. How is stock piling marijuana “safer” when regulated sales can be banned? We believe this claim is a half truth.

#22 - 23 Please modify “The measure will also add” the measure COULD add tax revenue and jobs if it stands up in court against a federal preemption challenge. This is a prediction and not an absolute.

#26 Please remove “industrial hemp should be treated differently than marijuana.” The General Assembly is not directed to treat hemp any different than marijuana under Amendment 64. It should simply state that hemp should be regulated to be accurate.

#28 Please remove tobacco because of the age limit cited above.

#30 Saying hemp “should” be allowed is an accurate statement and should be repeated through out the Blue Book.

### *Arguments Against, page 5*

#34 - #35 It is under state law as well not just federal law because all of the other marijuana criminal laws that will remain on the books. Marijuana will remain in the definitions in the state controlled substance act under title 18 which will leave adult users open to other laws that cite those definitions such as unemployment benefits. Please specify it is not just about businesses who are open to asset forfeiture as any one who grows even one marijuana plant can have their homes and assets seized.

### *Arguments Against, page 6*

#3 There is no science that supports marijuana is physically addictive, please remove.

### *Arguments against to be added*

Amendment 64 is not legalization but only limited decriminalized use of marijuana under state law. The majority of jail-able marijuana offenses will remain on the books. These laws were created to enforce the prohibition of marijuana. Adult users who use marijuana outside of the very limited criteria defined in Amendment 64 shall be subject to criminal charges and all of the collateral consequences associated with a drug conviction including but not limited to; unequal access to employment, unemployment benefits, education, housing, occupational licenses, fire arm ownership, government aid, health insurance and loss of child custody. This may also apply to lawful adult marijuana users under state law, given marijuana will remain in the definitions under title 18 and the other laws that cite those definitions.

# Last Draft Comments from Interested Parties

## Rico Colibri, representing CARE: (Cont.)

The Amendment 64 campaign implies a grower can keep any amount of marijuana they grow at home and we feel that is not legally accurate since it does not repeal the majority of criminal cultivation laws or possession on the books. Possession of 12 ounces or more of any part of the marijuana plant living or not will remain a felony and Amendment 64 has no plain language protecting adults from those criminal penalties. Amendment 64 leaves marijuana in the definitions in the controlled substance act under Title 18. Penalties range from 1-3 years in jail and from \$1,000 to \$100,000 in fines with a surcharge of \$1,125. This places all adult home growers in danger. The Colorado courts will have a compelling interest to resolve this grey language and they will not construe additional meaning to the plain language of Amendment 64 which clearly only decriminalizes 1 ounce of marijuana and the cultivation of six plants all at the expense of the adult user and voter's tax dollars. Citizens have a right to know when voting this November especially parents who could lose child custody as has happened to lawful medical marijuana patients growing with children at home.  
18-6-401 C.R.S.(c)(l)

Amendment 64 does not guarantee that marijuana stores will be permitted under federal law. Although a state could declare by statute or constitutional provision that certain conduct would not be a crime under state law, it could not authorize / legalize any act that is a crime under federal law. Therefore, the licensing of recreational marijuana possession, use, transfer, etc. may not be upheld in a court of law. Nor does Amendment 64 specifically ensure the granting of marijuana licenses under state law as stated by the proponents own attorney at their Title Board hearings.

6-15-11 Title Board Hearing for "Regulate Marijuana" 2:02pm  
[http://www.sos.state.co.us/pubs/info\\_center/audioArchives.html](http://www.sos.state.co.us/pubs/info_center/audioArchives.html)

2 hours, 6 minutes, 44 seconds

Mr. Ramie, "We are requiring the implementation of a licensing facility, if you will, a process to get a license. We're not requiring the granting of a license.

Amendment 64 does not regulate like alcohol this needs to be clarified in the Blue Book in arguments against to inform and protect the public from the Amendment 64 campaigns intentionally misleading marketing. Colorado law states that no one can intentionally mislead the voters 1-13-109 C.R.S. Please add language for an argument against that clarifies nothing in the proposed regulations are similar to "regulating like alcohol" be it the type of licenses, the restrictions, fees, federal status and or state criminal penalties. This propaganda has done the public a great disservice as it opens more people up to the remaining criminal marijuana laws and other statutes under the assumption marijuana will now have the same legal protections as alcohol, which it will not. Below are excerpts from the Title Board supporting this argument.

7-6-11 Title Board Rehearing "Regulate Marijuana" 2:00 pm  
[http://www.sos.state.co.us/pubs/info\\_center/audioArchives.html](http://www.sos.state.co.us/pubs/info_center/audioArchives.html)

# Last Draft Comments from Interested Parties

## Rico Colibri, representing CARE: (Cont.)

minute 29, 10 seconds

Mr. Ramie, "If there is a concern "in a manner similar to alcohol" suggests it would be legal at all levels, and we don't want to have that concern out there...from our prospective, it would be acceptable to us in all 8 of the titles to drop the words "in a manner similar to alcohol."

minute 43, 39 seconds

Mr. Hobbes, "It sort of gets back to my concern about regulation verses legalization."

Mr. Ramie, "Exactly, and if we're suggesting "in a manner similar to alcohol", if that phrase, and I see how it could, carry the suggestion that we're now wholly legal on all levels, we don't want to suggest that because we're not."

Amendment 64 16(5)(f) authorizes "local bans" of ME businesses. That is a provision that creates confusion and violates the equal rights of Colorado citizens. This also would force most citizens to buy from the black market in banned areas as most people will not have the skill set, room, capital investment for grow equipment or want to risk the legal ramifications to grow for themselves, which only encourages criminal activity as the demand will be much higher if Amendment 64 passes, bolstering black market profits in banned areas, providing additional financial incentives to criminal organizations.

Amendment 64 is intended to allow out of state investment in marijuana businesses (the primary fenders behind A64), which would violate interstate commerce laws and mandate federal intervention. This would place Coloradans at a greater risk for legal issues and waste tax payer dollars on massive enforcement of federal marijuana laws and or protracted lawsuits. Was this considered to the fiscal impact statement?

Excise taxes on a federally illegal substance can be struck down in court. 16(1)(a) and 16(5)(d) does authorize an "excise tax" of a controlled substance (marijuana). In a fairly recent case, *Waters v. Farr*, the Tennessee Supreme Court held that use of controlled substances was unauthorized, there was no privilege to use them, and the use – an illegal activity – could therefore not be legally subject to an excise tax. In other words, in order to create a taxable "privilege" to possess, use, convey, marijuana, it would have to be legalized. "Decriminalizing" does not give anyone the "right" or privilege to use marijuana, it only removes the criminal sanctions in full or in part for doing so, therefore, the "excise tax" provisions are constitutionally suspect.

Amendment 64 sets a dangerous legal precedent of applying taxes to agricultural seed. (viable marijuana seed is defined as marijuana in Amendment 64). Per 39-26-716(4)(b) all sales and purchases of seeds are exempt from sales taxes in Colorado. Amendment 64 taxes marijuana seed and specifically creates an excise tax on viable marijuana seed and this could be incredibly harmful to all hemp farmers and all Colorado farmers who use and produce agricultural seed.

# Last Draft Comments from Interested Parties

## Rico Colibri, representing CARE: (Cont.)

Hemp is not specifically legalized or even mandated to be regulated, Amendment 64 only directs the General Assembly to consider regulating hemp but provides no guidance therefore hemp can still be banned. Additionally hemp could be regulated

like recreational marijuana and this would be completely unpractical for hemp farmers to produce or derive enough profit because of the over regulation. This is a very important point seeing that many people support industrial hemp even more so than medical marijuana. Voters have a right to know that hemp may not be allowed.

6-15-11 Title Board Hearing for "Regulate Marijuana" 2:02pm  
[http://www.sos.state.co.us/pubs/info\\_center/audioArchives.html](http://www.sos.state.co.us/pubs/info_center/audioArchives.html)

minute 11:30 seconds

Mr. Hobbes, per industrial hemp, "They have to act but it doesn't give them any guidance on what to do so I suppose the General Assembly can enact a law that says there will be no regulation of cultivation, processing or sale of industrial hemp. Is that accurate?"

"Mr. Fox, "If that interpretation is there, than yeah, that would be an option for them. Yeah. We would hope the interpretation of this would be a directive that they should affirmatively regulate it. But if they chose to do otherwise, we will be stuck with it."

minute 9:40

Mr. Ramie, "The measures that have that provision (industrial hemp) in there we are directing the General Assembly to adopt a regulatory structure addressing industrial hemp. Um.....Obviously that is not essential."

minute 14:40

Mr Fox "If you look at the current MMJ system...you have significant limitations on the number of plants that can be grown and so on, and that they should be grown inside, for instance, I believe and you would end up with similar regulations. So, say, say this passes and the DoR regulates it and says all growing needs to occur inside and so on and that's what they do, it just wouldn't make sense to try to grow industrial hemp under those conditions.

*Estimate of Fiscal Impact, page 6*

#23 Please add law enforcement behind "actions taken by". There will be increased arrests for young adults and those adults 21 and over who thought marijuana was to be regulated like alcohol when in fact it is not. One does not become a drug felon for driving around with a case of beer. An analogy would be moving from one house to another while moving all the marijuana grown and stocked piled at the previous residence which the proponents claim would be lawful. The courts will have a compelling interest to define limits in light of the massive amounts of marijuana produced in communities that ban retail marijuana stores in conflict with the one ounce limitation as defined in Amendment 64. Even though Amendment 20 allowed medical use of marijuana for patients with qualifying conditions we still have patients in the

# Last Draft Comments from Interested Parties

## Rico Colibri, representing CARE: (Cont.)

courts to this day over a decade later. Where is the fiscal statement for increased law enforcement?

#25 Please remove “ The fiscal impact assumes that the DOR will regulate marijuana under this measure in the same way it regulates medical marijuana under current law.” Because the proposed licenses and rules are not the same as medical marijuana. For example there are no residency requirements and the background checks to verify out of state investors was beyond the scope and budget of the DOR and the medical marijuana enforcement division and would drive up costs significantly as stated in both the HB1284 and HB1043 hearings. Additionally the notion that Amendment 64 was going to regulate like alcohol as opposed to medical marijuana was clearly stated by the proponents themselves at their Title Board hearing. If the Blue Book committee feels that Amendment 64 regulates exactly the same as medical marijuana then the title set by the Title Board would be inaccurate and the signatures gathered under that title in question. Additionally the medical marijuana enforcement division ran out of funds after spending roughly 8 times the amount for state wide liquor enforcement, is this the assumption on how recreational marijuana will be regulated by the DOR?

#27 Please remove “increase between approximately \$4.0 million and \$22.0 million per year.” based on who’s estimate and is that increase accounting for the increased law enforcement activities associated with narc tourism, increased interstate trafficking and increased arrests of young adults 18 -20 and underage users in light of the remaining criminal marijuana laws and increased supply of marijuana? This is extremely misleading.

#32 Please remove “increase an estimated \$1.4 million in the first year and \$0.9 million annually thereafter,” Based on who’s estimate? So licensing fees will cover law enforcement activities outside of enforcement of regulations for marijuana businesses? In point of fact the MMED has already spent 9 million on enforcing medical marijuana regulations alone and is currently under funded. How on earth can it be 1.4 million? So is the assumption that the MMED will dissolve and hand over all it’s assets to the new recreational marijuana industry leaving MMJ patients no alternative to recreational stores in direct violation of both the federal CSA and international treaties? This is misleading at best if not an out right fabrication.

Mr. Colibri also submitted a report titled Potential Impact of Beinor Decision on Rights and Benefits (Attachment B) and a copy of the 2000 Blue Book of which only the analysis for Amendment 20 is attached (Attachment C).

## Annamarie Jensen, representing the Colorado Association of Chiefs of Police and the Colorado Drug Investigators' Association:

Hi. I have been out of town, and did not get my comments in by the 7th, but here is one point your analysis is missing. Because federal banking laws do not allow anyone to bank the proceeds of federally illegal activities, these marijuana businesses will not be able to legally bank and will be cash only businesses, much as dispensaries are

# Last Draft Comments from Interested Parties

## **Annmarie Jensen, representing the Colorado Association of Chiefs of Police and the Colorado Drug Investigators' Association: (Cont.)**

now. Cash only businesses invite organized crime who look for ways to launder money. Additionally, cash only businesses invite desperate people such as addicts in search of a high, to rob them. Some of these businesses will be in neighborhoods, and this will decrease public safety. If amendment 64 passes, law enforcement predicts a huge increase in shady out of state investors looking for ways to hide illegal money. This will bring with it violence in protecting those assets.

## **Michelle LaMay, representing the Relief For Possession of Cannabis Act Colorado 2012:**

Inflexible, predetermined and complex regulations concerning a small commercial business have no place in the Colorado Constitution.

## **Ernie Martinez, representing the Colorado Drug Investigators' Association:**

Thank you for the opportunity to provide input for your analysis of Amendment 64 concerning the use and regulation of marijuana. We would like to make some suggestions to modify the arguments against 64 with the following wording changes:

1. Even if Amendment 64 were to be adopted, it would conflict with federal law in which use, possession, sale and cultivation of marijuana would remain illegal. This would expose Colorado consumers, businesses and even government to the potential of federal prosecution, as well as seizure of property. This constitutional amendment has no residency requirement, no limits on how much a marijuana store can possess or how many plants can be grown, and no prohibition on establishing "private" marijuana clubs. Amendment 64 would make Colorado's marijuana laws more liberal than that of the Netherlands. Anyone over 21 can grow marijuana and there is no restriction to co-op growing in a residential area, even if local ordinance restricts commercial operations. Amendment 64 would negate any reason to have the medical marijuana system in place since anyone 21-years-of-age could either grow their own or buy marijuana without needing a doctor's exam and recommendation or medical registry card.
2. Recent studies demonstrate that marijuana adversely impacts concentration, coordination, and perception; all important skills for learning, working, and driving. Allowing retail stores for legalized marijuana will make the drug more accessible, lower the perception of risk, and give the impression of public acceptance; all of which are factors that lead to increased use. Other experiments with legalization have resulted in not only an increased use in adults but increased use among the most vulnerable population – teenagers. Colorado already has an issue with traffic fatalities due to marijuana-impaired drivers. This would likely increase if legal.

# Last Draft Comments from Interested Parties

## **Ernie Martinez, representing the Colorado Drug Investigators Association: (Cont.)**

3. Because the provisions of Amendment 64 are in the state constitution, it severely limits the legislature's ability to modify as it gives people the constitutional right to use, possess, sell and grow marijuana. This would probably lead to significant litigation since, under the laws of this nation, marijuana would still be illegal. Issues dealing with the drug-free work environment and employment, housing, employees' rights and transportation are just a few areas of potential conflict. Being the only state in the country to legalize marijuana would have a negative impact on the image and reputation of Colorado with the potential to impact business, families and tourism.

Recommendations for Page 1, section "Current Federal and State Penalties for Marijuana Offenses":

- Lines 26 – 29: We believe that it is unnecessary and irrelevant to Colorado law which A-64 addresses and confusing to include federal penalties. Amendment 64 will have no impact on federal law whatsoever. Thus, there is no reason to include federal penalties.
- Lines 29 – 33: Under the state law portion, various district attorney offices throughout the state handle possession of 2 ounces or less differently. We believe it is more accurate and recommend this wording be changed as follows:
  - Under state law, individuals accused of possession of 2 ounces of marijuana or less and sharing 1 ounce or less of marijuana without payment may appear in court and can be fined up to a maximum of \$100. Other penalties range from no jail time to a fine of \$7,000 and/or twelve years in prison for knowingly distributing more than 100 pounds of marijuana.

## **Richard O. Parry, representing himself:**

"First started by legalization activists as an intermediate step, medical marijuana isn't a medicine at all for some people, but merely a doctor-validated excuse to get high."  
Spectator (Seattle University), June 2, 2010

Marijuana is not a Medicine at all.

Following in California's footsteps, Colorado voters have a decision to make. The issue up for vote, is whether or not to, with restrictions, legalize marijuana. If passed, the statute will allow people 21 years old or older to possess, cultivate, or transport marijuana for personal use. The measure will further allow state government to regulate and tax this new industry. Under this proposed law, marijuana use and possession is strictly prohibited in close proximity to schools and minors.

Under Federal law, marijuana is an illegal drug and is classified as a Schedule I

# Last Draft Comments from Interested Parties

## Richard O. Parry, representing himself: (Cont.)

drug under the Controlled Substances Act. The Drug Enforcement Administration (DEA), which administers the CSA, continues to support that designation and the Food and Drug Administration agreed because marijuana met the three criteria for placement in Schedule I under 21 U.S.C. 812(b)(1) (e.g., marijuana has a high potential for abuse, has no currently accepted medical use in treatment in the United States, and has a lack of accepted safety for use under medical supervision.” (1) For the supporters of the initiative this November their legal arguments are two-fold: First, they contend that the categorical classification within the CSA is unmerited. Second, they challenge Congress’ authority within the Commerce Clause, in regards to the intrastate manufacture and possession of marijuana. The Supreme Court, in *Gonzales v. Raich*, addressed these points. The Court noted, “The CSA provides for the periodic updating of schedules and delegates authority to the Attorney General, after consultation with the Secretary of Health and Human Services, to add, remove, or transfer substances to, from, or between schedules. § 811. Despite considerable efforts to reschedule marijuana it remains a Schedule I drug.” (2) In respect to the Commerce Clause the Supreme Court relied on prior rulings in *United States v. Lopez* and *United States v. Morrison* to conclude that, “Congress may regulate intrastate cultivation and possession of medical marijuana under the Commerce Clause, because such conduct arguably has a substantial effect on interstate commerce.” (3) Furthermore, in *United States v. Oakland Cannabis Buyers Cooperative*, the Supreme Court dismissed the argument that “medical necessities” are an exception to the Act.

Advocates for legalizing marijuana argue four other main points. First, the prohibition of marijuana infringes upon the basic right of freedom of choice. Second, supporters claim several medical uses of the drug have been proven. The most frequently mentioned are the benefits offered to cancer and AIDS patients, people suffering from glaucoma, epilepsy and conditions with deteriorating bones/cartilage such as herniated disks in the spinal column. Social woes and other current issues connected to law enforcement, make up the third main argument in favor of legalizing marijuana. In regards to law enforcement, proponents claim that a decrease in crime and violence both within the state as well as at the border is a logical result of legalization. Furthermore a reduction in fiscal spending as well as an improvement on the overcrowding of our prisons will also result if this measure passes. The fourth main argument in favor of legalizing marijuana could not be more appropriately timed in the minds of those who support it – revenue. At a point of worldwide recession where the most, if not all state and local governments have a high level of unemployment, a massive budget deficit and struggling economy, adding a new industry that is estimated to generate billions of dollars in revenues and taxes, is beyond tantalizing.(4)

Those who support legalization of marijuana ignore or gloss over a number of issues. Marijuana is widely considered a “gateway” drug, which leads to use of harder, more harmful drugs such as cocaine, methamphetamines and heroin. Health and medical issues stand as another argument against legalization. Long-term use and abuse of marijuana can lead to health and well-being problems. Similar to those who oppose the tobacco industry, many will argue that the second-hand smoke of marijuana will become a large debate due to the fact that with this drug, we not only have the harmful effects of the smoke in general, but the psychological harm it can

# Last Draft Comments from Interested Parties

## Richard O. Parry, representing himself: (Cont.)

have and the impairment it can do to the innocent, including children and teens. Last, no one seriously believes that criminals and individuals, who are involved in illegal activity in regards to marijuana will suddenly become law-abiding citizens with a change of the law. To the contrary, these scofflaws are more likely to become involved in other crimes and that society is benefitted by having drug dealers incarcerated. (5) The final argument for those who contest the need to legalize is the counter claim of the proponents revenue assertion. The reality is, that the revenues, if any, brought in from tax will be dwarfed by the health and social costs incurred by elements coming into play once marijuana is legalized.

Those who support legalizing marijuana feel it against their human rights to be restricted within their freedom of choice. In other words, drugs like marijuana, are victimless crimes similar to prostitution and gambling where the government has no business becoming involved. There is no such thing as a victimless crimes. Drug use, similar to gambling and prostitution, affects the family unit. Drug use leads to abuse in the forms of neglect, domestic violence, abandonment, financial woes and even child abuse. Outside of the family unit drugs can lead to more serious crimes that affect the community as a whole, including but not limited to, murder, rape, vehicular accidents and assault. Studies show that about half of our violent crimes are committed by drug users. (6) Proponents want voters to believe that marijuana does not lead to violent crime. That is hardly the case. Marijuana is a drug, which leads to harder and more serious drugs, which lead to harder and more serious crimes. Legalizing marijuana is a doorway to legalizing other substances as well. The Hearst Castle in San Simeon is instructive. The main dining room is where Randolph Hearst entertained his many guests and the dining table is, to this day, decorated as it was back in the 1920s. At each setting there is a small shot glass packed with cigarettes, because the Surgeon General of that time claimed that a cigarette after dinner assisted in opening up the airways and the strengthening of the lungs.

## Marijuana is not a Harmless Wonderdrug

Similarly, supporters for the current marijuana movement continue to rely on claims that the “wonderdrug” has many positive health benefits. Dr. Robert L. DuPont, President of the Institute for Behavior and Health and first United States “Drug Czar” under President Richard M. Nixon has the following to say about Marijuana’s health benefits. “The concept of ‘medical marijuana’ is ironic because smoked marijuana is the cause of many serious health problems, and it is the solution to none... There are more effective, safer and better-tolerated medicines now available for all of the illnesses for which the marijuana advocates propose using smoked marijuana... How can it be explained that the only form of this ‘medicine’ they support is smoked marijuana even though everyone who has studied this issue has concluded, as the Institute of Medicine committee did, that smoking is inherently an unreliable and toxic route of administration for any medicine? More people need to see ‘medical marijuana’ for what it is: a cynical fraud and a cruel hoax.” (7) In this testimony before a government committee DuPont made reference to the many findings on the “medical” uses of marijuana. First, if marijuana and current synthetic drugs were soldiers in the war on health, marijuana would be compared to a shotgun and synthetic drugs would be snipers. The one would be less effective and cause more collateral damage,

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## Richard O. Parry, representing himself: (Cont.)

whereas the latter would be direct and powerful. “While smoking marijuana may allow patients to temporarily feel better, the medical community makes an important distinction between inebriation and the controlled delivery of pure pharmaceutical medication” (8) Second, the effects of marijuana to treat AIDS patients and those with glaucoma are short-lived.

Again, marijuana’s effectiveness in all ‘medical’ uses is overshadowed by current medicine’s precise ability to control and heal. In fact, the synthetic drug versions derived from marijuana are still less effective than the current medications that are available to patients today. “Synthetic THC, by the name of Marinol...on the market since 1985...has not been widely used because patients and physicians generally eschew it in favor of alternative medicines with more reliability and efficacy and with fewer side effects.” (9) Third, there are many obvious and too many unknown health detriments that are derived from smoking marijuana. From the more than 400 chemical compounds that reside in the cannabis plant, over 2000 chemicals are produced when exposed to heat and delivered to the human body via the smoke. To name a few: hydrogen cyanide, acetone, ammonia, carbon monoxide and benzene. Benzopyrene, in particular, has been implicated in lung cancer and is known to suppress a gene (P53) that governs cell growth.” (10) Other findings are startling, “There is evidence which indicates that the carcinogens in marijuana are much stronger than those in tobacco...smoking marijuana results in four times the amount of tars and carbon monoxide, and it damages pulmonary immunity...in addition, it causes four times the risk of a heart attack in the first hour after ingestion for people over 50 years of age. Also, the incidents of head and neck cancers occur fifteen years earlier in marijuana smokers than in tobacco smokers.” (11)

Supporters for the legalization of marijuana, in their efforts to legalize the drug, cite many ways in which law enforcement has failed and thus how law enforcement agencies will be benefitted if the drug is legalized. They argue that funds and manpower allocated to drug enforcement could be wiser used elsewhere. True there are societal costs to maintain current drug prohibitions, however it is contended that making a drug legal does not eliminate its effects from the view of the enforcing agencies. Legalizing drugs would not cut the costs of the criminal justice system. Arrests for alcohol-related crimes such as violations of liquor laws and driving under the influence totaled nearly 2.7 million in 2008. Marijuana-related arrests totaled around 750,000 in 2008. (12) Furthermore, we have learned, through simple economics, that controls and prohibitions help to keep prices higher, and higher prices help keep use rates relatively low, since drug use, especially among young people, is known to be sensitive to price (13) So, if we legalized marijuana, prices will come down, which will increase usage, which could increase arrests to the numbers similar with that of alcohol as stated above, thus negating the idea of reallocating funds and manpower. One important point often missed with the cost savings argument (if law enforcement agencies did not have to monitor marijuana), government costs associated with the distribution, regulation and control of this new industry would increase along with added costs of treatment due to an increase in users as stated previously. The costs associated with the legalization of drugs, as with alcohol, will be far higher than the current level. There will be no increase in revenue associated with the legalization of marijuana, but there will be increased costs.

# Last Draft Comments from Interested Parties

## Richard O. Parry, representing himself: (Cont.)

The main psychoactive ingredient in marijuana, THC, has increased in potency over the years due to cultivation methods. Where the THC level was around 2-3% in the 1970's, it is upwards of 28-33% today. Though it was considered a depressant in the 70's, today it is reaching hallucinogenic status. (14) Legalizing marijuana would add a new scope to the government regulations in terms of THC levels and content. If we accept the idea that marijuana should be legalized because our efforts to keep it illegal are failing, we accept the idea that other forms of illegal activity, such as child pornography, despite their illegality, should be legalized. Since we know that a significant number of drivers disobey the speed limits should we abolish them? Or since high school students are drinking alcohol, why not lower the legal age of drinking to 12 where statistically speaking, children are beginning to experiment with drugs anyway. If we are to learn anything from communities that have legalized marijuana Amsterdam would be our guide. "They are closing down marijuana outlets, or "coffee shops" because of the nuisance and crime risks associated with them. What used to be thousands of shops have now been reduced to a few hundred, and some cities in the Netherlands are shutting them down completely." (15)

The Marijuana Initiative Will not Reduce the Budget Deficit with Tax Revenue; it will make the Deficit Worse

If ever there was a time when the State of Colorado could use something to turn its economy around, this is it, and supporters for the legalization of marijuana have found their main selling point. Unfortunately, many voters are buying it. At first glance, legalizing marijuana seems like the answer to all of our economic woes. The outlook is positive for revenues that could be generated from a marijuana industry when looking at tax revenues from alcohol and tobacco alone. In 2007, for example, Federal and State tax revenues were \$14.5 billion and \$25 billion respectively. Unfortunately the social, legal and health costs of these two legal drugs were \$185 billion and \$200 billion in that same year respectively. The United States' costs in lost productivity, crime, health care and other expenditures, per year, for illegal drugs is \$180 billion. (16) These costs only increase with an increase in affordability and accessibility through legality. Black markets benefit in instances like this and they will too if marijuana is legalized. Why buy taxed product when one can grow it themselves or on the black market where it is not taxed?

The Marijuana Initiative will not turn Drug Dealers into Law-Abiding Citizens

Consider also the federal Racketeer Influenced Corrupt Organization (RICO) Act. This law makes it illegal to deal in controlled substances (including marijuana). The penalty includes a fine of up to \$25,000 per violation, imprisonment for up to twenty years, or both. The drug dealers know this. They also know that if they start providing the documentation that is necessary for the payment of the taxes they are to collect, they are providing the federal government with all of the evidence that is necessary to convict. The drug dealers will guarantee their own conviction by complying with state law. Anyone that thinks drug dealers will submit the required information, or actually collect the necessary taxes, is naïve, to put it mildly.

# Last Draft Comments from Interested Parties

## Richard O. Parry, representing himself: (Cont.)

If money is truly an issue there are other ways to generate revenues such as increasing fees for drug violators and drunk drivers. There is no evidence that suggests that introducing an industry of this type will make our economy better off. Legalizing marijuana will make it easier for criminals and drugs to saturate our communities, schools and homes. The drug has no benefits, only drawbacks. The revenue it might generate would immediately be overshadowed by governmental regulation costs and increased crime. Law enforcement, the medical community, the federal government and the Supreme Court have proclaimed their opposition to legalized marijuana. The voters should heed these recommendations.

## References

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2. Gonzales v. Raich, 545 U.S. 1 – Supreme Court 2005, Part II § 8
3. Gonzales v. Raich, 545 U.S. 1 – Supreme Court 2005, Part B § 1
4. Deborah White, Pros & Cons of Legalizing Marijuana, 2009, Fiscal Reasons – Bullet 1
5. Deborah White, Pros & Cons of Legalizing Marijuana, 2009, Law Enforcement Reasons – Bullet 1
6. California Narcotics Officers Association, The Myths of Drug Legalization, 1998, p. 3
7. Robert L. DuPont, Marijuana and medicine: The need for a science-based approach, Testimony of Robert L. DuPont, M.D., 2004, Conclusion § 2
8. Office of National Drug Control Policy, Medical Marijuana, Reality Check, Washington D.C., 2007
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10. Susan Urbanek Linville, The Case Against Legalizing Marijuana, 2002, § 6
11. Robert L. Maginnis, Hemp is Marijuana: Should Farmers Grow It?, p. 4
12. Federal Bureau of Investigation, Uniform crime reports, Washington D.C., 2008, [www.fbi.gov/ucr/ucr](http://www.fbi.gov/ucr/ucr)
13. Williams, J., Pacula, R., Chaloupka, F., and Wechsler, H., Alcohol and Marijuana Use Among College Students: Economic Complements or Substitutes?, Health Economics 13(9):825-843
- Unknown
14. Drug Enforcement Report, THC Levels: 1960's to Present - Researchers Challenge Data on Potency of Marijuana, 1995
15. Government to scale down coffee shops, Ministry of Health, Welfare, and Sport, 2009
- Harwood H., Updating Estimates of the Economic Costs of Alcohol Abuse in the United States: Estimates, Update Methods and Data, 2000
16. Fleener P., Cigarette taxes, black markets, and crime, CATO Institute, 2003

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## Roger Sherman, representing Smart Colorado:

We strongly take issue with the new language added to the first argument for. This statement has no basis in fact and is misleading: "Current state policies that criminalize marijuana fail to prevent its use and availability and have contributed to the growth of an underground market. By creating a framework for marijuana to be legal, taxed, and regulated under state law, Amendment 64 provides a new, more logical direction for the state." There is abundant evidence that refutes the statement, including:

- Overall drug use has been reduced by 50% over the last 40 years. Source: California Narcotics Officers' Association and California Attorney General's Office, *The Myths of Marijuana Legalization*, 1994.
- A high school senior in 2008 is half as likely to be a current marijuana user than a high school senior in 1978. Source: University of Michigan, National Household Survey (NIDA) and High School Senior Drug Abuse Survey, 1979 and 2008.
- Drug use by youth has decreased 24% in the last decade. Source: Office of National Drug Control Policy Fact Sheet, "Marijuana Legalization: A Bad Idea."
- 91% of our people 12 years or older don't use drugs. Source: Office of National Drug Control Policy, *National Drug Control Strategy*, 2011
- In Colorado, only 1% of court commitments to prison in 2010 involved marijuana charges. There were more court commitments to prison for traffic-related offenses (185) as for all marijuana offenses (91). Source: Colorado Department of Corrections, statistical report: FY 2010, February 2011.

We also repeat our objection to the following statement in the second argument for: "The measure will also add needed tax revenue and job opportunities to the state economy."

- The best way to estimate the potential revenue versus the cost of legalization would be to examine the two legal drugs. In the case of alcohol, in 2007 the federal and state governments collected approximately \$14.5 billion in revenue from the sale of alcohol. That covered only 10% of the overall alcohol-related costs (\$185 billion) for healthcare, lost productivity, criminal justice, traffic crashes and deaths, etc. Source: Gil Kerlikowske, director, Office of National Drug Control Policy, presentation to California Police Chiefs Association, March 8, 2010.

# Last Draft Comments from Interested Parties

## Roger Sherman, representing Smart Colorado: (Cont.)

- In the case of tobacco, this country collects approximately \$25 billion in taxes from the sale of tobacco products but spends more than \$200 billion on all the social costs related to the adverse effect of tobacco use. That means that the taxes collected only cover about 12% of the cost. Source: Coalition for a Drug-Free California, "Talking Points," 2010.

Thank you for your consideration of our comments.

## Brian Vicente, representing the Campaign to Regulate Marijuana Like Alcohol:

### *Comments Resubmitted and Important*

*Page 1, Line 4* - Please add "privately" before "use." The initiative specifically allows the private use of marijuana, whereas non-private ("public") use will remain illegal. Saying that "use" is legal not only creates the impression that people will be able to openly use marijuana on the streets, but non-clarification in this context could also lead to adults being arrested for conduct they thought was legal after this initiative passes.

*Page 5, Line 11* - Please replace "may be" with "is." Every objective study that has ever been conducted on marijuana has concluded beyond a reasonable doubt that marijuana is far less harmful than alcohol based on a variety of indicators. For the same reason that Arguments Against #2 does not say, "Marijuana may impair," there is no reason why this Argument For should say marijuana "may" be less harmful.

*Page 5, Line 11 & Page 5, Line 28* - We are strongly opposed to the inclusion of "tobacco" in two places in the Arguments For section and request that they be removed. As a campaign, we do not compare marijuana to tobacco. We do not talk about their relative harms and we do not talk about whether adults should be able to use marijuana, just as they are able to use tobacco. The campaign, which is actually called the Campaign to Regulate Marijuana Like Alcohol, makes the argument that people 21 years old or older should be able to use marijuana, just as people 21 years old or older are allowed to use alcohol. Most people in the state know that we consistently talk about how marijuana is objectively less harmful than alcohol. **Tobacco use is seriously looked down upon in society and we do not think it is fair to raise the issue of tobacco use in the "Arguments For" section, creating an association between marijuana and tobacco in the minds of voters.** The language in the first Argument should read: "The use of marijuana by adults may be [we prefer "is," as noted above] less harmful than the use of alcohol, which is already legal for adults to use and are regulated by the state." Similarly, the language of the third Argument should read: "Adults should have the choice to use marijuana, just as they have that choice with other substances such as alcohol."

*Page 5, Line 24-26* - We believe that the first sentence in this paragraph should be removed. The purpose of the initiative is not to send a message to the federal government or other states. It is to improve the law in Colorado for the people of

# Last Draft Comments from Interested Parties

## Brian Vicente representing the Campaign to Regulate Marijuana Like Alcohol: (Cont.)

Colorado. **In place of the first sentence, we believe it is very important and fair to include the following language, given the assertions made in the "Arguments Against":**

*Amendment 64 does not affect laws prohibiting driving under the influence of marijuana or driving while impaired by marijuana, nor does it affect the ability of employers to restrict the use of marijuana by employees.*

(See provisions of the proposed amendment, below.) Given this change, we proposed minor modifications in the remainder of the paragraph:

*The measure simply gives individuals 21 years old and the choice to use marijuana, just as they have that choice with other substances such as alcohol. Further, Amendment 64 would allow industrial hemp to be grown, processed, and sold domestically for fuel, building materials, clothing and food, just as it is in the rest of the world.*

Amendment 64:

(6) Employers, driving, minors and control of property.

(a) Nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Nothing in this section is intended to allow driving under the influence of marijuana or driving while impaired by marijuana or to supersede statutory laws related to driving under the influence of marijuana or driving while impaired by marijuana, nor shall this section prevent the state from enacting and imposing penalties for driving under the influence of or while impaired by marijuana.

### *New Comments*

*Page 1 line 19* - Change "inhaling" to "vaporizing." Inhaling is an ambiguous term that overlaps with smoking. Vaporizing is a common word used in the medical marijuana community to describe the act of heating marijuana up without burning it and breathing in the vapors.

*Page 1 line 34* - Add "not including court costs and the \$100 state mandated drug surcharge fee" after \$100. For more information on the Drug Offender Surcharge please see C.R.S. 18-19-103(2). This statement would be more accurate than only describing half of the statutory penalty for petty marijuana offenses.

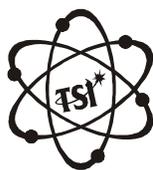
*Fiscal Impact Statement.* The Fiscal Impact Statement does not describe any law enforcement and court savings due to ending marijuana prohibition. Jeffery Miron, a

# Last Draft Comments from Interested Parties

## **Brian Vicente representing the Campaign to Regulate Marijuana Like Alcohol: (Cont.)**

Harvard economist, estimates that Colorado would save \$64 million a year by ending marijuana prohibition.

<http://www.prohibitioncosts.org/wp-content/uploads/2012/04/MironReport.pdf>



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*Research & Reviews in***BioSciences***Review*

RRBS, 4(1), 2010 [4-9]

**Cannabis toxicity and adverse biological activity****Ronald Bartzatt**University of Nebraska, College of Arts & Sciences, Durham Science Center, Chemistry Department, 6001 Dodge Street,  
Omaha, Nebraska - 68182, (U.S.A.)E-mail : [rbartzatt@mail.unomaha.edu](mailto:rbartzatt@mail.unomaha.edu)Received: 1<sup>st</sup> January, 2010 ; Accepted: 10<sup>th</sup> January, 2010**ABSTRACT**

Consideration of cannabis as a medicinal entity is an ongoing discussion that requires additional clinical and laboratory research. Marijuana smoking deposits 4x times more tar in the lungs as compared to tobacco smoke and amount of some pro-carcinogens are up to 2x times greater in marijuana tar. Determination of Dependence/Physical Harm relationship by investigators shows a proximity of cannabis to khat, LSD, ecstasy, alkyl nitrites, and methylphenidate. Non-users that are exposed to cannabis inhalant may suffer loss of coordination, dizziness, confusion, difficulty walking, blurred vision, and vomiting. Illicit drug use has been shown to be strongly associated with homicide events. Psychotropic effects from THC inhalant reaches a maximum after 15 to 30 minutes. Psychotropic effects from oral ingestion of THC reaches maximum level after 2 to 3 hours. Marijuana smoke contains higher levels of specific toxins than tobacco smoke. Ongoing research outcome challenges the concept that marijuana smoke is less harmful than tobacco smoke. Marijuana smoke causes lung damage quickly and could out pace tobacco smoke by as much as 20 years. Studies has shown cannabis usage worsens the course of schizophrenia spectrum disorders and that adolescents possess a greater risk from cannabis than older individuals. Cannabis abuse could be an independent risk factor for the further development of psychotic disorders. Further research and study is warranted concerning clinical application of cannabis.

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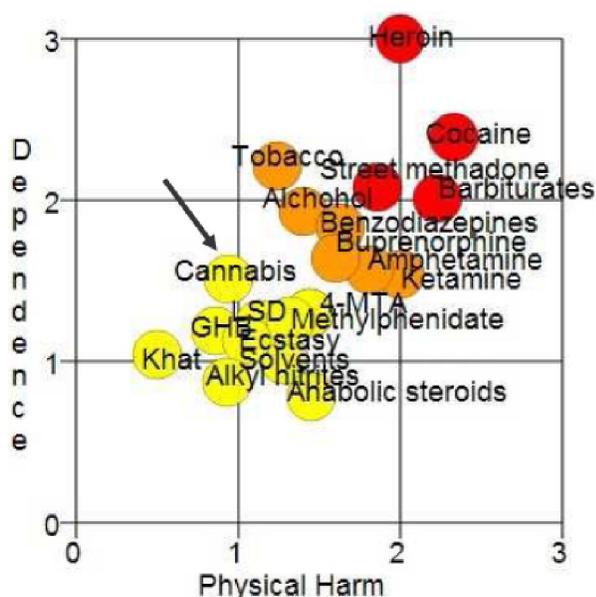
**KEYWORDS**

Cannabis;  
 Marijuana;  
 Toxic;  
 Hallucinogen;  
 Hemp.

**INTRODUCTION**

It would be erroneous medical judgment to presume the safety of cannabis usage as a consequence of findings suggesting some lesser danger than that known for substances such as cocaine and heroine. Even in the casual context of discourse it is accepted that cannabis utilization affects brain activities, memory effectiveness, and general health<sup>[1]</sup>. Dangerous side effects have been

reported with casual usage of cannabis. Various works have been presented indicating that cannabis application in treatment of medical disorders actually exacerbates the condition that is in treatment<sup>[1]</sup>. Potential adverse medical reaction to use of cannabis can contribute to the medical dangers of the disease to which it is applied<sup>[1]</sup>. Major after effects of cannabis consumption as an inhalant include respiratory related manifolded and aggravated infectious disorders<sup>[1]</sup>. Cannabis expresses



**Figure 1 : Rational scale 2-way plot of dependence (dependent variable) compared to physical harm (independent variable) indicating relative harm of cannabis (see inset arrow) and other abused substances<sup>[2]</sup>. A cluster of substances are in close proximity to cannabis and include khat, LSD, GHB, anabolic steroids, alkyl nitrites, ecstasy, 4-MTA, and methylphenidate**

the target physiological reactions quickly if applied as an inhalant, which in addition to the target effects, it impairs function of the smaller air passages, inflames lung tissue, effects chronic bronchitis, etc.<sup>[1]</sup>. Consequences of inhalant use of cannabis will be the major focus of discussion presented in this work. Cannabis use as an inhalant has been promoted extensively as a medically defined application for the treatment of serious conditions of HIV infection, cancer treatment, and medical ramifications of organ transplantation. Studies have indicated that cannabis utilization can actually accelerate the progression of HIV condition to whole AIDS, in addition to the increased possibility of Kaposi's sarcoma and of infections that endanger during an already disabled immune system<sup>[1]</sup>. Previous studies have shown a fourfold increase of plant tar deposited in the lungs occurs from marijuana smoke<sup>[1]</sup>, when compared to tobacco smoke. In addition, the tar phase of marijuana delivers increased concentrations of polycyclic aromatic hydro- carbons (inclusive of benzo-[ $\alpha$ ]-pyrene) compared to tobacco smoke<sup>[1]</sup>. Investigators have made attempts to compare adverse effects of cannabis from harm induced by other drugs such as alkyl nitrites, khat, cocaine, heroin, ketamine, etc.<sup>[2]</sup>, however differences in delivery methods, concentration variations, uncer-

tainties in poly drug usage, uncertainties in individual scoring, and other difficulties complicates and undermines the practicality of such scoring. One such scoring is shown as a 2-way plot is presented in figure 1, in which cannabis is placed adjacent to LSD, ecstasy, khat, GHB (gamma hydroxybutyric acid), and methylphenidate (see inset arrow). From such comparisons the dubious argument is advanced that cannabis is less hazardous than the profoundly dangerous cocaine, tobacco, and heroin. Marijuana utilized as an inhalant can incur damage on cells found in bronchial passages decreasing efficacy of the immune cells to resist bacteria and fungi<sup>[1]</sup>. This adverse effect is presumably more significant in patients who are immune compromised such as in HIV disease, patients receiving cytotoxic chemotherapy of cancer treatment, and organ transplant patients (all these the very category of patients promoted as targets for cannabis regimen). Although many studies have been completed concerning the pharmaceutical aspects of cannabis utilization, there remains much work to pursue in rumination of the continued assertion of applying marijuana for the treatment of various diseases.

## GENERAL CONSIDERATIONS

Although hemp has been used in some industrial applications those working with the material in this capacity have been shown to develop dermatitis and the potential for skin dermatitis<sup>[3]</sup>. Incorporation of marijuana into simple food preparations has been documented to induce vomiting, dizziness, confusion, blurred vision, dry mouth, dysphagia, dysarthria, and difficulty in walking and concentration<sup>[3]</sup>. An odds ratio (O.R.) analysis describes the strength of association (or non-independence) between two data values. A descriptive statistic, a value of O.R. greater than one implies an event is more likely in the initial group. Whereas an O.R. value equal to one implies equal likelihood of event in both groups and less than one implies event occurrence less likely in initial group. Outcome of previous studies showing that drugs play a role in premature death that extends beyond overdose and disease, including illicit drug association with homicide<sup>[4]</sup>, present a compelling contention while determining extent of medically intended marijuana. Cannabis present in homicide cases has been determined to present an O.R. value of 2.39, which is

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even greater than that for opioids (O.R. = 1.53) and psycho-stimulants (O.R. = 1.59)<sup>[4]</sup>. This result clearly supports the contention that marijuana is associated in homicide events. Non-drug using persons are determined to be at greater risk as homicide victims when residing in homes with illicit drug abusers<sup>[5]</sup>. In general, the use of alcohol and illicit drugs is associated with an increased risk of violent death<sup>[5]</sup>. Therefore the potential for violent events leading to death for non-drug users present in homes of illicit drug users poses a particular when considering comprehensive program for self-administration of cannabis.

### Pharmacology considerations

Delta(9)-Tetrahydrocannabinol (THC) does bring on a myriad of pharmacological effects in animals as well as humans<sup>[6]</sup>. Among these are activation of cytochrome P4501A1 gene which thereby potentially enhances the transformation of polycyclic aromatic hydrocarbons to active carcinogens<sup>[1]</sup>. In habitual marijuana smokers an overexpression of cell proteins associated with malignant transformations has been identified in bronchial epithelium cell<sup>[1]</sup>.

Cannabinoids exert many effects in vitro which are initiated by activation of G-protein-coupled cannabinoid receptors in both the brain and the peripheral tissues, with some evidence for non-receptor dependent mechanisms<sup>[7]</sup>. The pharmacokinetics aspects of THC will vary as a function of the route of administration, with pulmonary assimilation (inhaled THC) presenting the maximum plasma concentration within minutes, while psychotropic effects initiating in mere seconds to few minutes (reaching maximum in 15 to 30 minutes)<sup>[7]</sup>. Oral administration of THC initiate psychotropic with 30 to 90 minutes and maximize within 2 to 3 hours<sup>[7]</sup>. Acute adverse effects of anxiety, panic attacks, increased heart rate, and alteration of blood pressure occur with overdosage<sup>[7]</sup>. Extended usage may initiate a condition of dependency<sup>[7]</sup>. Cannabinoid receptors are distributed in peripheral tissues including the immune system, reproductive system, gastrointestinal tract, sympathetic ganglia, arteries, lung, heart, endocrine glands, as well as the central nervous system<sup>[8]</sup>. This finding strengthens the necessity of careful evaluation of all activity of cannabis when considering medicinally oriented application. Evidence also exists for various non-receptor dependent mechanisms of biological activity<sup>[8]</sup>.

### Comparison to tobacco smoke

Various studies have shown that the biological effects of cannabis abuse are significant and potentially dangerous. The use of cannabis as an inhalant for medical purposes presents problematic toxicity issues as well as pharmaceutical activity that is not well understood. Although some information have been made public that suggests cannabis is less harmful than profoundly toxic illicit drugs of cocaine and heroine<sup>[2]</sup>, it is improper and unsafe to determine that marijuana smoke is therefore benign. Studies have shown that marijuana smoke contains significantly higher levels of toxic agents such as hydrogen cyanide and ammonia<sup>[9]</sup>. Among the host of toxic substances identified in marijuana smoke are 50 that are known to cause cancer, ammonia level is 20x times greater in marijuana smoke than tobacco smoke, with some aromatic amines occurring at a level 3x to 5x times greater in marijuana smoke<sup>[9]</sup>. The impact of marijuana smoke on pulmonary tissue is substantial. The tissue damage occurring to the lungs by marijuana smoke is damage that is 20 years ahead that caused by tobacco smoke<sup>[10]</sup>. Current studies are discerning the possible deleterious effects on pulmonary DNA that is caused by toxic substances in marijuana smoke<sup>[11]</sup>. Marijuana smoke has been associated with numerous adverse pulmonary effects in human tissue, that include edema, bronchitis, and hypersecretion of mucus<sup>[12]</sup>. Various studies have demonstrated that condensates of marijuana smoke are genotoxic<sup>[12]</sup>. Human lung explants have been used to show that marijuana smoke may alter the DNA content and chromosome number<sup>[12]</sup>. In addition, previous studies have shown that in human consumption (inhalant) of marijuana smoke impairs large airway function and lung efficiency 2.5x to 5x times greater than tobacco smoke<sup>[12]</sup>. Marijuana smoke contains harmful substances and qualitatively the same chemicals as tobacco smoke<sup>[12,13]</sup>. Marijuana smoke contains selected polycyclic aromatic hydrocarbons (PAH) and in secondary smoke it is at levels greater than tobacco smoke<sup>[13]</sup>. Marijuana smoke has been associated with long term pulmonary injury and pulmonary inflammation<sup>[13]</sup>. Some organic compounds found in marijuana smoke include: toluene, benzene, pyridine, quinoline, isoprene, acrylonitrile, styrene, and 1,3-butadiene<sup>[13]</sup>.

## Cannabis and psychiatric effects

Studies in mice have shown that the feeding of marijuana would produce in dominant males an increase of flight activity, social activity, and sexual activity labeled as investigative in nature<sup>[14]</sup>. Upon removal of cannabis the same dominant males demonstrated elevated aggressive behavior<sup>[14]</sup>. Other animal research demonstrated identifiable behavioral pharmacology of cannabinoids that interact with cannabinoid neurotransmission modifiers that exhibit rewarding-reinforcing properties in the experimental animals<sup>[15]</sup>. Studies of human interaction have been completed. Individuals that have experienced childhood trauma and coupled with cannabis use are associated with significantly greater risk of psychotic symptoms than for each risk factor alone<sup>[16]</sup>. However different work determined that cannabis alone may be sufficient risk factor itself for the development of psychotic disorder<sup>[17]</sup>. Epidemiology studies have been executed to investigate the possible link between cannabis use and appearance or exacerbation of psychotic symptoms. What was determined is that individuals at risk of or already expressing psychotic symptoms had an increase risk with cannabis usage. Essentially, results indicated that cannabis usage may precipitate schizophrenia (or exacerbate its symptoms) and cannabis usage exacerbates the symptoms of psychosis already apparent<sup>[18]</sup>. Previous studies corroborated the finding that cannabis usage worsens the course of schizophrenia spectrum disorders and adolescents possess greater risk from cannabis use than older individuals<sup>[19]</sup>. Male gender and age has been shown to be significantly related to a personal history of cannabis abuse or dependence. In addition, schizophrenic patients who were also users of cannabis were likely to be younger and male, as compared to those who were non-users<sup>[20]</sup>. Attempts at suicide while during schizophrenia was found to be closely correlated to cannabis usage<sup>[20]</sup>. Cannabis abuse may be a risk factor for the occurrence of a spectrum of psychiatric disorders ranging from schizophrenia to mood/anxiety disorders and a dose response relationship has been identified between cannabis exposure with risk of psychosis<sup>[21]</sup>. A plausible linkage of cannabis usage precipitating a schizophrenia condition within individuals already at risk due to personal or family history of schizophrenia has been elucidated<sup>[22]</sup>. Early exposure to cannabis, during adolescence, may be an environmental stressor that has in-

teraction with a previous genetic predisposition to induce a psychotic disorder<sup>[17]</sup>. In addition, cannabis usage could be an independent risk factor for the further development of psychotic disorders<sup>[17]</sup>. Evaluations for cognition function activity have been evaluated for group adolescents that were regular cannabis abusers and showed that significantly poorer performance on four measures reflecting attention, learning, and spatial working memory<sup>[23]</sup>. In addition, cannabis use was found to be an independent predictor on working memory and strategy measures<sup>[23]</sup>. Aspects of adolescent cognitive function are independently related to the frequency of cannabis usage<sup>[23]</sup>. Use of cannabis by psychiatric patients possibly produces some anxiolytic effect and antidepressive influence however it is accompanied by exacerbated psychotic and manic symptoms<sup>[24]</sup>. While cannabis use can produce or worsen psychotic symptoms in risk patients an early exposure, especially in combination with genetic factors, does increase the risk of subsequent and primary psychotic disorder<sup>[25]</sup>. Adolescents also using cocaine and upon onset cannabis usage have a greater risk of cocaine induced paranoia<sup>[25]</sup>. While cannabis has deleterious effects, halting exposure following after an initial psychotic episode clearly contributes to improved outcome<sup>[26]</sup>. Young adults practicing moderate drug use were studied and outcome findings corroborated earlier studies that showed decrements in memory and attention performance, with ecstasy and cannabis combined usage significantly related to poorer episodic memory function<sup>[27]</sup>.

## Additional cannabis toxic effects

As further studies of cannabis abuse continue, one of many outcomes is the realization that cessation of cannabis usage results in withdrawal symptoms and difficulty in abstention<sup>[28]</sup>. Further studies are pursued in the role of the CB1 receptor in regulating the behavioral effects of THC, which is the primary psychoactive portion of cannabis, that actually cross a range of species<sup>[28]</sup>. In addition, further investigation of CB1 receptor and its possible role in marijuana dependence is a necessary topic particularly when considering medicinal application of cannabis<sup>[28]</sup>. Meanwhile cannabinoids have become the most frequently abused illicit class of drugs in the United States<sup>[29]</sup>. Despite discussion of medical marijuana, the abuse liability of THC is comparable to other abused drugs under specific condi-

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tions<sup>[29]</sup>. In laboratory studies it has been observed that THC causes an inhibition of incorporation of 5-3H-uridine into ribosomal RNA (17S and 25S RNA) and in synchronized cells the precursor RNA (35S RNA)<sup>[30]</sup>. THC suppresses the incorporation of 5-3H-uridine, 2-14C-thymidine, and L-3-14C-phenylalanine into RNA and progressive dose-dependent activity of THC on division delays in division synchronized cell cultures was also correlated with concomitant reduction of division maxima and percent of cells completing division I<sup>[30]</sup>. In vitro studies of THC revealed that at a concentration of 10<sup>-5</sup> molar concentration in human cell culture appears to inhibit DNA, RNA, and protein synthesis by 50%, 40%, and 30%, respectively, these being significant levels of deleterious cellular effects<sup>[31]</sup>. While THC inhibited semiconservative DNA synthesis it did not appear to have any effect on DNA repair synthesis in human cells<sup>[31]</sup>. The constitutive cannabinoids of marijuana and marijuana have been shown to markedly affect cells of mammals<sup>[32]</sup>. In both in vitro and in vivo investigation it has been shown that cannabinoids induce chromosome aberrations<sup>[32]</sup>. Aberrations of this sort includes hypoploidy, deletions, translocations, and errors in chromosomal segregation, all of which are due to clastogenic activity or to cannabinoid induced disruption of mitotic events (or both)<sup>[32]</sup>. Corroborative work accomplished also indicated THC activity that inhibits protein synthesis and nucleic acid synthesis<sup>[33]</sup>. The affect on animals by THC is significant even in neurobiological data. Cannabis induces psychological dependence that is common to all addictive drugs as well as a physical dependence<sup>[34]</sup> (which hitherto was considered to be descriptive of "hard addictive drugs"). THC invigorates an incentive to abuse other addictive drugs and in particular heroin<sup>[34]</sup>. A close relationship between cannabis and schizophrenia has been elucidated by some studies<sup>[34]</sup>. Ongoing clinical evaluation and research outcomes have changed the previous view of cannabis as being more benign. Cannabis usage is being found to have a multitude of physical and mental effects on human beings. Further research and study is warranted concerning cannabis clinical application that should elucidate concepts of cannabis dependence<sup>[35]</sup>.

### ACKNOWLEDGEMENTS

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## C.A.R.E

**POTENTIAL IMPACT OF *BEINOR* DECISION ON RIGHTS AND BENEFITS:**

In *Beinor v. Indus. Claims Appeals Off.*, 2011 WL 3612226 (Colo.App. 2011), pttm for cert. pending, the Colorado Court of Appeals ruled that the Medical Marijuana (MMJ) provisions of the Colorado Constitution only “decriminalized” marijuana used for medicinal purposes under the Constitution but did not secure a “right” in qualifying patients and their care-givers to use the medication. In other words, a qualifying MMJ user or care-giver could not be criminally prosecuted under *state* law - but because marijuana remains listed as a “controlled substance”, the user would remain subject to all other *non-criminal* restrictions and prohibitions under Colorado law pertaining to the use of controlled substances.

We’ve conducted a cursory review of these Colorado laws and have set forth below a list of occupations, licenses, permits, certifications, benefits, rights, etc. that are compromised by the possession or use of a controlled substance, which includes at this point marijuana *even if* used pursuant to the Medical Marijuana provisions of the Colorado Constitution. Accordingly, not only may unemployment benefits be denied as in the *Beinor* case, the license to be an accountant, barber, cosmetologist, boxer, pharmacist, engineer, architect, veterinarian, coach (athletic trainer), taxi driver, dentist, mental health professional, doctor, lawyer, and even a plumber or outfitter could potentially be denied or revoked for those that lawfully use marijuana under their physician’s recommendation as medicine for debilitating medical conditions. Additionally, other benefits and rights are impacted, including the rights of primary school students who are MMJ patients to attend school, qualification for student loans, eligibility for welfare and employment assistance, and parole and probation.

As long as the Colorado courts fail to recognize the Constitutional right to use medical marijuana, each of these place the 125,000+ qualifying MMJ patients in the position of having to CHOOSE BETWEEN THE PATIENT’S HEALTH AND THE PATIENT’S EMPLOYMENT, OCCUPATION, EDUCATION, RIGHTS AND BENEFITS. Once the Constitutional right to the medication is secured – the purpose of the current petition to the Colorado Supreme Court in the *Beinor* case – virtually all of these other restrictions should fall as well since they would then infringe upon a Constitutional right.

**OCCUPATION / PROFESSION****COLORADO STATUTE / CASES**

Accountant  
(accounting entity)

C.R.S. 12-2-123(1)(p)  
C.R.S. 12-2-124(2)

Barber / Cosmetologist / Esthetician  
Hairstylist / Manicurist

C.R.S. 12-8-132(1)(d)

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|--|--|
| Boxer / Kickboxer / Second / Inspector<br>Promoter / Judge / Referee | C.R.S. 12-10-107.1(1)(d)   |
| Pharmacist /<br>Pharmaceutical Manufacturer                          | C.R.S. 12-22-125(1)(e)<br>Cases: <i>Brown v. Idaho St. Bd. of Pharmacy</i> ,<br>746 P.2d 1006 (Idaho App. 1987)                          |
| Professional Engineer  | C.R.S. 12-25-108(1)(i)   |
| Professional Land Surveyor   | C.R.S. 12-25-208(1)(i)   |
| Architect  | C.R.S. 12-25-308(1)(i)   |
| Acupuncturist  | C.R.S. 12-29.5-106(1)(m)   |
| Athletic Trainer   | C.R.S. 12-29.7-109(2)(c)   |
| Podiatrist   | C.R.S. 12-32-107(3)(f)<br>Cases: <i>Rush v. Dept. of Prof. Reg., Bd. of Podiatry</i> ,<br>448 So.2d 26 (1 <sup>st</sup> Dist. Fla. 1984) |
| Chiropractor   | C.R.S. 12-33-117(1)(d)   |
| Dentist / Dental Assistant /<br>Dental Hygienist                     | C.R.S. 12-35-129(1)(c), (e)  |
| Massage Therapist  | C.R.S. 12-35.5-111(1)(f)   |
| Physician / Physician's Assistant                                    | C.R.S. 12-36-117(1)(i), (x)<br>Cases: <i>Weissbach v. Bd. of Med. Exam'rs</i> , 116 Cal.Rptr. 479<br>(Cal. App. 1974)                    |
| Midwife  | C.R.S. 12-37-107(1)(d)   |
| Nurse  | C.R.S. 12-38-117(1)(i)   |
| Nurse Aide   | C.R.S. 12-38.1-111(1)(i)   |
| Nursing Home Administrator   | C.R.S. 12-39-111(1)(g)   |
| Optometrist  | C.R.S. 12-40-108(1)(d)<br>C.R.S. 12-40-118(1)(e)   |

# C.A.R.E

|  |   |
|--|---|
| Occupational Therapist   | C.R.S. 12-40.5-110(2)(c)  |
| Physical Therapist   | C.R.S. 12-41-115(1)(l)  |
| Respiratory Therapist  | C.R.S. 12-41.5-109(2)(h)  |
| Psychiatric Technician   | C.R.S. 12-42-(1)(i)   |
| Psychologist / Counselors / Social Worker<br>Marriage and Family Therapist /<br>Psychotherapists | C.R.S. 12-43-222(1)(e)  |
| Surgical Assistant / Surgical Technologist   | C.R.S. 12-43.2-105(2)(c)  |
| Landscape Architect  | C.R.S. 12-45-114(2)(h)  |
| Outfitter  | C.R.S. 12-55.5-106(1)(g)  |
| Plumber  | C.R.S. 12-58-110(1)(l)  |
| Veterinarian   | C.R.S. 12-64-111(1)(v)<br>Cases: <i>Manners v. Bd. of Vet. Med.</i> , 694 P.2d 1298 (Idaho 1985)  |
| Taxi Driver  | PUC Rule 6105(f)(III)A  |
| Teacher  | Cases: <i>Chicago Bd. of Educ. v. Payne</i> , 430 N.E.2d 310 (Ill.App. 1981)<br><i>Bogart v. Unified Sch. Dist.</i> , 432 F.Supp. 895 (D.Kan. 1977)   |
| Attorney   | Cases: <i>People v. Davis</i> , 768 P.2d 1227 (Colo. 1989)<br><i>People v. Larsen</i> , 808 P.2d 1265 (Colo. 1991)<br><i>People v. Cantor</i> , 753 P.2d 238 (Colo. 1988)<br><i>In re Davis</i> , PRB Dec. No. 117 (Vt. 2008) (medical marijuana)<br><i>In re Gilbert</i> , 668 N.W.2d 892 (Mich. 2003)<br>(judge witnessed using marijuana at Stones concert)<br><i>In re Whitaker</i> , 463 S.2d 1291 (La. 1985) (judge smoking)<br><i>Matter of Thomas</i> , 472 N.E.2d 609 (Ind. 1985)<br>(county prosecutor in possession)<br><i>Okla. Bar. Ass'n v. Denton</i> , 598 P.2d 663 (Okla. 1979)<br><i>In re Conduct of Chase</i> , 702 P.2d 1082 (Ore. 1985)<br>(conviction of crime not required) |

# C.A.R.E

## BENEFITS / RIGHTS

## COLORADO STATUTE / CASES

Employment (“cause” alone for termination)

Cases: *Roe v. TeleTech Customer Care Mgmt. (Colo.) LLC*,  
257 P.3d 586 (Wash. 2011)  
*Emerald Steel Fabricators, Inc. v. Bur. of Labor & Indus.*,  
230 P.3d 518 (Ore. 2010)  
*Beinor v. Indus. Claims Appeals Off.*,  
2011 WL 3612226 (Colo.App. 2011), pttm for cert. pending

Unemployment Compensation (disqualified)

C.R.S. § 8-73-108(5)(e)(IX.5)

Cases: *Beinor v. Indus. Claims Appeals Off.*,  
2011 WL 3612226 (Colo.App. 2011), pttm for cert. pending

Worker’s Compensation Benefits

C.R.S. 8-42-112.5

(may be reduced by 50% if contributed to injury)

Aid to the Needy Disabled (denied eligibility)

C.R.S. 26-2-111(4)(e)(II)

(re controlled substance addiction)

Employment Assistance

C.R.S. 26-2-706.6(7)

(submit to substance abuse program)

Child Care Center (denial of license)

C.R.S. 26-6-108(2)(c)

No Use As Condition of Parole / Probation

Cases: *People v. Moret*, 180 Cal.App.4<sup>th</sup> 839 (Cal.App. 2009)  
*People v. Crosier*, 2011 WL 135828 (Cal.App. 2011)  
*U.S. v. Barnard*, 2011 WL 240815 (D.Me. 2011)  
*U.S. v. Hicks*, 722 F.Supp.2d 829 (E.D. Mich. 2010)

Public Education (ban)

C.R.S. 25-1.5-106(12)(b)(IV)

## OTHER (FEDERAL BENEFITS / RIGHTS)

SSI Disability (denial)

Cases: *Shiple v. Astrue*, 2011 WL 3440032 (E.D.Wash. 2011)

Right to Bear Arms (ban on firearms)

18 U.S.C. §922(a)(3) (possess)

18 U.S.C. §922(d)(3) (sell to)

Sept. 21, 2011 AFT Letter

## ANALYSES

### AMENDMENT 20 MEDICAL USE OF MARIJUANA

ANALYSES

The proposed amendment to the Colorado Constitution:

- ◆ allows patients diagnosed with a serious or chronic illness and their care-givers to legally possess marijuana for medical purposes. For a patient unable to administer marijuana to himself or herself, or for minors under 18, care-givers determine the amount and frequency of use;
- ◆ allows a doctor to legally provide a seriously or chronically ill patient with a written statement that the patient might benefit from medical use of marijuana; and
- ◆ establishes a confidential state registry of patients and their care-givers who are permitted to possess marijuana for medical purposes.

#### Background and Provisions of the Proposal

Current Colorado and federal criminal law prohibits the possession, distribution, and use of marijuana. The proposal does not affect federal criminal laws, but amends the Colorado Constitution to legalize the medical use of marijuana for patients who have registered with the state. Qualifying medical conditions include cancer, glaucoma, AIDS/HIV, some neurological and movement disorders such as multiple sclerosis, and any other medical condition approved by the state. A doctor's signed statement or a copy of the patient's pertinent medical records indicating that the patient might benefit from marijuana is necessary for a patient to register. Individuals on the registry may possess up to two ounces of usable marijuana and six marijuana plants. Because the proposal does not change current law, distribution of marijuana will still be illegal in Colorado.

Patients on the registry are allowed to legally acquire, possess, use, grow, and transport marijuana and marijuana paraphernalia. Employers are not required to allow the medical use of marijuana in the workplace. Marijuana may not be used in any place open to the public, and insurance companies are not required to reimburse a patient's claim for costs incurred through the medical use of marijuana. Finally, for a patient who is under the age of 18 the proposal requires statements from two doctors and written consent from any parent living in Colorado to register the patient.

### **Arguments For**

1) This proposal gives patients with certain debilitating medical conditions and their medical providers one additional treatment option. THC, the active ingredient in marijuana, has been shown to relieve the pain and suffering of some patients. It can be beneficial for individuals suffering from nausea, vomiting or lack of appetite due to chemotherapy or AIDS/HIV, pressure within the eye due to glaucoma, and severe muscle spasms from some neurological and movement disorders such as multiple sclerosis.

2. For patients suffering from serious illnesses, marijuana can be more effective than taking prescription drugs that contain synthetic THC. Further, many drugs have side effects, but the adverse effects of marijuana are no worse than those of some prescription drugs used to treat the illnesses listed in the proposal.

3) Using marijuana for other than medical purposes will still be illegal in Colorado. Legal use of marijuana will be limited to patients on the state registry. The registry will consist only of those individuals who have submitted written documentation from their doctor indicating a qualifying medical condition. Registry identification cards will be valid for one year and must be renewed annually. Law enforcement officers will be able to access the registry to verify that an individual who is arrested for the possession or use of marijuana is registered. The General Assembly is required to enact criminal penalties for fraudulent use of the registry.

### **Arguments Against**

1) Using marijuana is not necessary to relieve nausea, increase appetite, and alleviate pain. Many other prescription drugs, including Marinol, which contains a synthetic version of THC, are currently available. Further, this proposal sets a dangerous precedent for approval and regulation of medicines by popular vote. It circumvents the usual rigorous process by which all other medicines are legalized and regulated. Safe and effective medicines should be developed through scientific and reproducible research.

2) The proposal does not provide any legal means by which a patient may obtain marijuana. Under state criminal law, it will still be illegal to sell marijuana or marijuana plants to another individual, including a patient on the state registry. Under federal criminal law, it will continue to be illegal to sell or use marijuana for any purpose.

3) Research shows that smoking marijuana can be addictive and has other damaging health effects on users, such as pneumonia, cancers, and lower birth weights. The effects of smoking marijuana may be worse than smoking tobacco, depositing as much as four times the tar, and carrying as much as 50 percent more carcinogens than are in a regular cigarette. The proposal contains no requirement for a prescription, no quality control or testing standards, and no control over strength, dosage, or frequency of use, such as those required for prescription drugs. As a result, patients may use marijuana for up to one year without review by a doctor. Finally, patients have no control over the dosage of THC received through smoked marijuana because potency can vary from use to use, and from plant to plant.

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**AMENDMENT 21  
TAX CUTS**

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The proposed amendment to the Colorado Constitution:

- ❖ cuts the taxes which fund certain basic local and state services by \$25 per year including property, income, utility, and vehicle taxes;
- ❖ increases the amount of each tax cut by \$25 per year in perpetuity or until the tax and the services paid for by the tax are eliminated or until the services are paid for in some other way;
- ❖ prohibits the provisions of the proposal from reducing the amount of state or local revenue that must be refunded to taxpayers under current law; and
- ❖ requires that a husband and wife each receive the tax cuts that affect state income taxes.

**Background and Provisions of the Proposal**

The proposal provides for an initial \$25 tax cut for several local and state taxes. Most of the local and state taxes which this proposal will reduce are used to provide government services including: fire protection, law enforcement, libraries, schools, highway and mass transit projects, prisons, and other special district services like emergency and hospital care, water, and soil conservation. A portion of the taxes are allocated for other specific purposes, such as the repayment of bonds. When the local and state governments each impose a particular tax, the tax cut applies to each tax imposed. The

AMENDMENT 64  
USE AND REGULATION OF MARIJUANA  
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**Amendment 64**  
**Use and Regulation of Marijuana**

1 **Ballot Title:** Shall there be an amendment to the Colorado constitution  
2 concerning marijuana, and, in connection therewith, providing for the regulation  
3 of marijuana; permitting a person twenty-one years of age or older to consume or  
4 possess limited amounts of marijuana; providing for the licensing of cultivation  
5 facilities, product manufacturing facilities, testing facilities, and retail stores;  
6 permitting local governments to regulate or prohibit such facilities; requiring the  
7 general assembly to enact an excise tax to be levied upon wholesale sales of  
8 marijuana; requiring that the first \$40 million in revenue raised annually by such  
9 tax be credited to the public school capital construction assistance fund; and  
10 requiring the general assembly to enact legislation governing the cultivation,  
11 processing, and sale of industrial hemp?

12 **Text of Measure:**

13 *Be it Enacted by the People of the State of Colorado:*

14 Article XVIII of the constitution of the state of Colorado is amended BY THE  
15 ADDITION OF A NEW SECTION to read:

16 **Section 16. Personal use and regulation of marijuana**

17 **(1) Purpose and findings.**

18 (a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT  
19 RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL  
20 FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE  
21 USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE  
22 OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

23 (b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR  
24 CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE  
25 THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO  
26 THAT:

27 (I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING  
28 MARIJUANA;

1 (II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS  
2 AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN  
3 ILLEGAL;

4 (III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN  
5 ILLEGAL;

6 (IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL  
7 ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

8 (V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO  
9 ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND  
10 PROTECTED.

11 (c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE  
12 TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF  
13 COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE  
14 REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9  
15 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

16 (d) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE  
17 THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE  
18 APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE,  
19 THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN,  
20 MATTERS OF STATEWIDE CONCERN.

21 **(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
22 REQUIRES,

23 (a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF  
24 TITLE 12, COLORADO REVISED STATUTES.

25 (b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER  
26 WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY  
27 PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

28 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS  
29 SUCCESSOR AGENCY.

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

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

3 (e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

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

14 (g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR  
15 MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR  
16 USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING,  
17 COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING,  
18 PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING,  
19 STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING,  
20 OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

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

25 (i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION  
26 FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT  
27 MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

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

33 (k) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA  
34 PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND

1 OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT  
2 NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

3 (l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO  
4 ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

5 (m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A  
6 STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO  
7 SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

8 (n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO  
9 PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND  
10 MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT  
11 MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS  
12 TO CONSUMERS.

13 (o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES  
14 NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH  
15 INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE  
16 OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED  
17 OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

18 **(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF  
19 LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE  
20 UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE  
21 A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR  
22 PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

23 (a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING  
24 MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

25 (b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE  
26 THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING  
27 PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE  
28 PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES  
29 PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY,  
30 AND IS NOT MADE AVAILABLE FOR SALE.

31 (c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT  
32 REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

1 (d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS  
2 SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY  
3 OR IN A MANNER THAT ENDANGERS OTHERS.

4 (e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR  
5 OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS  
6 SUBSECTION.

7 **(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY  
8 OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL  
9 NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR  
10 FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS  
11 OF AGE OR OLDER:

12 (a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA  
13 ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS  
14 TWENTY-ONE YEARS OF AGE OR OLDER.

15 (b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR  
16 MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA  
17 CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM  
18 A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR  
19 MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE  
20 ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID  
21 LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER  
22 CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA  
23 STORE.

24 (c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING,  
25 DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA  
26 TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA  
27 CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR  
28 A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A  
29 MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES  
30 DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VAILD LICENSE TO  
31 OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER  
32 CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA  
33 CULTIVATION FACILITY.

34 (d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING,  
35 DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR

1 TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING  
2 FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA  
3 STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF  
4 MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF  
5 MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT  
6 MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES  
7 DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO  
8 OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS  
9 OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA  
10 PRODUCT MANUFACTURING FACILITY.

11 (e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING,  
12 TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR  
13 MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE  
14 TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER  
15 CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA  
16 TESTING FACILITY.

17 (f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED,  
18 OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR  
19 ANY OF THE ACTIVITES CONDUCTED LAWFULLY IN ACCORDANCE WITH  
20 PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

21 **(5) Regulation of marijuana.**

22 (a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT  
23 REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH  
24 REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA  
25 ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE  
26 THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL  
27 INCLUDE:

28 (I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND  
29 REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH  
30 SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF  
31 THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR  
32 PROVISION;

33 (II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES,  
34 PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH  
35 THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT

1 DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES  
2 UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED  
3 UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL  
4 MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS  
5 SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE  
6 MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN  
7 APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A  
8 LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE  
9 PROVISIONS OF THIS SECTION;

10 (III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND  
11 DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

12 (IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

13 (V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA  
14 AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

15 (VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA  
16 PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

17 (VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE  
18 MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

19 (VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA  
20 AND MARIJUANA PRODUCTS; AND

21 (IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS  
22 MADE PURSUANT TO THIS SECTION.

23 (b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE  
24 SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA  
25 PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE  
26 APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY  
27 CONSIDERATION WHETHER AN APPLICANT:

28 (I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR  
29 MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE  
30 COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE  
31 APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

1 (II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I),  
2 COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF  
3 THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

4 (c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED,  
5 NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A  
6 CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL  
7 INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE  
8 THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED  
9 TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER  
10 THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION  
11 CONDUCTED AT A RETAIL LIQUOR STORE.

12 (d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED  
13 UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA  
14 CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR  
15 TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT  
16 PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL  
17 ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH  
18 PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST  
19 FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE  
20 TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION  
21 ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR ANY  
22 SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO  
23 SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT  
24 MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND  
25 THE COLORADO MEDICAL MARIJUANA CODE.

26 (e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN  
27 ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT  
28 IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO  
29 OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE  
30 LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY  
31 THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT  
32 TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE  
33 BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY  
34 PARAGRAPH (g).

35 (f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN  
36 CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED  
37 PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER

1 OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE  
2 ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY  
3 IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT  
4 TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO  
5 ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING  
6 A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR  
7 MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE  
8 DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH  
9 PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED  
10 BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING  
11 CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING  
12 THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY  
13 OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF  
14 MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING  
15 FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES  
16 THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR  
17 REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO  
18 PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA  
19 PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR  
20 RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT  
21 DURING AN EVEN NUMBERED YEAR.

22 (g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A  
23 MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE  
24 DEPARTMENT SHALL:

25 (I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

26 (II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF  
27 THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES  
28 TO OPERATE THE MARIJUANA ESTABLISHMENT;

29 (III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE  
30 AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT  
31 FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED  
32 PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT  
33 LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND  
34 REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF  
35 APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT  
36 ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF  
37 APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER

1 INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES  
2 FOR LICENSURE; AND

3 (IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING  
4 OF THE SPECIFIC REASON FOR ITS DENIAL.

5 (h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT  
6 WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH  
7 PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON  
8 FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE  
9 DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS  
10 ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY  
11 LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION  
12 DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY  
13 MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A  
14 LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE  
15 RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE  
16 APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND  
17 REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE  
18 APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT  
19 IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION  
20 IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL  
21 FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE  
22 DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY  
23 IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT  
24 AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g)  
25 AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR  
26 ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE.  
27 A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON  
28 AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW  
29 APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g).  
30 NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO  
31 AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO  
32 ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

33 (i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY  
34 PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A  
35 LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL  
36 LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT  
37 SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT  
38 FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE

1 WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN  
2 EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN  
3 ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A  
4 LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE  
5 AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH  
6 PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO  
7 REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT  
8 LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS  
9 PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED  
10 REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE  
11 DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE  
12 OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH  
13 (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH  
14 REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

15 (j) NOT LATER THAN JULY 1, 2014, THE GENERAL ASSEMBLY SHALL ENACT  
16 LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF  
17 INDUSTRIAL HEMP.

18 **(6) Employers, driving, minors and control of property.**

19 (a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO  
20 PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER,  
21 DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE  
22 OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE  
23 USE OF MARIJUANA BY EMPLOYEES.

24 (b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE  
25 INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO  
26 SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF  
27 MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION  
28 PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING  
29 UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

30 (c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF  
31 MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF  
32 TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO  
33 PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

34 (d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER,  
35 SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY

1 WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR  
2 OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY,  
3 TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA  
4 ON OR IN THAT PROPERTY.

5 **(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL  
6 BE CONSTRUED:

7 (a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA  
8 PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14  
9 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

10 (b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA  
11 TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

12 (c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA  
13 OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED  
14 UNDER THE COLORADO MEDICAL MARIJUANA CODE;

15 (d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO  
16 SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO  
17 OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE; OR

18 (e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH,  
19 OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM  
20 THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL  
21 MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO  
22 MEDICAL MARIJUANA CODE.

23 **(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF  
24 THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE,  
25 AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE  
26 CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION,  
27 AND OTHER STATE AND LOCAL PROVISIONS.

28 **(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL  
29 PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL  
30 DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR,  
31 PURSUANT TO SECTION 1(4) OF ARTICLE V.

## Initiative 82 Colorado Congressional Delegation to Support Campaign Finance Limits

1 **Amendment \_\_\_ proposes amending the Colorado Constitution and Colorado**  
2 **statutes to:**

- 3     ◆ instruct the Colorado congressional delegation to propose and support  
4     an amendment to the U.S. Constitution that allows Congress and the  
5     states to limit campaign contributions and spending; and
- 6     ◆ instruct the state legislature to ratify any such amendment passed by  
7     Congress.

### 8 **Summary and Analysis**

9     Colorado and federal law currently limit the amount of money that individuals,  
10    political action committees, and other organizations may give directly to candidates,  
11    campaigns, political parties, and other political groups. Colorado has also established  
12    voluntary spending limits that political candidates and campaigns may choose to  
13    follow. However, there are no mandatory limits in state or federal law on how much  
14    money campaigns may spend overall.

15    In the past, courts have ruled that limiting contributions to candidates and  
16    campaigns is a permissible restriction on money in politics so as to prevent corruption  
17    or the appearance of corruption. However, the courts have also ruled that spending  
18    money is a form of protected political speech. Therefore, overall spending limits on  
19    campaigns are not allowed, and spending by persons and organizations who are  
20    independent of political campaigns cannot be restricted.

21    ***Changes under Amendment \_\_\_.*** The measure does not directly affect current  
22    state or federal campaign finance laws, or create campaign spending limits. Instead,  
23    it amends state law to encourage Congress and the state legislature to take steps to  
24    amend the U.S. Constitution to allow greater limits on the role of money in state and  
25    federal elections. The measure also expresses the intent of voters that state law  
26    should establish mandatory campaign spending limits, rather than encourage  
27    voluntary spending limits.

28    ***Amending the U.S. Constitution.*** An amendment to the U.S. Constitution may  
29    be proposed with a two-thirds majority vote in both houses of Congress. Then, the  
30    amendment must be ratified by the state legislatures in three-fourths of the states, or  
31    38 of the 50 states, in order to take effect.

1                    *For information on those issue committees that support or oppose the*  
2                    *measures on the ballot at the November 6, 2012, election, go to the*  
3                    *Colorado Secretary of State's elections center web site hyperlink for*  
4                    *ballot and initiative information:*  
5                    [www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html](http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html)

## 6                    **Arguments For**

7                    1) The current system of financing political campaigns gives too much influence  
8                    over elections and public policy to wealthy individuals and organizations. This measure  
9                    sends a message from Colorado voters to their elected representatives that money in  
10                    politics should be limited so that other perspectives can be heard. Further, it gives  
11                    elected representatives in Congress and the state legislature clear instructions to  
12                    make the necessary changes to create a more level playing field in politics.

13                    2) Prior court rulings have increased the ability of wealthy individuals and  
14                    organizations to spend unlimited amounts of money to influence campaigns and  
15                    elections, as well as public policy. In many cases, the public does not know who is  
16                    providing this money because the source does not have to be disclosed. The surest  
17                    way to reverse these changes is to amend the U.S. Constitution as recommended by  
18                    this measure. Amendment \_\_\_ takes the first step in that process by encouraging  
19                    Congress to take action.

## 20                    **Arguments Against**

21                    1) The measure could lead to restrictions that limit the fundamental rights to  
22                    freedom of speech, expression, and association. Individuals and organizations should  
23                    not be restricted in how they spend money to promote the ideas and candidates they  
24                    support. Further, candidates and campaigns should be free to spend any  
25                    contributions received from supporters.

26                    2) A state ballot measure cannot require elected representatives in Congress or  
27                    the state legislature to support or vote for certain laws and policies. Therefore,  
28                    the measure will have no practical effect. Rather than using Colorado law to make a  
29                    political statement, those who advocate for more restrictive campaign finance laws  
30                    should instead support congressional candidates who will pursue such changes.

## 31                    **Estimate of Fiscal Impact**

32                    Amendment \_\_\_ is not expected to affect state or local government revenue or  
33                    spending.

# Last Draft as Mailed to Interested Parties

## Initiative 82

### Colorado Congressional Delegation to Support Campaign Finance Limits

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2 **statutes to:**

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4     an amendment to the U.S. Constitution that allows Congress and the  
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## 6            **Arguments For**

7            1) The current system of financing political campaigns gives too much influence  
8            over elections and public policy to wealthy individuals and organizations. This measure  
9            sends a message from Colorado voters to their elected representatives that money in  
10           politics should be limited so that other perspectives can be heard. Further, it gives  
11           elected representatives in Congress and the state legislature clear instructions to  
12           make the necessary changes to create a more level playing field in politics.

13           2) Prior court rulings have increased the ability of wealthy individuals and  
14           organizations to spend unlimited amounts of money to influence campaigns and  
15           elections, as well as public policy. In many cases, the public does not know who is  
16           providing this money because the source does not have to be disclosed. The surest  
17           way to reverse these changes is to amend the U.S. Constitution as recommended by  
18           this measure. Amendment \_\_\_ takes the first step in that process by encouraging  
19           Congress to take action.

## 20           **Arguments Against**

21           1) The measure could lead to restrictions that limit the fundamental rights to  
22           freedom of speech, expression, and association. Individuals and organizations should  
23           not be restricted in how they spend money to promote the ideas and candidates they  
24           support. Further, candidates and campaigns should be free to spend any  
25           contributions received from supporters.

26           2) A state ballot measure cannot require elected representatives in Congress or  
27           the state legislature to support or vote for certain laws and policies. Therefore,  
28           the measure will have no practical effect. Rather than using Colorado law to make a  
29           political statement, those who advocate for more restrictive campaign finance laws  
30           should instead support congressional candidates who will pursue such changes.

## 31           **Estimate of Fiscal Impact**

32           Amendment \_\_\_ is not expected to affect state or local government revenue or  
33           spending.

# Last Draft Comments from Interested Parties

## **Initiative 82 Colorado Congressional Delegation to Support Campaign Finance Limits**

**No comments were submitted on the last draft.**

INITIATIVE 82  
COLORADO CONGRESSIONAL DELEGATION TO  
SUPPORT CAMPAIGN FINANCE LIMITS  
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**Initiative 82**  
**Colorado Congressional Delegation to**  
**Support Campaign Finance Limits**

1 **Ballot Title:** Shall there be amendments to the Colorado constitution and the Colorado  
2 revised statutes concerning support by Colorado's legislative representatives for a federal  
3 constitutional amendment to limit campaign contributions and spending, and, in  
4 connection therewith, instructing Colorado's congressional delegation to propose and  
5 support, and the members of Colorado's state legislature to ratify, an amendment to the  
6 United States constitution that allows congress and the states to limit campaign  
7 contributions and spending?

8 **Text of Measure:**

9 *Be it Enacted by the People of the State of Colorado:*

10 In the constitution of the state of Colorado, **amend** section 1 of Article XXVIII as  
11 follows:

12 **Section 1. Purposes and findings.** The people of the state of Colorado hereby  
13 find and declare that large campaign contributions to political candidates create the  
14 potential for corruption and the appearance of corruption; that large campaign  
15 contributions made to influence election outcomes allow wealthy individuals,  
16 corporations, and special interest groups to exercise a disproportionate level of influence  
17 over the political process; that the rising costs of campaigning for political office prevent  
18 qualified citizens from running for political office; that because of the use of early  
19 voting in Colorado timely notice of independent expenditures is essential for informing  
20 the electorate; that in recent years the advent of significant spending on electioneering  
21 communications, as defined herein, has frustrated the purpose of existing campaign  
22 finance requirements; that independent research has demonstrated that the vast majority  
23 of televised electioneering communications goes beyond issue discussion to express  
24 electoral advocacy; that political contributions from corporate treasuries are not an  
25 indication of popular support for the corporation's political ideas and can unfairly  
26 influence the outcome of Colorado elections; and that the interests of the public are best  
27 served by limiting campaign contributions, ~~encouraging voluntary~~ ESTABLISHING  
28 campaign spending limits, providing for full and timely disclosure of campaign  
29 contributions, independent expenditures, and funding of electioneering communications,  
30 and strong enforcement of campaign finance requirements.

1 In Colorado Revised Statutes, **amend** 1-45-102 as follows:

2 **1-45-102. Legislative declaration.** The people of the state of Colorado hereby  
3 find and declare that large campaign contributions to political candidates allow wealthy  
4 contributors and special interest groups to exercise a disproportionate level of influence  
5 over the political process; that large campaign contributions create the potential for  
6 corruption and the appearance of corruption; that the rising costs of campaigning for  
7 political office prevent qualified citizens from running for political office; and that the  
8 interests of the public are best served by limiting campaign contributions, ~~encouraging~~  
9 ~~voluntary~~ ESTABLISHING campaign spending limits, full and timely disclosure of  
10 campaign contributions, and strong enforcement of campaign laws.

11 In Colorado Revised Statutes, 1-45-103.7 **add** (9) as follows:

12 **1-45-103.7. Contribution limits - treatment of independent expenditure**  
13 **committees - contributions from limited liability companies - definitions - voter**  
14 **instructions on spending limits.**

15 (9) (a) THE VOTERS INSTRUCT THE COLORADO CONGRESSIONAL DELEGATION TO  
16 PROPOSE AND SUPPORT, AND THE COLORADO STATE LEGISLATURE TO RATIFY, AN  
17 AMENDMENT TO THE UNITED STATES CONSTITUTION THAT ALLOWS CONGRESS AND THE  
18 STATES TO LIMIT CAMPAIGN CONTRIBUTIONS AND SPENDING, TO ENSURE THAT ALL  
19 CITIZENS, REGARDLESS OF WEALTH, CAN EXPRESS THEIR VIEWS TO ONE ANOTHER AND  
20 THEIR GOVERNMENT ON A LEVEL PLAYING FIELD.

21 (b) THE PROVISIONS OF THIS SUBSECTION SHALL TAKE EFFECT ON JANUARY 1,  
22 2013, AND BE APPLICABLE THEREAFTER.