

Proposition AA Retail Marijuana Taxes

1 **Proposition AA, if approved, would:**

- 2 ◆ impose a 15 percent state excise tax on the average wholesale price
3 of retail marijuana when the product is first sold or transferred by a
4 retail marijuana cultivation facility, with public school construction
5 receiving the first \$40 million of any annual tax revenues collected;

- 6 ◆ impose a 10 percent state sales tax on retail marijuana and retail
7 marijuana products, in addition to the existing 2.9 percent state
8 sales tax, to increase funding for the regulation and enforcement of
9 the retail marijuana industry and to fund related health, education,
10 and public safety costs;

- 11 ◆ direct 15 percent of the revenue collected from the 10 percent state
12 sales tax to cities and counties where retail marijuana sales occur;
13 and

- 14 ◆ allow the state legislature to increase or decrease the excise and
15 sales taxes on retail marijuana so long as the rate of either tax does
16 not exceed 15 percent.

17 **Summary and Analysis**

18 ***Why is this measure on the ballot?*** Proposition AA relates to another
19 measure passed by the voters in November 2012, Amendment 64. Amendment 64
20 allows for an adult 21 years of age or older to consume or possess up to one ounce of
21 marijuana and requires the state to establish a regulatory structure for the retail
22 marijuana industry. Amendment 64 also requires the state legislature to enact an
23 excise tax on retail marijuana to fund public school construction; however, the
24 Colorado Constitution requires a statewide vote to approve new taxes. The state
25 legislature approved and the Governor signed into law a bill that proposes two new
26 state taxes: an excise tax to be applied to the average wholesale price of retail
27 marijuana when first sold or transferred by a retail marijuana cultivation facility; and a
28 sales tax on retail marijuana and retail marijuana products to increase funding for
29 regulation. Therefore, the state legislature is submitting to the voters the question of
30 whether to approve additional taxes on retail marijuana. These taxes will not apply to
31 medical marijuana. Regardless of whether the measure passes, beginning on
32 January 1, 2014, existing medical marijuana stores will be eligible for a retail
33 marijuana license unless a city or county has imposed a ban. After October 1, 2014,
34 all applicants are eligible for licensure where no local ban is in place.

1 **Excise taxes.** An excise tax is a tax on the use or consumption of certain
2 products such as gasoline, alcohol, or cigarettes. The tax is generally collected at the
3 wholesale level and passed on to consumers in the retail price. Retail marijuana
4 cultivation facilities will pay the 15 percent state excise tax when they first sell or
5 transfer marijuana to retail marijuana product manufacturing facilities, retail marijuana
6 stores, or other retail marijuana cultivation facilities. Every six months, the Colorado
7 Department of Revenue will determine an average wholesale price for unprocessed
8 retail marijuana sold by retail marijuana cultivation facilities, and all unprocessed retail
9 marijuana will be taxed at this price. Medical marijuana is not subject to the state
10 excise tax created by the measure, or to any existing state excise tax.

11 Under Amendment 64, the state excise tax is limited to 15 percent until
12 January 1, 2017, and the state legislature can seek voter approval through another
13 ballot measure to raise the excise tax rate above 15 percent to be effective on or after
14 that date. Each year, the first \$40 million in revenue raised by the excise tax will be
15 credited to the Building Excellent Schools Today program for constructing public
16 schools. The excise tax revenue is estimated to be less than \$40 million annually for
17 at least the first two years. If the amount collected is greater than \$40 million, the
18 excess will be used for marijuana regulation.

19 **School construction funding through the Building Excellent Schools**
20 **Today program.** In 2008, the state legislature enacted the Building Excellent Schools
21 Today program to address the limited capacity for many public schools to renew or
22 replace deteriorating facilities with local resources. The program prioritizes funding
23 awards based on issues such as asbestos removal, building code violations,
24 overcrowding, and poor indoor air quality. Program grants are available to public
25 school districts, charter schools, boards of cooperative services, institute charter
26 schools, and the Colorado School for the Deaf and the Blind. Under current law,
27 funding is provided from the State Land Trust, Colorado Lottery spillover funds, the
28 applicants' matching funds, and interest accrued within the fund itself. Between 2008
29 and 2012, the program received \$2.15 billion in requests and awarded \$686 million for
30 school construction projects, with local governments allocating an additional
31 \$293 million in matching funds.

32 **Sales taxes.** The measure also adds a state sales tax to be applied when a
33 consumer purchases retail marijuana or retail marijuana products at a licensed retail
34 marijuana store. The sales tax rate will initially be set at 10 percent. The state
35 legislature can raise or lower the tax rate at any time through legislation, but cannot
36 increase it above 15 percent without further voter approval. The 10 percent state
37 sales tax on retail marijuana is in addition to current state and local sales taxes, which
38 are applied to most retail purchases. All sales taxes will be applied to the retail price
39 paid by the consumer, which includes the 15 percent state excise tax created by the
40 measure. Medical marijuana is not subject to the additional sales tax created by the
41 measure, but remains subject to the existing 2.9 percent state sales tax.

1 Amendment 64 permits cities and counties to ban retail marijuana cultivation,
2 processing, and sales. However, cities and counties that allow retail marijuana sales
3 to consumers will receive 15 percent of the revenue collected from the 10 percent
4 state sales tax on retail marijuana. The proceeds will be divided according to the
5 percentage of retail marijuana sales within each jurisdiction. The measure is silent on
6 the use of this revenue by cities and counties. Beginning on or before April 1, 2014,
7 and annually through April 1, 2016, the state legislature is required to determine if the
8 percentage of revenue allocated to cities and counties is set at the appropriate level.

9 **Regulatory activities funded by sales tax revenue.** The Marijuana
10 Enforcement Division (MED) in the Colorado Department of Revenue regulates the
11 cultivation, processing, and sale of both medical and retail marijuana. Medical
12 marijuana licensees are currently operating, but the licensing program for retail
13 marijuana establishments is still being developed. In cities and counties that currently
14 allow medical marijuana sales, licensed retail marijuana stores are authorized to sell
15 retail marijuana beginning on January 1, 2014, unless a local ban is imposed.
16 Revenue generated by the 2.9 percent state sales tax on both medical and retail
17 marijuana and marijuana products, plus revenue from application and licensing fees
18 paid by medical and retail marijuana establishments, will be used to fund the MED.
19 This revenue will fund the regulation of marijuana establishments, including
20 enforcement of the laws for the testing, tracking, and labeling of retail marijuana and
21 measures to prevent the diversion of retail marijuana to individuals under 21 years old.
22 The revenue from the proposed 10 percent state sales tax will also be used to fund
23 the regulatory structure, as well as related costs for health, education, and public
24 safety, which are not currently funded.

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measures on the ballot at the November 5, 2013, election, go to the
Colorado Secretary of State's elections center website hyperlink for ballot
and initiative information:*

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25 Arguments For

26 1) A majority of Colorado voters approved Amendment 64 to allow the sale of
27 retail marijuana within a regulated and taxed market, and passage of this measure is
28 expected to generate the revenue necessary to support the robust regulation of this
29 market. In addition, an effective regulatory system may discourage federal
30 interference with the industry, as the sale of marijuana remains illegal under federal
31 law. Adoption of the additional 10 percent state sales tax is important because the
32 current funding structure for the regulatory system may not be adequate and may

1 require funds to be diverted from other state priorities such as education, public
2 safety, and health care. Without revenue from the 10 percent sales tax, studies that
3 address public safety concerns and educational efforts aimed at preventing the use of
4 marijuana by children may not be funded.

5 2) Colorado schools have a projected \$17.9 billion in school construction
6 needs through 2018, and the proposed state excise tax will make more funding
7 available for these needs, as intended by Amendment 64. This additional funding will
8 help modernize older schools, build new schools, and alleviate health and safety
9 concerns. Also, by increasing the number of projects funded, the school construction
10 industry may see an increase in jobs.

11 **Arguments Against**

12 1) The new state taxes created by the measure may be so high that they
13 undercut one of the intended purposes of Amendment 64, which is to encourage
14 consumers to purchase marijuana from licensed stores rather than from the
15 underground market. When marijuana is purchased from licensed stores, sales are
16 taxed and limited to consumers 21 years of age or older. By overtaxing a product that
17 is readily available in the underground market, the measure may limit sales from
18 licensed stores and keep consumers in the underground market.

19 2) Amendment 64 requires the establishment of an excise tax, but does not
20 require the sales tax created by this measure. This second tax was not anticipated by
21 supporters of Amendment 64 and is an unfair tax burden on consumers of marijuana.
22 The state legislature's plan for implementing Amendment 64 includes measures that
23 exceed what is essential to regulate the industry. Revenue from application and
24 licensing fees, as well as the existing 2.9 percent state sales tax on marijuana, can
25 adequately satisfy the regulatory requirements of Amendment 64.
26

27 **Estimate of Fiscal Impact**

28 **State and local revenue.** As shown in Table 1 below, passage of
29 Proposition AA is estimated to increase state tax revenue by \$67 million annually,
30 which includes \$27.5 million in excise tax revenue and \$39.5 million in state sales tax
31 revenue. Local governments where retail marijuana stores are operating will receive a
32 proportionate share of \$6.0 million based on the percentage of sales in each
33 jurisdiction.

34 In FY 2011-12, Colorado's medical marijuana industry sold \$199.1 million
35 worth of marijuana to 109,000 patients. Under Amendment 64, retail marijuana sales
36 will be made up of marijuana consumers who transition from the medical marijuana
37 industry, marijuana consumers who currently use unregulated marijuana, and visitors
38 to the state. The revenue estimates assume a wholesale price of \$93.75 per ounce

1 for unprocessed retail marijuana and a retail price of \$201.56 per ounce, of which
 2 \$14.06 is excise tax. It is estimated that 2 million ounces of marijuana will be sold by
 3 retail marijuana stores each year. The total taxable value of retail marijuana at the
 4 wholesale level is estimated to be about \$183.5 million per year, with sales to
 5 consumers of retail marijuana totaling approximately \$394.6 million per year.

6 **Table 1. Estimated State Revenue from Proposition AA**
 7 **for Calendar Year 2014**

	Wholesale Sales Subject to Excise Tax	Retail Sales Subject to Sales Tax
Average price per ounce	\$93.75	\$201.56
Total sales	\$183.5 million	\$394.6 million
Tax rate	15%	10%
Total taxes	\$27.5 million	\$39.5 million
Excise taxes to Building Excellent Schools Today Program	\$27.5 million	
Sales taxes to state government (85%)		\$33.5 million
Sales taxes to local governments (15%)		\$6.0 million

18 **State spending.** The Colorado Department of Revenue will develop a
 19 computer system and hire staff to collect, monitor, and enforce both the 15 percent
 20 excise tax and the 10 percent sales tax on retail marijuana. The staffing, computer
 21 system, and operating expenses are estimated to cost \$4.2 million in the first year of
 22 implementation and \$1.3 million annually thereafter. The department is expected to
 23 add approximately 22 staff to implement the measure. The remaining funding will be
 24 used to fund the regulation of marijuana establishments, including enforcement of the
 25 laws for the testing, tracking, and labeling of retail marijuana, measures to prevent the
 26 diversion of retail marijuana to individuals under 21 years old, and costs for health,
 27 education, and public safety.

28 State Spending and Tax Increases

29 The state constitution requires that the following fiscal information be provided
 30 when a tax increase question is on the ballot:

- 31 1) the estimated or actual state spending under the constitutional spending
 32 limit for the current year and each of the past four years with the overall
 33 percentage and dollar change; and

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11 sales tax to cities and counties where retail marijuana sales occur; and

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13 taxes on retail marijuana so long as the rate of either tax does not
14 exceed 15 percent.

15 **Summary and Analysis**

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17 November 2012, allows for an adult 21 years of age or older to consume or possess
18 up to one ounce of marijuana and requires the state to establish a regulatory structure
19 for the retail marijuana industry. Amendment 64 also required the state legislature to
20 enact an excise tax on retail marijuana to fund public school construction; however,
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22 legislature approved and the Governor signed into law a bill that proposes two new
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33 products such as gasoline, alcohol, or cigarettes. The tax is generally collected at the
34 wholesale level and passed on to consumers in the retail price. Facilities that grow
35 retail marijuana will pay the 15 percent state excise tax when selling marijuana to

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1 either retail marijuana product manufacturing facilities or to retail marijuana stores.
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4 facilities, and all unprocessed retail marijuana will be taxed at this price. Medical
5 marijuana is not subject to the state excise tax created by the measure, or to any
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9 ballot measure to raise the excise tax rate above 15 percent to be effective on or after
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16 ***program.*** In 2008, the state legislature enacted the Building Excellent Schools Today
17 program to address the limited capacity for many public schools to renew or replace
18 deteriorating facilities with local resources. The program prioritizes funding awards
19 based on issues such as asbestos removal, building code violations, overcrowding,
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21 charter schools, boards of cooperative services, institute charter schools, and the
22 Colorado School for the Deaf and the Blind. Under current law, funding is provided
23 from the State Land Trust, Colorado Lottery spillover funds, the applicants' matching
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39 processing, and sales. However, cities and counties where retail marijuana sales to
40 consumers are not banned will receive 15 percent of the revenue collected from the
41 10 percent state sales tax on retail marijuana. The proceeds will be divided according
42 to the percentage of retail marijuana sales within each jurisdiction. The measure is
43 silent on the use of this revenue by cities and counties. Beginning on or before

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1 April 1, 2014, and annually through April 1, 2016, the state legislature is required to
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24 interference with the industry, as the sale of marijuana remains illegal under federal
25 law. Adoption of the additional 10 percent state sales tax is important because the
26 current funding structure for the regulatory system may not be adequate and may
27 require funds to be diverted from other state priorities such as education, public
28 safety, and health care. Without revenue from the 10 percent sales tax, studies that
29 address public safety concerns and educational efforts aimed at preventing the use of
30 marijuana by children may not be funded.

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32 through 2018, and the proposed state excise tax will make more funding available for
33 these needs, as intended by Amendment 64. This additional funding will help

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1 modernize older schools, build new schools, and alleviate health and safety concerns.
2 Also, by increasing the number of projects funded, the school construction industry
3 may see an increase in jobs.

4 **Arguments Against**

5 1) The new state taxes created by the measure may be so high that they undercut
6 one of the intended purposes of Amendment 64, which is to encourage consumers to
7 purchase marijuana from licensed stores. When marijuana is purchased from
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15 exceed what is essential to regulate the industry. Revenue from application and
16 licensing fees, as well as the existing 2.9 percent state sales tax on marijuana, can
17 adequately satisfy the requirements of Amendment 64.

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22 wholesale level is estimated to be about \$183.5 million per year, with sales to
23 consumers of retail marijuana totaling approximately \$394.6 million per year. Local
24 governments where retail marijuana stores are operating will receive a proportionate
25 share of \$6.0 million based on the percentage of sales in each jurisdiction.

26 In FY 2011-12, Colorado's medical marijuana industry sold \$199.1 million worth of
27 product to 109,000 patients. Under Amendment 64, retail marijuana sales will be
28 made up of marijuana consumers who transition from the medical marijuana industry,
29 marijuana consumers who currently use unregulated marijuana, and visitors to the
30 state. The revenue estimates assume a wholesale price of \$93.75 per ounce for
31 unprocessed retail marijuana, a retail price of \$187.50 per ounce, and 2 million ounces
32 of marijuana being sold by retail marijuana stores.

Last Draft as Mailed to Interested Parties

Table 1. Estimated Annual State Revenue from Proposition AA (in millions)		
	Wholesale Sales Subject to Excise Tax	Retail Sales Subject to Sales Tax
Total sales	\$183.5	\$394.6
Tax rate	15%	10%
Total taxes	\$27.5	\$39.5
Excise taxes to Building Excellent Schools Today Program	\$27.5	
Sales taxes to state government (85%)		\$33.5
Sales taxes to local governments (15%)		\$6.0

State spending. The Colorado Department of Revenue will develop a computer system and hire staff to collect, monitor, and enforce both the 15 percent excise tax and the 10 percent sales tax on retail marijuana. The computer system is estimated to cost \$4.2 million in the first year of implementation and \$1.3 million annually thereafter. The department is expected to add approximately 22 staff to implement the measure. The remaining funding will be used to fund the regulation of marijuana establishments, including enforcement of the laws for the testing, tracking, and labeling of retail marijuana measures to prevent the diversion of retail marijuana to individuals under 21 years old, and costs for health, education, and public safety.

Last Draft Comments from Interested Parties

Proposition AA Retail Marijuana Taxes

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

Please find attached a copy of a scientific publication presenting the dangers and toxicity of marijuana use.

It is apparent to many scientists and many advocate organizations that marijuana (cannabis) is toxic and introduces users to many cancer causing chemicals. There are many destructive health problems associated with direct and secondary smoke inhalation of marijuana combustion.

Please review this paper closely and you will see clearly that the use of marijuana for any purposes has many problems, particularly when this toxic substance is used in the presence of children and young infants.

The general use of marijuana as a so-called "recreational drug" would be catastrophic on health and safety of the public.

I strongly urge you to be extremely critical of any advocates who contend that marijuana smoke is "harmless".

Please do NOT legalize the use of marijuana.

Thank you for your attention.

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

Eric Meyers, representing the Department of Revenue:

Page 2, line 1: excise tax is also due with a cultivation facility sells or transfers to another cultivation facility.

Theron Simms, representing himself:

NO/Against:

Marijuana is illegal under the Federal Controlled Substance Act (CSA), PL 112-144, as a Schedule I substance and the new "Legal Marijuana Establishments" in Colorado sends the wrong message to our children. A no vote will mean the projected revenue for the State will not materialize and per the new State administrative statues "Legal Marijuana Establishments and Facilities" will be close to impossible to operate under

Last Draft Comments from Interested Parties

Theron Simms, representing himself (Cont.):

Colorado oversight. A no vote means no retail or transfer excise taxes will be applied to existing Medical Marijuana Centers and they will continue as before. A no vote means we will not be sending recreational marijuana monies, illegal under the the CSA, to fund our children's school construction projects or to establish a "State Marijuana Cash Fund" that will have questionable direct and indirect costs from the general assembly. A no vote means the new "open container" marijuana law as it applies to your motor vehicle will not be in effect and "Medical Marijuana" permit holders will not be subjected to this new enforcement action by local police and County Sheriffs. A no vote means Colorado residents now understand recreational marijuana is not good for our world-wide and national reputation in the ski industry and will not support the immediate preservation of the public peace, health, or safety of our society.



Trade Science Inc.

March 2010

ISSN : 0974 - 7532

Volume 4 Issue 1

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

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

Cannabis toxicity and adverse biological activity

Ronald Bartzatt

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E-mail : rbartzatt@mail.unomaha.eduReceived: 1st January, 2010 ; Accepted: 10th 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^[1]. 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^[1]. Potential adverse medical reaction to use of cannabis can contribute to the medical dangers of the disease to which it is applied^[1]. Major after effects of cannabis consumption as an inhalant include respiratory related manifolded and aggravated infectious disorders^[1]. Cannabis expresses

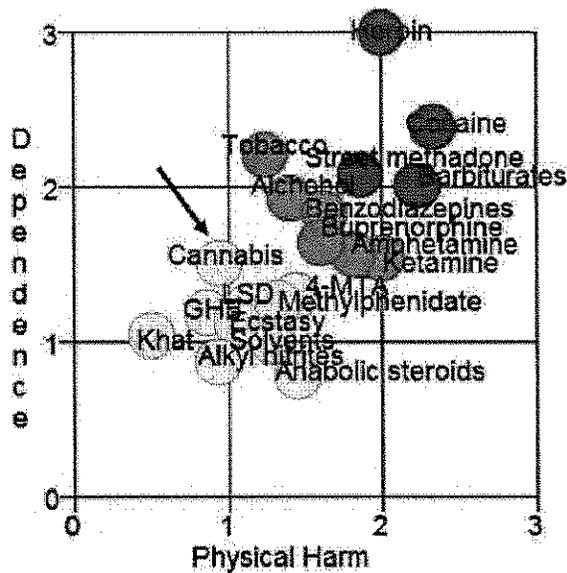


Figure 1 : Rational scale 2-way plot of dependence (dependent variable) compared to physical harm (independent variable) indicating relative harm of cannabis (see inset arrow) and other abused substances^[2]. A cluster of substances are in close proximity to cannabis and include khat, LSD, GHB, anabolic 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.^[1]. 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^[1]. Previous studies have shown a fourfold increase of plant tar deposited in the lungs occurs from marijuana smoke^[1], when compared to tobacco smoke. In addition, the tar phase of marijuana delivers increased concentrations of polycyclic aromatic hydro-carbons (inclusive of benzo-[a]-pyrene) compared to tobacco smoke^[1]. 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.^[2], 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^[1]. 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^[3]. 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^[3]. 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^[4], 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

Review

even greater than that for opioids (O.R. = 1.53) and psycho-stimulants (O.R. = 1.59)^[4]. 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^[5]. In general, the use of alcohol and illicit drugs is associated with an increased risk of violent death^[5]. 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^[6]. Among these are activation of cytochrome P4501A1 gene which thereby potentially enhances the transformation of polycyclic aromatic hydrocarbons to active carcinogens^[1]. In habitual marijuana smokers an overexpression of cell proteins associated with malignant transformations has been identified in bronchial epithelium cell^[1].

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^[7]. 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)^[7]. Oral administration of THC initiate psychotropic with 30 to 90 minutes and maximize within 2 to 3 hours^[7]. Acute adverse effects of anxiety, panic attacks, increased heart rate, and alteration of blood pressure occur with over-dosage^[7]. Extended usage may initiate a condition of dependency^[7]. 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^[8]. 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^[8].

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^[2], 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^[9]. 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^[9]. 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^[10]. Current studies are discerning the possible deleterious effects on pulmonary DNA that is caused by toxic substances in marijuana smoke^[11]. Marijuana smoke has been associated with numerous adverse pulmonary effects in human tissue, that include edema, bronchitis, and hypersecretion of mucus^[12]. Various studies have demonstrated that condensates of marijuana smoke are genotoxic^[12]. Human lung explants have been used to show that marijuana smoke may alter the DNA content and chromosome number^[12]. 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^[12]. Marijuana smoke contains harmful substances and qualitatively the same chemicals as tobacco smoke^[12,13]. Marijuana smoke contains selected polycyclic aromatic hydrocarbons (PAH) and in secondary smoke it is at levels greater than tobacco smoke^[13]. Marijuana smoke has been associated with long term pulmonary injury and pulmonary inflammation^[13]. Some organic compounds found in marijuana smoke include: toluene, benzene, pyridine, quinoline, isoprene, acrylonitrile, styrene, and 1,3-butadiene^[13].

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^[14]. Upon removal of cannabis the same dominant males demonstrated elevated aggressive behavior^[14]. Other animal research demonstrated identifiable behavioral pharmacology of cannabinoids that interact with cannabinoid neurotransmission modifiers that exhibit rewarding-reinforcing properties in the experimental animals^[15]. 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^[16]. However different work determined that cannabis alone may be sufficient risk factor itself for the development of psychotic disorder^[17]. 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^[18]. 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^[19]. 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^[20]. Attempts at suicide while during schizophrenia was found to be closely correlated to cannabis usage^[20]. 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^[21]. 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^[22]. 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^[17]. In addition, cannabis usage could be an independent risk factor for the further development of psychotic disorders^[17]. 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^[23]. In addition, cannabis use was found to be an independent predictor on working memory and strategy measures^[23]. Aspects of adolescent cognitive function are independently related to the frequency of cannabis usage^[23]. Use of cannabis by psychiatric patients possibly produces some anxiolytic effect and antidepressive influence however it is accompanied by exacerbated psychotic and manic symptoms^[24]. 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^[25]. Adolescents also using cocaine and upon onset cannabis usage have a greater risk of cocaine induced paranoia^[25]. While cannabis has deleterious effects, halting exposure following after an initial psychotic episode clearly contributes to improved outcome^[26]. 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^[27].

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^[28]. 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^[28]. 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^[28]. Meanwhile cannabinoids have become the most frequently abused illicit class of drugs in the United States^[29]. Despite discussion of medical marijuana, the abuse liability of THC is comparable to other abused drugs under specific condi-

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tions^[29]. 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)^[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 cultures was also correlated with concomitant reduction of division maxima and percent of cells completing division I^[30]. In vitro studies of THC revealed that at a concentration of 10⁻⁵ 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^[31]. While THC inhibited semiconservative DNA synthesis it did not appear to have any effect on DNA repair synthesis in human cells^[31]. The constitutive cannabinoids of marijuana and marijuana have been shown to markedly affect cells of mammals^[32]. In both in vitro and in vivo investigation it has been shown that cannabinoids induce chromosome aberrations^[32]. 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)^[32]. Corroborative work accomplished also indicated THC activity that inhibits protein synthesis and nucleic acid synthesis^[33]. 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^[34] (which hitherto was considered to be descriptive of "hard addictive drugs"). THC invigorates an incentive to abuse other addictive drugs and in particular heroin^[34]. A close relationship between cannabis and schizophrenia has been elucidated by some studies^[34]. 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^[35].

ACKNOWLEDGEMENTS

This work was supported by the College of Arts &

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REFERENCES

- [1] D.P.Tashkin, M.D.Roth; 'Marijuana and the Cannaboids', Humana Press, New York (NY), 253-275 (2007).
- [2] N.David, L.King, W.Saulsbury, C.Blakemore; The Lancet, **369**, 1047-1053 (2007).
- [3] Council of Scientific and Industrial Research; The Wealth of India, **11**, (1948-1976).
- [4] S.Darke, J.Duflou, M.Torok; Addiction, **104**(6), 1000-1005 (2009).
- [5] F.P.Rivera, B.A.Mueller, G.Somes, C.T.Mendoza, N.B.Rushforth, A.L.Kellermann; JAMA, **278**(7), 569-575 (1997).
- [6] I.B.Adams, B.R.Martin; Addiction, **91**(11), 1585-1614 (1996).
- [7] F.Grotenhermen; Clin.Pharmacokinet., **42**(4), 327-360 (2003).
- [8] F.Grotenhermen; Curr Drug Targets CNS Neurol.Disord., **4**(5), 507-530 (2005).
- [9] Science Daily; Marijuana Smoke Contains Higher Levels of Certain Toxins Than Tobacco Smoke: American Chemical Society, (2007).
- [10] Science Daily; Marijuana Smokers Face Rapid Lung Destruction-As Much as 20 Years Ahead of Tobacco Smokers: American Chemical Society, (2008).
- [11] Science Daily; Growing Evidence of Marijuana Smoke's Potential Dangers: American Chemical Society, (2009).
- [12] R.Maertens, P.White, W.Rickert, G.Levasseur, D.Douglas, P.Bellier, J.McNamee, V.Thuppall, M.Walker, S.Desjardins; Chem.Res.Toxicol., **22**, 1406-1414 (2009).
- [13] D.Moir, W.Rickert, G.Levasseur, Y.Larose, R.Maertens, P.White, S.Desjardins; Chem.Res.Toxicol., **21**, 494-502 (2008).
- [14] M.Cutler, J.MacKintosh, M.Chance; Psychopharmacologia, **44**(2), 173-177 (1975).
- [15] G.Panagis, S.Vlachou, C.Nomikos; Curr Drug Abuse Rev., **1**(3), 350-374 (2008).
- [16] M.Harley, I.Kelleher, M.Clarke, F.Lynch, L.Arseneault, D.Conner, C.Fitzpatrick, M.Cannon; Psychol.Med., (in press).
- [17] P.Le Bec, M.Fatseas, C.Denis, E.Lavie, M.Auria-combe; Encephale, **35**(4), 377-385 (2009).
- [18] W.Hall, L.Degenhardt, M.Teesson; Drug Alcohol Rev., **23**(4), 433-443 (2004).

Review

- [19] M.Schaub, W.Rossler, R.Stohler; Praxis, **93(23)**, 997-1002 (2004).
- [20] A.Dervaux, X.Laqueille, M.Bourdel, M.Leborgne, J.Olie, H.Loo, M.Krebs; Encephale, **29(1)**, 11-17 (2003).
- [21] H.Verdoux, M.Tournier; Epidemiol.Psichiater.Soc., **13(2)**, 113-119 (2004).
- [22] L.Degenhardt, W.Hall; Can.J.Psychiatry, **51(9)**, 556-565 (2006).
- [23] M.Harvey, J.Sellman, R.Porter, C.Frampton; Drug Alcohol Rev., **26(3)**, 309-319 (2007).
- [24] G.Katz, R.Durst, E.Shufman, R.Bar-Hamburger, L.Grunhaus; Compr.Psychiatry, **51(1)**, 37-41 (2010).
- [25] R.Kalayasiri, J.Gelernter, L.Farrer, R.Weiss, K.Brady, R.Gueorguieva, H.Kranzler, R.Malison; Drug Alcohol Depend., (in press).
- [26] A.Gonzalez-Pinto, S.Alberich, S.Barbeito, M.Gutierrez, P.Vega, B.Ibanez, M.Haidar, E.Vieta, C.Arango; Schizophr.Bull., (in press).
- [27] F.Indlekofer, M.Piechatzek, M.Daamen, C.Glas-macher, R.Lieb, H.Pfister, O.Tucha, K.Lange, H.Wittchen, C.Schutz; J.Psycho-Pharmacol., **23(5)**, 496-509 (2009).
- [28] Z.Cooper, M.Haney; Addict.Biol., **13(2)**, 188-195 (2008).
- [29] Z.Justinova, S.Goldberg, S.Heishman, G.Tanda; Pharmacol.Biochem.Behav., **81(2)**, 285-299 (2005).
- [30] D.McClean, A.Zimmerman; Pharmacology, **14(4)**, 307-321 (1976).
- [31] R.Blevins, J.Regan; Arch.Toxicol., **35(2)**, 127-135 (1976).
- [32] S.Zimmerman, A.Zimmerman; Int.J.Addict.A, **25(1)**, 19-33 (1991).
- [33] B.Desoize, G.Nahas; C.R.Acad.Sci.Hebd.Seances, Acad.Sci.D., **281(5-8)**, 475-478 (1975).
- [34] J.Costentin; Bull.Acad.Natl.Med., **186(2)**, 319-328 (2002).
- [35] R.Jain, Y.Balhara; Indian J.Physiol.Pharmacol., **52(3)**, 217-232 (2008).

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Proposition AA
Retail Marijuana Taxes

1 **Question:** SHALL STATE TAXES BE INCREASED BY \$70,000,000 ANNUALLY IN THE
2 FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY
3 THEREAFTER BY IMPOSING AN EXCISE TAX OF 15% WHEN UNPROCESSED RETAIL
4 MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A RETAIL MARIJUANA
5 CULTIVATION FACILITY WITH THE FIRST \$40,000,000 OF TAX REVENUES BEING
6 USED FOR PUBLIC SCHOOL CAPITAL CONSTRUCTION AS REQUIRED BY THE STATE
7 CONSTITUTION, AND BY IMPOSING AN ADDITIONAL SALES TAX OF 10% ON THE SALE
8 OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE TAX
9 REVENUES BEING USED TO FUND THE ENFORCEMENT OF REGULATIONS ON THE
10 RETAIL MARIJUANA INDUSTRY AND OTHER COSTS RELATED TO THE
11 IMPLEMENTATION OF THE USE AND REGULATION OF RETAIL MARIJUANA AS
12 APPROVED BY THE VOTERS, WITH THE RATE OF EITHER OR BOTH TAXES BEING
13 ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL
14 SO LONG AS THE RATE OF EITHER TAX DOES NOT EXCEED 15%, AND WITH THE
15 RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT
16 NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW?

17 **Text of Measure:**

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

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

21 **ARTICLE 28.8**
22 **Taxes on Marijuana and Marijuana Products**

23 **PART 1**
24 **DEFINITIONS**

25 **39-28.8-101. Definitions.** UNLESS THE CONTEXT OTHERWISE REQUIRES,
26 ANY TERMS NOT DEFINED IN THIS ARTICLE SHALL HAVE THE MEANINGS SET FORTH
27 IN ARTICLE 26 OF THIS TITLE. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
28 OTHERWISE REQUIRES:

29 (1) "AVERAGE MARKET RATE" MEANS THE AVERAGE PRICE, AS

1 DETERMINED BY THE DEPARTMENT ON A BIANNUAL BASIS IN SIX-MONTH
2 INTERVALS, OF ALL UNPROCESSED RETAIL MARIJUANA THAT IS SOLD OR
3 TRANSFERRED FROM RETAIL MARIJUANA CULTIVATION FACILITIES IN THE STATE
4 TO RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES, RETAIL MARIJUANA
5 STORES, OR OTHER RETAIL MARIJUANA CULTIVATION FACILITIES. AN "AVERAGE
6 MARKET RATE" MAY BE BASED ON THE PURCHASER OR TRANSFEREE OF
7 UNPROCESSED RETAIL MARIJUANA OR ON THE NATURE OF THE UNPROCESSED
8 RETAIL MARIJUANA THAT IS SOLD OR TRANSFERRED.

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

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

14 (4) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND
15 ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9
16 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED
17 THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

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

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

24 (7) "RETAIL MARIJUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS
25 CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN
26 EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND,
27 MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS
28 SEEDS, OR ITS RESIN, INCLUDING MARIJUANA CONCENTRATE. "RETAIL MARIJUANA"
29 DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED
30 FROM THE STALKS, OIL, CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED
31 SEED OF THE PLANT THAT IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY
32 OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL
33 ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

34 (8) "RETAIL MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY

1 LICENSED TO CULTIVATE, PREPARE, AND PACKAGE RETAIL MARIJUANA AND SELL
2 RETAIL MARIJUANA TO RETAIL MARIJUANA STORES, TO RETAIL MARIJUANA
3 PRODUCT MANUFACTURING FACILITIES, AND TO OTHER RETAIL MARIJUANA
4 CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

5 (9) "RETAIL MARIJUANA PRODUCTS" MEANS CONCENTRATED RETAIL
6 MARIJUANA PRODUCTS AND RETAIL MARIJUANA PRODUCTS THAT ARE COMPRISED
7 OF RETAIL MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR
8 CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS,
9 AND TINCTURES.

10 (10) "RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN
11 ENTITY LICENSED TO PURCHASE RETAIL MARIJUANA; MANUFACTURE, PREPARE,
12 AND PACKAGE RETAIL MARIJUANA PRODUCTS; AND SELL RETAIL MARIJUANA AND
13 RETAIL MARIJUANA PRODUCTS TO OTHER RETAIL MARIJUANA PRODUCT
14 MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO
15 CONSUMERS.

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

19 (12) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED BY THE
20 DEPARTMENT TO PURCHASE RETAIL MARIJUANA FROM RETAIL MARIJUANA
21 CULTIVATION FACILITIES AND RETAIL MARIJUANA AND RETAIL MARIJUANA
22 PRODUCTS FROM RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES AND
23 TO SELL RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS TO CONSUMERS.

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

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

29 (15) "UNPROCESSED RETAIL MARIJUANA" MEANS MARIJUANA AT THE TIME
30 OF THE FIRST TRANSFER OR SALE FROM A RETAIL MARIJUANA CULTIVATION
31 FACILITY TO A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY OR A
32 RETAIL MARIJUANA STORE.

1
2

PART 2
RETAIL MARIJUANA SALES TAX

3 **39-28.8-201. Retail marijuana sales tax - administration -**
4 **enforcement.** THE TAX IMPOSED PURSUANT TO THIS PART 2 SHALL BE
5 ADMINISTERED AND ENFORCED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE
6 21 OF THIS TITLE AND PART 1 OF ARTICLE 26 OF THIS TITLE, INCLUDING, WITHOUT
7 LIMITATION, ANY PENALTIES FOR FAILURE TO MAKE ANY RETURN OR TO COLLECT
8 OR PAY ANY TAX; EXCEPT THAT, IN THE EVENT OF A CONFLICT BETWEEN THE
9 PROVISIONS OF THIS PART 2 AND THE PROVISIONS OF ARTICLE 21 OF THIS TITLE OR
10 PART 1 OF ARTICLE 26 OF THIS TITLE, THE PROVISIONS OF THIS PART 2 SHALL
11 CONTROL.

12 **39-28.8-202. Retail marijuana sales tax.** (1) (a) IN ADDITION TO THE
13 TAX IMPOSED PURSUANT TO PART 1 OF ARTICLE 26 OF THIS TITLE AND THE SALES
14 TAX IMPOSED BY A LOCAL GOVERNMENT PURSUANT TO TITLE 29, 30, 31, OR 32,
15 BEGINNING JANUARY 1, 2014, THERE IS IMPOSED UPON ALL SALES OF RETAIL
16 MARIJUANA AND RETAIL MARIJUANA PRODUCTS BY A RETAILER A TAX AT THE
17 RATE OF TEN PERCENT OF THE AMOUNT OF THE SALE, TO BE COMPUTED IN
18 ACCORDANCE WITH SCHEDULES OR FORMS PRESCRIBED BY THE EXECUTIVE
19 DIRECTOR OF THE DEPARTMENT; EXCEPT THAT A RETAIL MARIJUANA STORE IS NOT
20 ALLOWED TO RETAIN ANY PORTION OF THE RETAIL MARIJUANA SALES TAX
21 COLLECTED PURSUANT TO THIS PART 2 TO COVER THE EXPENSES OF COLLECTING
22 AND REMITTING THE TAX AND EXCEPT THAT THE DEPARTMENT OF REVENUE MAY
23 REQUIRE A RETAILER TO MAKE RETURNS AND REMIT THE TAX DESCRIBED IN THIS
24 PART 2 BY ELECTRONIC MEANS.

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

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

32 (II) AFTER ESTABLISHING A TAX RATE THAT IS LOWER THAN FIFTEEN
33 PERCENT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), INCREASE THE
34 TAX RATE TO BE IMPOSED PURSUANT TO THIS SUBSECTION (1); EXCEPT THAT, IN NO
35 EVENT SHALL THE GENERAL ASSEMBLY INCREASE THE TAX RATE ABOVE FIFTEEN
36 PERCENT OF THE SALE OF RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS.

1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INCREASE IN THE TAX
2 RATE PURSUANT TO THIS SUBPARAGRAPH (II) SHALL NOT REQUIRE VOTER
3 APPROVAL SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT PART 4 OF
4 THIS ARTICLE.

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

8 (3) THE DEPARTMENT MAY REQUIRE RETAIL MARIJUANA STORES TO FILE
9 TAX RETURNS AND REMIT PAYMENTS DUE PURSUANT TO THIS PART 2
10 ELECTRONICALLY. THE DEPARTMENT SHALL PROMULGATE RULES GOVERNING
11 ELECTRONIC PAYMENT AND FILING.

12 **39-28.8-203. Disposition of collections.** (1) THE PROCEEDS OF ALL
13 MONEYS COLLECTED FROM THE RETAIL MARIJUANA SALES TAX SHALL BE CREDITED
14 TO THE OLD AGE PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE
15 STATE CONSTITUTION IN ACCORDANCE WITH PARAGRAPHS (a) AND (f) OF SECTION
16 2 OF ARTICLE XXIV OF THE STATE CONSTITUTION. FOR EACH FISCAL YEAR IN
17 WHICH A TAX IS COLLECTED PURSUANT TO THIS PART 2, AN AMOUNT SHALL BE
18 DISTRIBUTED FROM THE GENERAL FUND AS FOLLOWS:

19 (a) (I) AN AMOUNT EQUAL TO FIFTEEN PERCENT OF THE GROSS RETAIL
20 MARIJUANA SALES TAX REVENUES COLLECTED BY THE DEPARTMENT SHALL BE
21 APPORTIONED TO LOCAL GOVERNMENTS. THE CITY OR TOWN SHARE SHALL BE
22 APPORTIONED ACCORDING TO THE PERCENTAGE THAT RETAIL MARIJUANA SALES
23 TAX REVENUES COLLECTED BY THE DEPARTMENT WITHIN THE BOUNDARIES OF THE
24 CITY OR TOWN BEARS TO THE TOTAL RETAIL MARIJUANA SALES TAX REVENUES
25 COLLECTED BY THE DEPARTMENT. THE COUNTY SHARE SHALL BE APPORTIONED
26 ACCORDING TO THE PERCENTAGE THAT RETAIL MARIJUANA SALES TAX REVENUES
27 COLLECTED BY THE DEPARTMENT IN THE UNINCORPORATED AREA OF THE COUNTY
28 BEARS TO TOTAL RETAIL MARIJUANA SALES TAX REVENUES COLLECTED BY THE
29 DEPARTMENT.

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

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

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

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

15 (VI) NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO PREVENT
16 A LOCAL GOVERNMENT FROM IMPOSING, LEVYING, AND COLLECTING ANY FEE OR
17 ANY TAX UPON THE SALE OF RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS
18 OR UPON THE OCCUPATION OR PRIVILEGE OF SELLING RETAIL MARIJUANA
19 PRODUCTS, NOR SHALL THE PROVISIONS OF THIS PARAGRAPH (a) BE INTERPRETED
20 TO AFFECT ANY EXISTING AUTHORITY OF A LOCAL GOVERNMENT TO IMPOSE A TAX
21 ON RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS TO BE USED FOR LOCAL
22 AND MUNICIPAL PURPOSES; HOWEVER, ANY LOCAL TAX IMPOSED AT OTHER THAN
23 THE LOCAL JURISDICTION'S GENERAL SALES TAX RATE SHALL NOT BE COLLECTED,
24 ADMINISTERED, AND ENFORCED BY THE DEPARTMENT OF REVENUE PURSUANT TO
25 SECTION 29-2-106, C.R.S., BUT SHALL INSTEAD BE COLLECTED, ADMINISTERED,
26 AND ENFORCED BY THE LOCAL GOVERNMENT ITSELF.

27 (b) FOLLOWING APPORTIONMENT OF LOCAL GOVERNMENT SHARES
28 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), AN AMOUNT EQUAL TO ALL
29 REMAINING REVENUES COLLECTED SHALL BE TRANSFERRED FROM THE GENERAL
30 FUND TO THE MARIJUANA CASH FUND CREATED IN SECTION 12-43.3-501, C.R.S.,
31 TO BE USED FOR THE ENFORCEMENT OF REGULATIONS ON THE RETAIL MARIJUANA
32 INDUSTRY AND FOR THE OTHER PURPOSES OF THE FUND AS DETERMINED BY THE
33 GENERAL ASSEMBLY. THE GENERAL ASSEMBLY SHALL MAKE APPROPRIATIONS
34 FROM THE MARIJUANA CASH FUND FOR THE EXPENSES OF THE ADMINISTRATION OF
35 THIS SECTION.

36 (2) ON OR BEFORE APRIL 1, 2014, AND ON OR BEFORE APRIL 1 EACH YEAR

1 THEREAFTER THROUGH APRIL 1, 2016, THE FINANCE COMMITTEES OF THE HOUSE
2 OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, SHALL
3 REVIEW THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION
4 TO DETERMINE WHETHER THE PERCENTAGE OF THE TAX IMPOSED PURSUANT TO
5 THIS PART 2 THAT IS APPORTIONED TO LOCAL GOVERNMENTS IS APPROPRIATE. THE
6 FINANCE COMMITTEES MAY REQUEST ASSISTANCE AND INPUT FROM THE
7 DEPARTMENT OF REVENUE AND THE DEPARTMENT OF LOCAL AFFAIRS IN MAKING
8 THIS DETERMINATION.

9 **39-28.8-204. Revenue and spending limitations.** NOTWITHSTANDING
10 ANY LIMITATIONS ON REVENUE, SPENDING, OR APPROPRIATIONS CONTAINED IN
11 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER PROVISION
12 OF LAW, ANY REVENUES GENERATED BY THE RETAIL MARIJUANA SALES TAX
13 IMPOSED PURSUANT TO THIS PART 2 AS APPROVED BY THE VOTERS AT THE
14 STATEWIDE ELECTION IN NOVEMBER 2013, MAY BE COLLECTED AND SPENT AS
15 VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE VOTER APPROVAL
16 SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF THIS
17 ARTICLE.

18 **39-28.8-205. Rules.** THE DEPARTMENT SHALL PROMULGATE RULES FOR
19 THE IMPLEMENTATION OF THIS PART 2 IN ACCORDANCE WITH THE "STATE
20 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

21 **PART 3**
22 **RETAIL MARIJUANA EXCISE TAX**

23 **39-28.8-301. Retail marijuana excise tax - administration -**
24 **enforcement.** THE TAX IMPOSED PURSUANT TO THIS PART 3 SHALL BE
25 ADMINISTERED AND ENFORCED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE
26 21 OF THIS TITLE AND PART 1 OF ARTICLE 26 OF THIS TITLE, INCLUDING, WITHOUT
27 LIMITATION, ANY PENALTIES FOR FAILURE TO MAKE ANY RETURN OR TO COLLECT
28 OR PAY ANY TAX; EXCEPT THAT, IN THE EVENT OF A CONFLICT BETWEEN THE
29 PROVISIONS OF THIS PART 3 AND THE PROVISIONS OF ARTICLE 21 OF THIS TITLE OR
30 PART 1 OF ARTICLE 26 OF THIS TITLE, THE PROVISIONS OF THIS PART 3 SHALL
31 CONTROL.

32 **39-28.8-302. Retail marijuana - excise tax levied at first transfer from**
33 **retail marijuana cultivation facility - tax rate.** (1) (a) BEGINNING JANUARY 1,
34 2014, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION
35 (1), THERE IS LEVIED AND SHALL BE COLLECTED, IN ADDITION TO THE SALES TAX
36 IMPOSED PURSUANT TO PART 1 OF ARTICLE 26 OF THIS TITLE AND PART 2 OF THIS

1 ARTICLE, A TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL
2 MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY, AT A RATE OF
3 FIFTEEN PERCENT OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL
4 MARIJUANA. THE TAX SHALL BE IMPOSED AT THE TIME WHEN THE RETAIL
5 MARIJUANA CULTIVATION FACILITY FIRST SELLS OR TRANSFERS UNPROCESSED
6 RETAIL MARIJUANA FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A
7 RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA
8 STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY.

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

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

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

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

30 **39-28.8-303. Books and records to be preserved.** (1) EVERY RETAIL
31 MARIJUANA CULTIVATION FACILITY SHALL KEEP AT EACH LICENSED PLACE OF
32 BUSINESS COMPLETE AND ACCURATE ELECTRONIC RECORDS FOR THAT PLACE OF
33 BUSINESS, INCLUDING ITEMIZED INVOICES OF ALL RETAIL MARIJUANA GROWN,
34 HELD, SHIPPED, OR OTHERWISE TRANSPORTED OR SOLD TO RETAIL MARIJUANA
35 PRODUCT MANUFACTURING FACILITIES, RETAIL MARIJUANA STORES, OR OTHER
36 RETAIL MARIJUANA CULTIVATION FACILITIES IN THIS STATE.

1 (2) THE RECORDS REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL
2 INCLUDE THE NAMES AND ADDRESSES OF RETAIL MARIJUANA PRODUCT
3 MANUFACTURING FACILITIES, RETAIL MARIJUANA STORES, OR OTHER RETAIL
4 MARIJUANA CULTIVATION FACILITIES TO WHICH UNPROCESSED RETAIL MARIJUANA
5 IS SOLD OR TRANSFERRED, THE INVENTORY OF ALL UNPROCESSED RETAIL
6 MARIJUANA ON HAND, AND OTHER PERTINENT PAPERS AND DOCUMENTS RELATING
7 TO THE SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA.

8 (3) A RETAIL MARIJUANA CULTIVATION FACILITY SHALL KEEP ITEMIZED
9 INVOICES OF ALL UNPROCESSED MARIJUANA TRANSFERRED TO RETAIL MARIJUANA
10 STORES OWNED OR CONTROLLED BY THE OWNERS OF THE RETAIL MARIJUANA
11 CULTIVATION FACILITY.

12 (4) EVERY RETAIL MARIJUANA STORE SHALL KEEP AT ITS PLACE OF
13 BUSINESS COMPLETE AND ACCURATE RECORDS TO SHOW THAT ALL RETAIL
14 MARIJUANA RECEIVED BY THE RETAIL MARIJUANA STORE WAS PURCHASED FROM
15 A RETAIL MARIJUANA CULTIVATION FACILITY. THE RETAIL MARIJUANA STORE
16 SHALL PROVIDE A COPY OF SUCH RECORDS TO THE DEPARTMENT IF SO REQUESTED.
17 THE DEPARTMENT MAY ESTABLISH THE ACCEPTABLE FORM OF SUCH RECORDS.

18 **39-28.8-304. Returns and remittance of tax - civil penalty.** (1) EVERY
19 RETAIL MARIJUANA CULTIVATION FACILITY SHALL FILE A RETURN WITH THE
20 DEPARTMENT EACH MONTH. THE RETURN, WHICH SHALL BE UPON FORMS
21 PRESCRIBED AND FURNISHED BY THE DEPARTMENT, SHALL CONTAIN, AMONG
22 OTHER THINGS, THE TOTAL AMOUNT OF UNPROCESSED RETAIL MARIJUANA SOLD
23 OR TRANSFERRED DURING THE PRECEDING MONTH AND THE TAX DUE THEREON.

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

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

32 (4) A RETAIL MARIJUANA CULTIVATION FACILITY SHALL FILE WITH THE
33 DEPARTMENT EVIDENCE OF A SURETY BOND ISSUED BY A COMPANY AUTHORIZED
34 TO DO BUSINESS IN THIS STATE FOR THE BENEFIT OF THE DEPARTMENT IN AN
35 AMOUNT EQUAL TO TWO MONTHS OF THE FACILITY'S ANTICIPATED LIABILITY FOR

1 THE TAX IMPOSED PURSUANT TO THIS PART 3. THE AMOUNT OF THE FACILITY'S
2 ANTICIPATED TAX LIABILITY SHALL BE DETERMINED SOLELY IN THE DISCRETION
3 OF THE RETAIL MARIJUANA CULTIVATION FACILITY. THE DEPARTMENT MAY
4 REQUIRE A FACILITY TO FILE OR A FACILITY MAY CHOOSE TO FILE A REPLACEMENT
5 SURETY BOND IF THE AMOUNT OF THE FACILITY'S ACTUAL TAX LIABILITY CHANGES
6 AFTER THE FACILITY HAS FILED A BOND WITH THE DEPARTMENT PURSUANT TO THIS
7 SUBSECTION (4).

8 **39-28.8-305. Distribution of tax collected.** (1) ALL MONEYS RECEIVED
9 AND COLLECTED IN PAYMENT OF THE TAX IMPOSED BY THE PROVISIONS OF THIS
10 PART 3 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL
11 DISTRIBUTE THE MONEY AS FOLLOWS:

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

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

19 **39-28.8-306. Prohibited acts - penalties.** IT IS UNLAWFUL FOR ANY
20 RETAIL MARIJUANA CULTIVATION FACILITY TO SELL OR TRANSFER RETAIL
21 MARIJUANA WITHOUT A LICENSE AS REQUIRED BY LAW, OR TO WILLFULLY MAKE
22 ANY FALSE OR FRAUDULENT RETURN OR FALSE STATEMENT ON ANY RETURN, OR
23 TO WILLFULLY EVADE THE PAYMENT OF THE TAX, OR ANY PART THEREOF, AS
24 IMPOSED BY THIS PART 3. ANY RETAIL MARIJUANA CULTIVATION FACILITY OR
25 AGENT THEREOF WHO WILLFULLY VIOLATES ANY PROVISION OF THIS PART 3 SHALL
26 BE PUNISHED AS PROVIDED BY SECTION 39-21-118.

27 **39-28.8-307. Revenue and spending limitations.** NOTWITHSTANDING
28 ANY LIMITATIONS ON REVENUE, SPENDING, OR APPROPRIATIONS CONTAINED IN
29 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER PROVISION
30 OF LAW, ANY REVENUES GENERATED BY THE RETAIL MARIJUANA EXCISE TAX
31 IMPOSED PURSUANT TO THIS PART 3 AS APPROVED BY THE VOTERS AT THE
32 STATEWIDE ELECTION IN NOVEMBER 2013 MAY BE COLLECTED AND SPENT AS
33 VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE VOTER APPROVAL
34 SUBSEQUENT TO THE VOTER APPROVAL REQUIRED PURSUANT TO PART 4 OF THIS
35 ARTICLE.

1 GOVERNOR ISSUES AN OFFICIAL DECLARATION OF THE VOTE THEREON.

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

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

8 **12-43.3-501. Marijuana cash fund.** (1) All moneys collected by the state
9 licensing authority pursuant to this article shall be transmitted to the state
10 treasurer, who shall credit the same to the ~~medical~~ marijuana license cash fund,
11 which fund is hereby created and referred to in this section as the "fund". The
12 moneys in the fund shall be subject to annual appropriation by the general
13 assembly to the department of revenue for the direct and indirect costs associated
14 with implementing this article AND ARTICLE 28.8 OF TITLE 39, C.R.S. Any moneys
15 in the fund not expended for the purpose of this article OR ARTICLE 28.8 OF TITLE
16 39, C.R.S., may be invested by the state treasurer as provided by law. All interest
17 and income derived from the investment and deposit of moneys in the fund shall
18 be credited to the fund. Any unexpended and unencumbered moneys remaining
19 in the fund at the end of a fiscal year shall remain in the fund and shall not be
20 credited or transferred to the general fund or another fund.

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

22 **17-18-109. Appropriation to comply with section 2-2-703 - HB**
23 **13-1318 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING
24 STATUTORY APPROPRIATION, OR SO MUCH THEREOF AS MAY BE NECESSARY, IS
25 MADE IN ORDER TO IMPLEMENT HOUSE BILL 13-1318, ENACTED IN 2013:

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

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

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

2 **SECTION 4. Appropriation.** In addition to any other appropriation,
3 there is hereby appropriated, out of any moneys in the marijuana cash fund
4 created in section 12-43.3-501 (1) (a), Colorado Revised Statutes, not otherwise
5 appropriated, to the department of revenue, for the fiscal year beginning July 1,
6 2013, the sum of \$4,246,090 and 11.5 FTE, or so much thereof as may be
7 necessary, to be allocated for the implementation of this act as follows:

8 Executive Director's Office, Personal
9 Services and Operating Expenses \$92,376 and 1.5 FTE

10 Executive Director's Office, Vehicle Lease
11 Payments \$9,956

12 Taxation Business Group, CITA Annual
13 Maintenance and Support \$3,400,000

14 Taxation Business Group,
15 Taxation and Compliance Division \$576,696 and 8.3 FTE

16 Taxation Business Group,
17 Taxpayer Services Division \$167,062 and 1.7 FTE

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

20 (2) (a) Sections 3 and 4 of this act take effect only if, at the November
21 2013 statewide election, a majority of voters approve the ballot question
22 submitted pursuant to section 39-28.8-401, Colorado Revised Statutes, enacted
23 in section 1 of this act.

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

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

Initiative #22 Funding for Public Schools

1 Amendment ? proposes amending the Colorado Constitution and the Colorado
2 Statutes to change how the state funds public preschool through twelfth grade (P-12)
3 education by raising taxes to increase the amount of money available, changing how
4 the state distributes funding to school districts, and requiring that a fixed percentage of
5 revenue from certain state taxes be annually set aside for schools. Specifically, the
6 measure:

- 7 ♦ raises the state individual income tax rate from 4.63 percent to
8 5.0 percent on the first \$75,000 of taxable income and to
9 5.9 percent on any taxable income over \$75,000 and deposits the
10 additional tax revenue in a separate fund to pay for public education;
- 11 ♦ implements legislation passed by the state legislature creating a
12 new formula for allocating state and local funding to school districts;
- 13 ♦ repeals the constitutional requirement that base per pupil funding for
14 public education increase by at least the rate of inflation annually;
15 and
- 16 ♦ requires that at least 43 percent of state income, sales, and excise
17 tax revenue, collected at existing tax rates, be set aside annually to
18 pay for public education.

19 **Summary and Analysis**

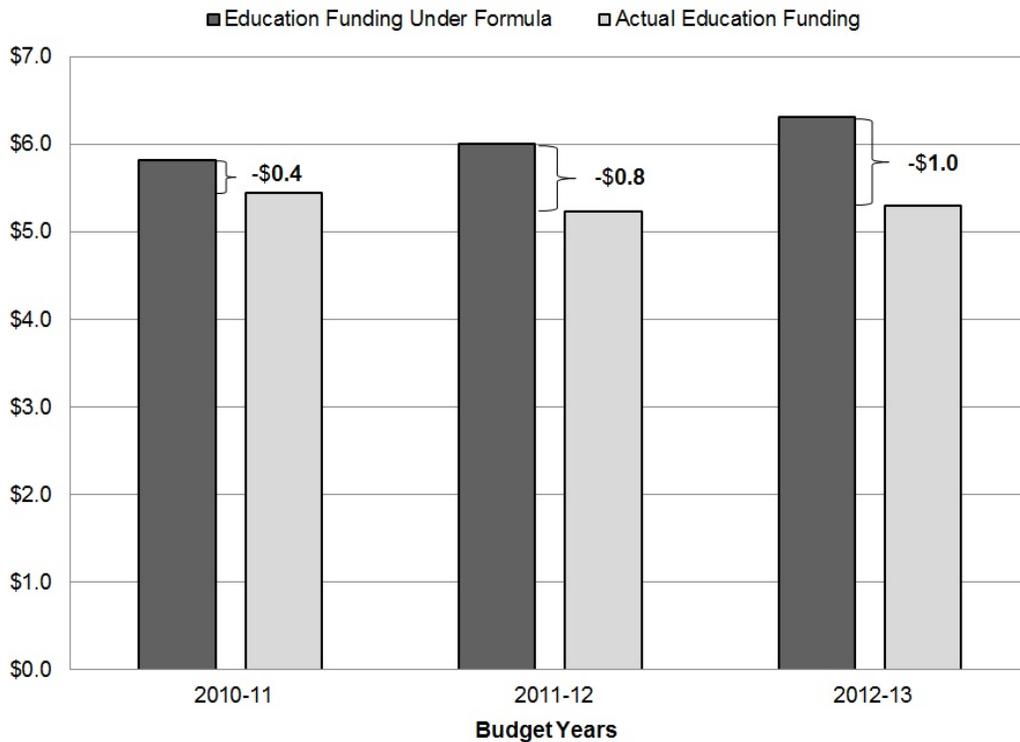
20 ***Who pays for P-12 public education?*** In budget year 2012-13, about
21 \$5.5 billion of P-12 public education funding was paid from state and local taxes on
22 individuals and businesses, including state income and sales tax and local property
23 and vehicle ownership tax. Almost all of this revenue is allocated to school districts
24 through a formula in state law. The rest provides state assistance for other programs,
25 such as transportation and special education. Additionally, districts received about
26 \$2.6 billion in operating revenue outside the funding formula. This includes federal
27 funding for all districts and fees assessed by all districts. It also includes local revenue
28 that was approved by voters in 114 of 178 districts.

29 Formula funding for each school district begins with the same amount of
30 funding per student, known as base per pupil funding. The base funding amount is
31 then adjusted upward for each school district, depending on particular district
32 characteristics, to determine a final per pupil funding amount. These characteristics
33 include the total number of students, the local community's cost of living, and the
34 percentage of students from lower-income households.

1 Currently, the state constitution requires that the base funding amount increase
 2 every year by at least inflation. The constitution also specifies that the State
 3 Education Fund receive about 7.2 percent of all income tax revenue to support the
 4 annual increase in base per pupil funding.

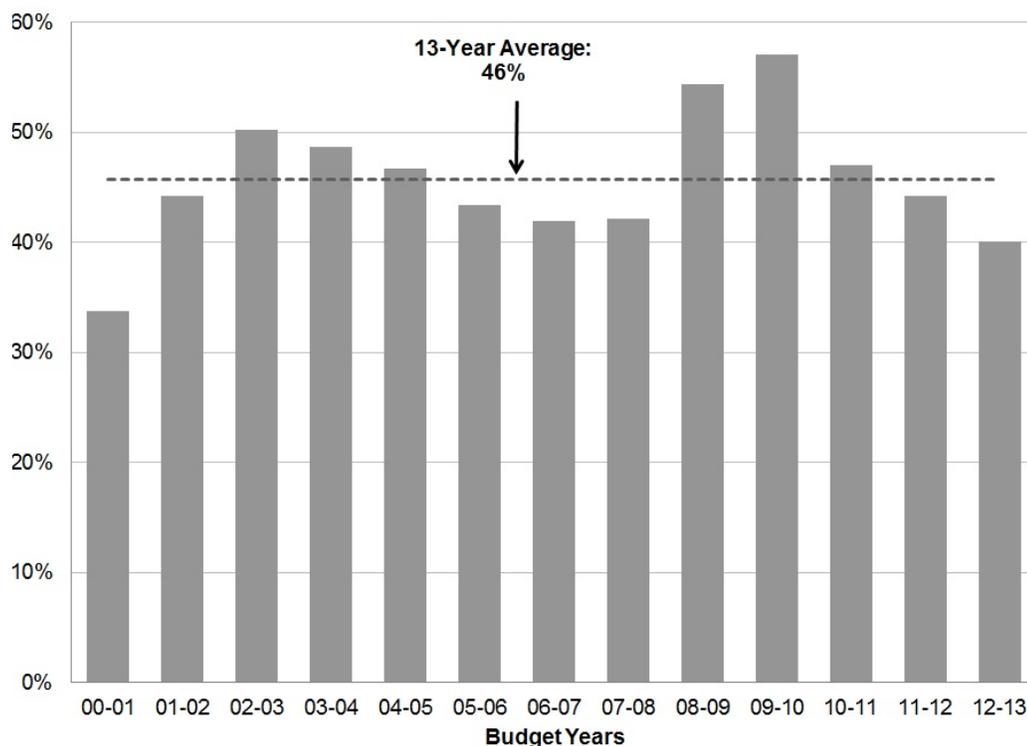
5 The recent recession reduced the amount of state and local tax revenue
 6 available for P-12 public education funding. In each of the past three budget years,
 7 the decline in state revenue caused the legislature to reduce the amount of state
 8 money going to school districts below what would have been required by the funding
 9 formula. Figure 1 compares formula funding before this legislative change with actual
 10 funding for each of the last three budget years. For example, in budget year 2012-13,
 11 actual funding was \$1.0 billion below what the funding formula would have required.

12 **Figure 1. Formula Funding Compared to Actual Funding**
 13 **Budget Years 2010-11 through 2012-13**
 14 **(in Billions)**



35 **Education in the state budget.** P-12 public education funding is the largest
 36 piece of the state's operating budget. Since budget year 2000-01, the share of state
 37 income, sales, and excise tax revenue spent on P-12 public education has ranged
 38 from 34 to 57 percent, and averaged 46 percent. In the last budget year, this share
 39 was 40 percent. Figure 2 displays P-12 public education funding as a percent of total
 40 state income, sales, and excise tax revenue for budget years 2000-01 through
 41 2012-13, and the overall average during this period.

Figure 2. Share of State Income, Sales, and Excise Tax Revenue Dedicated to Total P-12 Public Education Budget Years 2000-01 to 2012-13



Amendment ? establishes a minimum level of education funding. The measure requires that at least 43 percent of state income, sales, and excise tax revenue, collected at existing tax rates, be annually deposited in the State Education Fund to be used on education-related spending. This effectively establishes a constitutional minimum funding level for education that is slightly less than the average share that has been spent on P-12 public education over the last 13 years (see Figure 2), but is an increase from the portion allocated in the 2012-13 budget year. The measure also removes the existing constitutional requirement that the base per pupil amount increase annually by at least inflation, and eliminates the transfer of about 7.2 percent of income tax revenue to the State Education Fund.

Amendment ? increases taxes to provide additional revenue for public education. The measure increases the state individual income tax rate to create new revenue for P-12 public education. Currently, Colorado taxpayers pay a flat individual income tax rate of 4.63 percent on Colorado taxable income. In 1987, the state moved from a graduated income tax structure to a single tax rate of 5.0 percent. The rate was reduced to 4.63 percent in 2000. While the measure does not affect the state corporate income tax rate, small businesses that choose to report their business income on individual income tax returns will also see their state income taxes increase.

1 Beginning in tax year 2014, Amendment ? establishes a two-tiered income tax
 2 rate. Individual income tax rates will increase from 4.63 percent to 5.0 percent on the
 3 first \$75,000 of state taxable income, and to 5.9 percent on any taxable income above
 4 the \$75,000 threshold. The state legislature may adjust this income threshold
 5 annually by inflation.

6 Imposition of this two-tiered tax rate is estimated to increase individual income
 7 tax revenue to the state by \$950 million in budget year 2014-15, the first full year of
 8 implementation. This new revenue must be placed in the State Educational
 9 Achievement Fund created by this measure, and may only be used to fund P-12 public
 10 education. The new revenue is exempt from state and school district spending
 11 limitations contained in the state constitution.

12 The two-tiered tax rate structure will have different impacts on taxpayers,
 13 depending on their household income. Table 1 shows the estimated change in the
 14 yearly state income tax liability for four representative households with different
 15 income levels. Under the new structure, an estimated 68 percent of households in
 16 Colorado will see their individual income taxes increase by 8 percent, while the
 17 remaining 32 percent will see greater increases.

18 **Table 1. State Individual Income Tax Increases for**
 19 **Representative Households under Amendment ?**

	Gross Income*	Colorado Taxable Income**	Current Law State Income Tax Liability	Amendment ? State Income Tax Liability	Amount of Annual Increase	Percent Annual Increase
Household A	\$50,000	\$26,300	\$1,218	\$1,315	\$97	8%
Household B	\$100,000	\$65,600	\$3,037	\$3,280	\$243	8%
Household C	\$150,000	\$109,900	\$5,088	\$5,809	\$721	14%
Household D	\$200,000	\$154,000	\$7,130	\$8,411	\$1,281	18%

28 * In 2011, Colorado's median gross household income was \$55,000.

29 ** Taxable income totals for individual households may vary from the averages displayed in Table 1.

30 **Amendment ? triggers a new funding formula in Senate Bill 13-213.**

31 Amendment ? replaces the current statutory formula used to allocate state and local
 32 funding to school districts. Amendment ? triggers implementation of
 33 Senate Bill 13-213, enacted during the 2013 legislative session and signed by the
 34 Governor. The bill's new allocation formula also begins with a base per pupil amount,
 35 but it changes how the base is adjusted. It places more emphasis on students who
 36 are at risk of academic failure, defined as students eligible for free- or reduced-price
 37 lunch through the federal School Lunch Program, or who are English language
 38 learners.

1 The bill also increases funding for kindergarten and preschool students, and
2 allocates a portion of state P-12 education funding to help implement recent
3 educational reforms passed by the state legislature. It also changes the way that
4 school districts calculate student enrollment. Under current law, student enrollment is
5 based on a count that occurs once during a specified period in October. Under
6 Senate Bill 13-213, starting in the 2017-18 school year, student funding will be based
7 on average daily enrollment throughout the school year.

8 The bill provides school principals with more control over how money will be
9 spent in their schools. This is intended to help students who are deemed to be at risk
10 of academic failure achieve academic targets. The bill also requires a periodic study
11 of the increases in academic achievement resulting from the additional funding and a
12 public, school-specific accounting of administrative and teacher expenses.

For information on those issue committees that support or oppose the measures on the ballot at the November 5, 2013, election, go to the Colorado Secretary of State's elections center website hyperlink for ballot and initiative information:

www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html

13 **Arguments For**

14 1) One of government's most important functions is to provide children with a
15 high-quality education. To improve schools, the state needs a long-term solution that
16 is innovative, accountable for results, and transparent to taxpayers. The additional
17 money provided in this measure allows local boards of education to target areas
18 where research suggests that investments are likely to produce improved student
19 outcomes, such as ensuring effective teachers are in the classroom, reducing class
20 sizes, investing in preschool and full-day kindergarten, upgrading classroom
21 technology, and giving principals and teachers more control over budgeting decisions
22 in their schools.

23 2) Investing in public education is the best way to ensure a strong Colorado
24 economy capable of competing in today's global market. One of the top priorities of
25 businesses seeking a new location is identifying a well-educated workforce. Since
26 budget year 2008-09, the state legislature has severely cut P-12 funding, with funding
27 for the 2012-13 school year \$1.0 billion below what the funding formula would have
28 required. Restoring this funding shortfall not only benefits the state's schools and
29 communities, but also provides a positive signal to companies looking to relocate or to
30 expand in Colorado.

31 3) The measure simultaneously restores funding to public schools that have
32 suffered severe budget cuts and provides taxpayers with needed accountability by
33 measuring how the increased investment will affect student achievement. The state
34 will be required to prepare a return on investment study and a cost study to identify

1 funding deficits that affect the performance of school districts and the academic
2 achievement of students. The state will also make detailed expenditure data for each
3 school and district available to the general public, allowing for comparisons between
4 schools.

5 **Arguments Against**

6 1) Amendment ? is a \$950 million tax increase that may impede economic
7 expansion at a time when the state's economy is still recovering. Increasing state
8 income taxes reduces the money that households have to spend or save. As a result,
9 consumer spending and overall economic activity may also decline, negatively
10 impacting the competitiveness of Colorado businesses. The state currently has
11 adequate financial resources to implement Senate Bill 13-213 for the next year without
12 a tax increase. The legislature set aside \$1.1 billion in budget year 2012-13 and an
13 estimated \$290 million in budget year 2013-14 for P-12 public education. These
14 recent set-asides are indicative of an expanding economy that may permit adequate
15 investment in P-12 public education without additional tax revenue.

16 2) This measure imposes an additional tax burden on state taxpayers without
17 any guarantee of increased academic achievement. Senate Bill 13-213 makes
18 incremental changes to the school funding allocation formula without providing
19 significant educational reform. This approach lacks real accountability as the new
20 funding formula does not reward schools or districts that show gains in student
21 achievement. Amendment ? leaves in place an outmoded system of delivering
22 education that has not shown significant measurable improvements for students on
23 state assessments.

24 3) Under the measure, taxpayers in some school districts will pay more in new
25 taxes than these districts will receive in new revenue. All individuals will see a state
26 income tax increase of at least 8.0 percent to implement the new P-12 education
27 formula, and some will see substantially higher percentage increases. At the same
28 time, under Senate Bill 13-213, 37 of 178 school districts will see increases in funding
29 of less than 8.0 percent. Thus, the measure maintains a funding structure that uses
30 tax revenue from some districts in order to subsidize P-12 education in other districts.

31 **Estimate of Fiscal Impact**

32 **State revenue and spending.** Amendment ? is expected to increase state tax
33 revenue by \$452 million in budget year 2013-14, \$950 million in budget year 2014-15
34 (the first full year with increased tax revenue), and \$1.0 billion in budget year 2015-16.
35 The amendment requires that all new revenue from the tax increase be used to fund
36 P-12 public education.

1 Table 3 shows the revenue expected from the increased income tax rate; state
2 fiscal year spending without these taxes for FY 2014-15, the first full fiscal year for
3 which the increase would be in place; and the sum of the two.

4 **Table 3. Estimated State Fiscal Year Spending**
5 **and the Proposed Tax Rate Increase**

	FY 2014-15 Estimate
State Spending Without the New Taxes	\$12.08 billion
Revenue from the New Income Taxes	\$0.95 billion
State Spending Plus the New Taxes	\$13.03 billion

Last Draft as Mailed to Interested Parties

Initiative #22 Funding for Public Schools

1 Amendment ? proposes amending the Colorado Constitution and the Colorado
2 Statutes to change how the state funds public preschool through twelfth grade (P-12)
3 education by raising taxes to increase the amount of money available, changing how
4 the state distributes funding to school districts, and requiring that a fixed percentage of
5 revenue from certain state taxes be annually set aside for schools. Specifically, the
6 measure:

- 7 ♦ raises the state individual income tax rate from 4.63 percent to
8 5.0 percent on the first \$75,000 of taxable income and to
9 5.9 percent on any taxable income over \$75,000 and deposits the
10 additional tax revenue in a separate fund to pay for public education;
- 11 ♦ implements legislation passed by the state legislature creating a
12 new formula for allocating state and local funding to school districts;
- 13 ♦ repeals the constitutional requirement that base per pupil funding for
14 public education increase by at least the rate of inflation annually;
15 and
- 16 ♦ requires that at least 43 percent of state income, sales, and excise
17 tax revenue, collected at existing tax rates, be set aside annually to
18 pay for public education.

19 **Summary and Analysis**

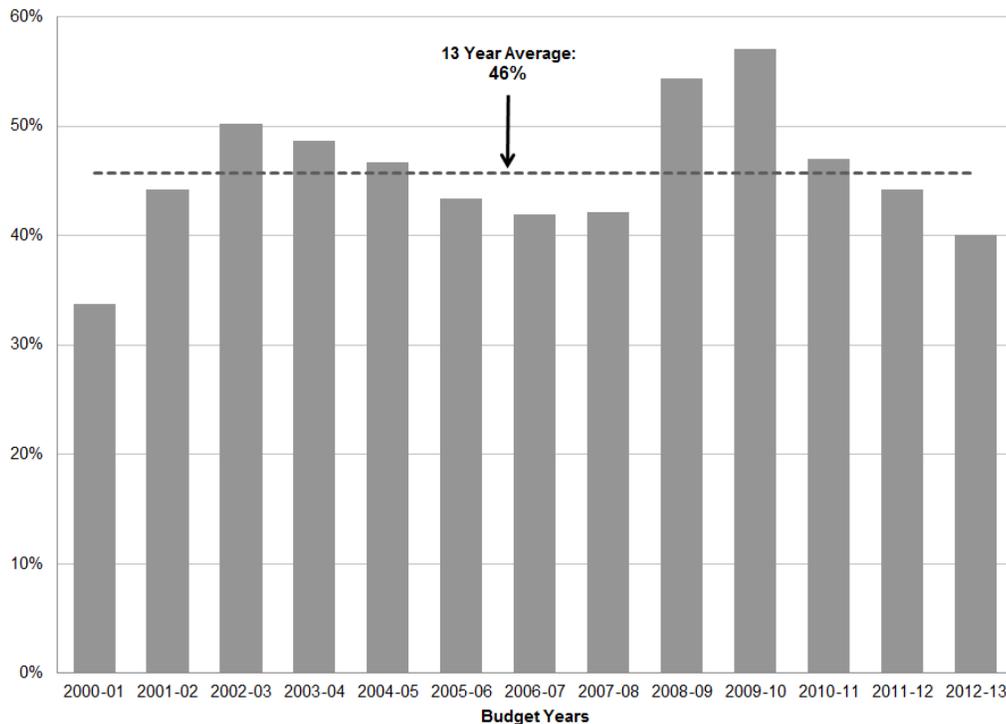
20 ***Who pays for P-12 public education?*** In budget year 2012-13, about
21 \$5.5 billion of P-12 public education funding was paid from state and local taxes on
22 individuals and businesses, including state income and sales tax and local property
23 tax and vehicle ownership tax. Almost all of this revenue is allocated to school
24 districts through a formula in state law. The rest provides state assistance for other
25 programs, such as transportation and special education. Additionally, districts receive
26 about \$3.4 billion in revenue outside the funding formula, including local revenue
27 raised by districts, federal moneys, private grants, and bond proceeds.

28 Formula funding for each school district begins with the same amount of
29 funding per student, known as base per pupil funding. The base funding amount is
30 then adjusted upward for each school district, depending on particular district
31 characteristics, to determine a final per pupil funding amount. These characteristics
32 include the total number of students, the local community's cost of living, and the
33 percentage of students from lower-income households.

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1 was 40 percent. Figure 2 displays P-12 public education funding as a percent of total
2 state income, sales, and excise tax revenue for budget years 2000-01 through
3 2012-13, and the overall average during this period.

4 **Figure 2. Share of State Income, Sales, and Excise Tax Revenue**
5 **Dedicated to Total P-12 Public Education**
6 **Budget Years 2000-01 to 2012-13**



28 **Amendment ? establishes a minimum level of education funding.** The
29 measure requires that at least 43 percent of state income, sales, and excise tax
30 revenue, collected at existing tax rates, be annually dedicated to education-related
31 spending. This effectively establishes a constitutional minimum funding level for
32 education that is slightly less than the average share that has been spent on P-12
33 public education over the last 13 years (see Figure 2); but is an increase from the
34 portion allocated in the 2012-13 budget year. The measure also removes the existing
35 constitutional requirement that the base per pupil amount increase annually by at least
36 inflation, and eliminates the transfer of about 7.2 percent of income tax revenue to the
37 State Education Fund.

38 **Amendment ? increases taxes to provide additional revenue for public**
39 **education.** The measure increases the state individual income tax rate to create new
40 revenue for P-12 public education. The measure does not affect the state corporate
41 income tax rate. Currently, Colorado taxpayers pay a flat individual income tax rate of

Last Draft as Mailed to Interested Parties

1 4.63 percent. In 1987, the state moved from a graduated income tax structure to a
2 single tax rate of 5.0 percent. This rate was reduced to 4.63 percent in 2000.

3 Beginning in tax year 2014, Amendment ? establishes a two-tiered income tax
4 rate. Income tax rates will increase from 4.63 percent to 5.0 percent on the first
5 \$75,000 of state taxable income, and to 5.9 percent on any taxable income above the
6 \$75,000 threshold. The state legislature may adjust this income threshold annually by
7 inflation.

8 Imposition of this two-tiered tax rate is estimated to increase individual income
9 tax revenue to the state by \$950 million in budget year 2014-15, the first full year of
10 implementation. This new revenue must be placed in the State Educational
11 Achievement Fund created by this measure, and may only be used to fund P-12 public
12 education. The new revenue is exempt from state and school district spending
13 limitations contained in the state constitution.

14 The two-tiered tax rate structure will have different impacts on taxpayers,
15 depending on their household income. Table 1 shows the estimated change in the yearly
16 state income tax liability for four representative households with different income levels.
17 Under the new structure, an estimated 68 percent of households in Colorado will see their
18 individual income taxes increase by 8 percent, while the remaining 32 percent will see
19 increases at higher levels.

20 **Table 1. State Individual Income Tax Increases for**
21 **Representative Households under Amendment ?**

	Gross Income	Colorado Taxable Income*	Current Law State Income Tax Liability	Amendment ? State Income Tax Liability	Amount of Annual Increase	Percent Annual Increase
Household A	\$50,000	\$26,300	\$1,218	\$1,315	\$97	8 %
Household B	\$100,000	\$65,600	\$3,037	\$3,280	\$243	8 %
Household C	\$150,000	\$109,900	\$5,088	\$5,809	\$721	14 %
Household D	\$200,000	\$154,000	\$7,130	\$8,411	\$1,281	18 %

22
23
24
25
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28
29
30 * Taxable income totals for individual households may vary from the averages displayed in Table 1.

31 **Amendment ? triggers a new funding formula in Senate Bill 13-213.**

32 Amendment ? replaces the current statutory formula used to allocate state and local
33 funding to school districts. Amendment ? triggers implementation of
34 Senate Bill 13-213, enacted during the 2013 legislative session and signed by the
35 Governor. The bill's new allocation formula also begins with a base per pupil amount,
36 but it changes how the base is adjusted. It places more emphasis on students who

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1 are at risk of academic failure, defined as students eligible for free- or reduced-price
2 lunch through the federal School Lunch Program, or who are English language
3 learners.

4 The bill also increases funding for kindergarten and preschool students, and
5 allocates a portion of state P-12 education funding to help implement recent
6 educational reforms passed by the state legislature. It also changes the way that
7 school districts calculate student enrollment. Under current law, student enrollment is
8 based on a count that occurs once during a specified period in October. Under
9 Senate Bill 13-213, starting in the 2017-18 school year, student funding will be based
10 on average daily enrollment throughout the school year.

11 The bill provides school principals with more control over how money will be
12 spent in their schools. This is intended to help students who are deemed to be at risk
13 of academic failure achieve academic targets. The bill also requires a periodic study
14 of the increases in academic achievement resulting from the additional funding and a
15 public, school-specific accounting of administrative and teacher expenses.

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elections center website hyperlink for ballot and initiative information:*

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16 **Arguments For**

17 1) Investing in public education is the best way to ensure a strong Colorado
18 economy capable of competing in today's global market. One of the top priorities of
19 businesses seeking a new location is identifying a well-educated workforce. Since
20 budget year 2008-09, the state legislature has severely cut P-12 funding, with funding
21 for the 2013-14 school year \$1.0 billion below what it would have been without
22 legislative changes to the formula. Restoring this funding shortfall not only benefits
23 the state's schools and communities, but also provides a positive signal to companies
24 looking to relocate or to expand in Colorado.

25 2) One of the most important functions of government is to provide a
26 high-quality education for children. To improve schools, the state needs a long-term
27 solution that is innovative in approach, accountable for outcomes, and that provides
28 transparency to taxpayers. This measure targets areas where research suggests that
29 investments are likely to produce improved student outcomes: putting the best
30 teachers in the classroom, reducing class sizes, investing in preschool and full-day
31 kindergarten, upgrading classroom technology, and giving principals and teachers
32 more control over budgeting decisions in their schools.

Last Draft as Mailed to Interested Parties

1 3) The measure simultaneously restores funding to public schools that have
2 suffered severe budget cuts and provides taxpayers with needed accountability by
3 measuring how the increased investment will affect student achievement. The state will
4 be required to prepare a return on investment study and a cost study to identify funding
5 deficits that affect the performance of school districts and the academic achievement of
6 students. The state will also make detailed expenditure data for each school and district
7 available to the general public, allowing for budgetary comparisons between schools.

8 **Arguments Against**

10 1) Amendment ? is a \$950 million tax increase that may impede economic
11 expansion at a time when the state's economy is still recovering. Increasing state
12 income taxes reduces the money that households have to spend or save. As a result,
13 consumer spending and overall economic activity may also decline, negatively
14 impacting the competitiveness of Colorado businesses. The state currently has
15 adequate financial resources to implement Senate Bill 13-213 without a tax increase.
16 The legislature set aside \$1.1 billion and an estimated \$290 million for P-12 public
17 education in budget years 2012-13 and 2013-14, respectively. These recent
18 set-asides are indicative of an expanding economy that may permit adequate
19 investment in P-12 public education without additional tax revenue.

20 2) This measure imposes an additional tax burden on state taxpayers without
21 any guarantee of increased academic achievement. Senate Bill 13-213 makes
22 incremental changes to the school funding allocation formula without providing
23 significant educational reform. Instead, the state could allocate money to school
24 districts based on school choice and student achievement. Amendment ? leaves in
25 place an outmoded system of delivering education that has proven increasingly costly
26 without significant measurable improvements for students on state assessments.

27 3) This measure creates inequity in the funding of P-12 public education as
28 taxpayers in some districts will pay more in new taxes than the district will receive in
29 new revenue. All individuals will see a state income tax increase of at least
30 8.0 percent to implement the new P-12 education formula, and some will see
31 substantially higher percentage increases. At the same time, under
32 Senate Bill 13-213, 37 of 178 school districts will see increases in funding of less than
33 8.0 percent. Thus, the measure maintains a funding structure that uses tax revenue
34 from some districts in order to subsidize P-12 education in other districts.

35 **Estimate of Fiscal Impact**

36 **State revenue and spending.** Amendment ? is expected to increase state tax
37 revenue by \$452 million in budget year 2013-14, \$950 million in budget year 2014-15
38 (the first full year of implementation), and \$1,013 million in budget year 2015-16. The
39 amendment requires that all new revenue from the tax increase be used to fund P-12
40 public education.

Last Draft as Mailed to Interested Parties

1 Table 3 shows the revenue expected from the increased income tax rate; state
2 fiscal year spending without these taxes for FY 2014-15, the first full fiscal year for
3 which the increase would be in place; and the sum of the two.

4 **Table 3. Estimated State Fiscal Year Spending**
5 **and the Proposed Tax Rate Increase**

	FY 2014-15 Estimate
State Spending Without New Taxes	\$12,084 million
Revenue from New Income Taxes	\$950 million
State Spending Plus the New Taxes	\$13,034 million

Last Draft Comments from Interested Parties

Initiative #22 Funding for Public Schools

Athena Dalton, representing the Senate Minority Office:

Thank you for the opportunity to weigh in on the latest draft.

In the second paragraph of Arguments For on page 5, the text states that the measure targets specific areas likely to improve student outcomes. While SB 213 does specifically direct revenues to preschool and full-day kindergarten, new technology projects, and building-level control over budgets, it does not specifically target class size reduction. Reductions in class sizes are not guaranteed to receive funding under this reform measure, but the wording of this paragraph implies that money will be specifically targeted to this purpose. Class size reduction should be deleted from the list of targeted reforms.

In the first paragraph of Arguments Against on page 6, the discussion of “set-asides” for P-12 education may not convey to a voter unfamiliar with the state’s budget process that this money was set aside, unspent, in a reserve fund specifically for education *in addition to* the billions in regular annual spending on education. Additional clarification around the term “set aside” could improve voters’ understanding of the state’s ability to fund P-12 education.

Thanks for all your hard work on this,

Ben DeGrow, representing the Independence Institute:

Thank you for the opportunity to provide feedback. My comments are as follows:

1. **Pg 2, Lines 10-11:** Replace “reduced by about \$1.0 billion” with the wording used in Argument For #1 (pg 5): “about \$1.0 billion below what it would have been without legislative changes to the formula.” I still think this clarifies the issue well.

2. **Pg 5, after Line 3:** Add sentence “School districts with a higher percentage of these students will receive more money per student.” This key language was included in the 2nd Draft before being removed. This is an accurate representation of the At-Risk Factor and ELL Factor on pgs 29 & 30 of the enrolled version of SB 213.

3. **Pg 6, Argument Against #1, Lines 11 & 12:** Enhance the second sentence as follows: “Amendment ? unwisely increases state income taxes, reducing the money that households have to spend or save.”

4. **Pg 6, Argument Against #2, Lines 23 & 24:** Remove the third sentence and replace with: “This approach lacks real accountability. No dollars in the new funding formula will be used to reward schools or districts that show gains in student achievement.”

5. **Pg 6, Argument Against #3:**

a) Add word “substantially” to sentence 1. “...as taxpayers in some districts will pay **substantially** more in new taxes than the district will receive in new revenue.” (In a

Last Draft Comments from Interested Parties

Ben DeGrow, representing the Independence Institute (Cont.):

few districts, I have estimated they will pay close to twice as much. Even if the estimates haven't been tested for validity, there can't be any factual dispute with characterizing the disparity as substantial in some cases.)

b) Please add at the end of the penultimate sentence: "...and 13 [smaller? Rural?] districts are estimated to lose dollars under the new proposal." Table 3B, Column L**

** http://www.colorado.gov/cs/Satellite?c=Document_C&childpagename=CGA-LegislativeCouncil%2FDocument_C%2FCLCAddLink&cid=1251642510060&pagename=CLCWrapper

Ken DeLay, representing the Colorado Association of School Boards:

Please see Attachment A.

Leanne Emm, representing the Colorado Department of Education:

My comments on the initiative blue book are as follows:

Page 3 - line 30 & 31 - "be annually dedicated to education-related spending".
Comment: This makes it sound like the funds that are transferred to the State Education Fund each year from the 43% must also be spent each year. I do not believe this is the case - I think the intent is to "transfer" or deposit 43% of the revenue from taxes, etc., each year into the SEF, but there is no requirement that it actually be spent each year.

Suggested verbiage: ". . . be annually deposited into the State Education Fund to be used on education-related spending".

Page 5 - line 10 - change "enrollment" to "membership". We would be implementing an Average Daily Membership count system. The State Board will determine what constitutes enrollment.

Page 6 - line 7 - change "budgetary" to "expenditure". In SB213, there is a requirement to report expenditures at the school level - not budgets.

Page 6 - line 38 " (the first full year of implementation) " - this sounds like the SB213 will also be implemented in 2014-15. Suggested verbiage: " (the first full year of increased tax revenue) "

Thank you for the opportunity to review.

Last Draft Comments from Interested Parties

Curtis Hubbard, representing Colorado Commits to Kids:

COMMENTS ON BLUE BOOK 3rd DRAFT

Page 1, lines 7-10: the description for the new tax increments is much improved. We are suggesting a simpler and clearer way to describe. Section should be amended with NEW LANGUAGE as follows:

raises the state individual income tax rate from 4.63 percent to 5.0 percent **NEW LANGUAGE BEGIN for individuals with taxable income under \$75,000. Individuals with taxable income of more than \$75,000 would pay 5.0% on their first \$75,000, and then 5.9% on any taxable income above that amount. END NEW LANGUAGE**

Page 1, lines 13-15: AMEND LANGUAGE

The proposed language clarifies that the initiative repeals the inflationary driver that is currently mandated under Amendment 23. The language as drafted could mislead voters that there no longer would be a set per pupil funding level going forward.

repeals the constitutional requirement that **NEW LANGUAGE BEGIN the rate of inflation determines the minimum annual increase in END NEW LANGUAGE** base per pupil funding for public education ~~increase by at least the rate of inflation annually;~~

Page 1, at the end of line 18: ADD NEW LANGUAGE

The current list does not clearly identify the new revenue raised from the income tax increase. The “existing” qualifier on income tax rates in lines 16-18 is not sufficient to achieve this aim and without further information might mislead voters into thinking we are defunding public education. The new language seeks to clarify this.

pay for public education. **NEW LANGUAGE BEGIN Accordingly, this 43% does not include the additional \$950 million in income tax revenue that would be collected for public education. NEW LANGUAGE END.**

Page 1, line 27: We question the inclusion of the additional revenue sources as written. There are limitations on many of these revenues sources in how they can be used and their availability to districts. As drafted, it implies that district revenue from private grants is widespread, when in fact only a few districts have sizeable grants, and that the lawful use of bond proceeds are wide, when they are very limited for only capital needs. These revenue sources should either be removed from the list or include qualifiers explaining their use and limitations.

Page 2, line 11: The reference to federal stimulus money should include reference to it being one-time in nature as in the graphic. Simply including the budget year does not clearly state that this funding was limited.

In budget year 2010-11, **NEW LANGUAGE BEGIN one-time END NEW LANGUAGE** federal stimulus money replaced \$216 million of state formula funding. Page 3, lines 36: It is not clear from the language that the transfer of the 7.2 percent is replaced by

Last Draft Comments from Interested Parties

Curtis Hubbard, representing Colorado Commits to Kids (Cont.):

the transfer of the 43% of the income, sales, and excise tax revenue. This could mislead voters that there is a loss of education funding.

And **eliminates replaces** the transfer of about 7.2 percent of income tax revenue to the State Education Fund **NEW LANGUAGE BEGIN with 43% of the income, sales, and excise tax revenue from the General Fund.**

Page 3, lines 40-41: the language singles out only one type of tax that is unchanged by the measure when there are several tax types that are unchanged such as property tax and sales tax. The other unchanged tax types should be added, or this sentence should be deleted.

Page 4, line 1: While the text and information in Table 1 are much improved around the issue of explain taxable income in comparison to gross income, there remains a need to directly state this fact. We suggest the addition as follows:

4.63 percent **BEGIN NEW LANGAUGE on taxable income, which is lower than a taxpayer's gross income as shown in Table 1. END NEW LANGUAGE**

Page 4, lines 3-7: as suggested earlier, we recommend the following language to more simply and clearly explain the two-step tax:

Beginning in tax year 2014, Amendment ? establishes a two-tiered income tax rate. **BEGIN NEW LANGUAGE Individuals with taxable income under \$75,000 will pay 5.0%. Individuals with taxable income of more than \$75,000 would pay 5.0% on their first \$75,000, and then 5.9% on any taxable income above that amount.**

Page 4, at end of line 19 and Table 1: **ADD NEW LANGUAGE**
This section seeks to inform voters about the expected costs of the ballot initiative. However, we think it would give voters a better understanding of the impact of the tax increase if the text and table referenced the median taxable income in Colorado is \$57,000 and results in approximately \$133 annually. This is an important addition to the values currently listed in the table, and would be of significant help to voters in understanding the position of the median Coloradan.

Page 5, lines 12-13: revise reference to helping at-risk students to better clarify the purpose of providing principals greater control over budgets.

This is intended to **NEW LANGUAGE BEGIN help schools provide the individualized attention and resources needed to serve their students.**

Page 5, lines 13-15: while the description of the bill is greatly improved, there still needs to be a reference to the past reform laws funded by the bill. We recommend the following language:

Last Draft Comments from Interested Parties

Curtis Hubbard, representing Colorado Commits to Kids (Cont.):

It also supports recent education legislation that have redesigned Colorado's education system including, Senate Bill 08-212: Colorado's Achievement Plan for Kids; Senate Bill 09-163: The Education Accountability Act; Senate Bill 10-191: The Great Teachers and Great Leaders Act; and House Bill 12-1238: Colorado Reading to Ensure Academic Development Act (Colorado READ Act).

Page 5, lines 17-34: Reorder arguments 1 and 2.

We think this section reads better and more naturally if arguments 1 and 2 are swapped in position, so that the argument reading "One of the most important functions of government..." comes first. This argument is more education-related, and therefore more to the heart of the initiative. The other argument relates more to the economy and the state budget cuts, and therefore should be listed second.

Page 6, lines 14-19: To be factually accurate, this statement should say that the state has adequate resources to implement SB 213 ***for one year***. There is no evidence to suggest the state will have an additional \$1 billion annually for the foreseeable future.

Page 6, lines 24-26: Remove the language that says our education system is increasingly costly. Education expenditures in Colorado have not even kept pace with inflation, much less outpaced it as demonstrated by Figure 1 on page 2 of the blue book. Although K-12 expenditures on a national scale have increased in real terms, that is not the case in Colorado.

Page 6, line 27-34: this argument is inaccurate in that it implies that the initiative is establishing a new system of using state revenues to support local schools. In fact, it has been a long-standing policy of the state to provide equalization dollars so that all local districts can pay for what is expected of them by state law and is not created new by this initiative. We recommend changing the word "subsidize", as used in line 34, to "support" to more appropriately describe the system as it exists. The measure is not changing the structure simply reprioritizing how funding flows.

Page 7, lines 2-5: as suggested earlier, we recommend the following language to more simply and clearly explain the two-step tax:

Individuals with taxable income under \$75,000 will pay 5.0%. Individuals with taxable income of more than \$75,000 would pay 5.0% on their first \$75,000, and then 5.9% on any taxable income above that amount. The state legislature may adjust this income threshold annually by inflation.

Dan Pilcher, representing the Colorado Association of Commerce and Industry:

Good morning.

I wanted to bring to your attention some concerns that we here at the Colorado Association of Commerce and Industry (CACI) have about how Initiative 22 is being

Last Draft Comments from Interested Parties

Dan Pilcher, representing the Colorado Association of Commerce and Industry (Cont.):

presented not only publicly by its proponents but also how it is described in the three *Bluebook* drafts to date, specifically as it pertains to the impact on businesses.

Proponents of Initiative 22 have touted the fact that the measure will not increase the corporate income tax, which is correct.

Initiative 22 says that the tax increase will apply to “individuals, estates and trusts.”

But the measure, nonetheless, will have a discriminatory effect on the business community, especially small businesses, which should not be ignored in the debate about Initiative 22.

The reason is that a business owner who operates as a “sole proprietorship” or two or more business owners who operate as a “general partnership,” “limited partnership,” “limited liability company (LLC)” and “S Corporation” file their tax returns as individuals.

In addition, “limited liability partnerships” and “limited liability limited partnerships” will be taxed as partnerships unless they elect to be taxed as corporations. For more information on these types of businesses, read [The Colorado Business Resource Guide](#).

Consequently, these businesses will not be excluded from the increase in the individual income tax rate that Initiative 22 will impose.

The projected impact of the proposal on these small businesses is not clear yet.

Patrick Pratt, representing the South Metro Denver Chamber:

Hello,

In Section 1 of the “Arguments Against” section, the Blue Book should mention that businesses registered as S-Corps (Colorado has more than 30,000 of them), LLCs, partnerships, and sole proprietors pay taxes at the same rate as individuals which will increase the burden on small business and hurt Colorado’s economic competitiveness.

I’ve copied our President & CEO -- John Brackney, Vice-Chair of Public Policy -- Jeff Wasden, Chair-Elect of the Board -- Herm Brocksmith, and Chair of the Board -- Lisa D’Ambrosia as an FYI.

Thank you for your consideration



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August 13, 2013

Via Email: schoolfunding@state.co.us

Colorado General Assembly
 Legislative Council
 Room 029 State Capitol
 Denver, CO 80203-1784

Re: Initiative 22

Dear Council Members:

Thanks again for the opportunity to comment on the proposed *Blue Book* language. We comment on behalf of Colorado's school boards. School boards are accountable to their local voters for school district budgets and student achievement.

- I. We support many of the changes made in the third draft. However, we cannot support one change. In the first paragraph under "Summary and Analysis," this draft represents that, in addition to state and local revenues districts receive under the school finance funding formula, school districts "receive about \$3.4 billion . . . including local revenue raised by districts, federal moneys, private grants, and bond proceeds." This statement may be technically correct as far as it goes. However, as it is now written, it is largely irrelevant to the issue to be decided by the voters this November. More importantly, without a great deal more explanation, this statement is so misleading it will unfairly prejudice some voters against this initiative. Some supporters may even claim this statement is a disguised and unacknowledged argument against Initiative 22.
 - A. Bond revenues are revenues borrowed from investors for the sole purpose of capital construction. Bond revenues may never, under any circumstances, be used for operations, teacher salaries, or any other instructional purpose. On the other hand, Initiative 22 and SB 13-213, which will be funded if Initiative 22 passes, will fund only operations, teacher salaries, and other instructional purposes. These revenues will not fund capital construction.

The need for new schools or other capital investments varies widely between districts. Some rapidly growing Front Range districts must ask district voters every few years for permission to sell more bonds to build more schools for their expanding student population. Other districts with stable student populations may go decades without selling a single bond. In a typical year, only 10 to 15 percent of Colorado school districts will hold bond elections, and some of those elections will fail.

Finally, to the extent education funding in Colorado is compared with funding in other states, we again mislead if we include bond revenues. States with stable or shrinking populations do not need to build many new schools. And most states, like Colorado, do not include bond revenues when they report school finance funding levels.

In summary, including revenues from bond sales in a number that purports to represent the operational funding received by school districts under the state's School Finance Act is at least misleading. It will also give opponents to this measure the credibility of a *Blue Book* cite when they use this inflated number to claim Colorado's per pupil funding under the School Finance Act is higher than it really is. Bond revenues must not be included in this "about \$3.4 billion" of additional revenues.

- B. Slightly more than half of Colorado's 178 school districts receive some local revenues to supplement what they receive under the funding formula. Most of the districts which do not receive such supplemental funding have little or no prospect of ever receiving approval from local voters for additional revenues.

Moreover, the amount of local revenues received by individual districts varies widely among the districts that have held successful elections. Some districts are at or near the maximum they may legally receive locally. Other districts, often because of low assessed property values in the district, have no prospect of raising amounts close to the statutory limit.

We have no objection to identifying locally approved revenues as a supplement to the formula amounts that districts receive. Unlike bond revenues, the purpose of these revenues is to supplement general fund budgets. However, it is misleading and wrong to include these revenues without explaining that many districts do not receive additional local revenues, and that the amount of money a district may raise locally varies widely as a result of variations in assessed property values between districts. This last point is particularly pertinent because one of the provisions in SB 13-213 would "equalize" a locally approved mill levy in districts with low assessed property values. It is likely that this provision in SB13-213 would permit districts which cannot now pass a local mill levy to have successful elections.

- C. The inclusion of "private grants" here is confusing. Some districts have them; many do not. Most large school districts, especially districts with significant private wealth, have active private education foundations. Most small districts have neither the wealth nor the numbers to support such a foundation. Most small school districts also lack the staff resources to be active in the private grant universe. Finally, grants are almost always project-specific and carry the expectation that a school district will assume full responsibility for funding a project initiated with grant funds.

In summary, private grants are unavailable to many districts, are usually project- or program-specific, and are not an ongoing or reliable funding stream. There are a handful of exceptions to one or two of these observations--Denver Public Schools, for example, has done well in the private grant market in recent years--but in the vast majority of school districts, private grants do not significantly affect school district funding needs.

For all of the foregoing reasons, we recommend the private grant reference be dropped. However, if it remains, an explanation should be added to the effect that most districts receive little or no grant funding, that it is not an ongoing or reliable funding stream, and that grant funding can rarely be used to pay general and ongoing obligations of a district's general operating budget.

- II. The First Argument Against is factually inaccurate. The State has adequate resources on hand to implement SB 13-213 for only one year, and doing so would almost completely deplete the State Education Fund. Furthermore, even if state revenues continue to grow robustly, if the legislature fully funds the implementation of SB 13-213 beyond one year, higher education and other state programs would necessarily continue to be grossly underfunded.

To argue, as this First Argument does, that SB 13-213 could be implemented beyond one year without harming other state programs is false. Moreover, without the mandate contained in Initiative 22 that new revenues may be spent only on education, it is also misleading to argue that the legislature would set as its first priority funding the implementation of SB 13-213, even if funding SB13-213 implementation is at the expense of restoring funding to other state programs that have been sharply cut over the last several years.

This First Argument, if it is to be included, should specify the State can spend education's rainy day fund to implement one year of SB 13-213, and thereafter implementation would require the State to cut or limit the growth of other state programs. We recommend it be eliminated.

- III. The Third Argument Against remains inaccurate for the reasons set forth in our previous comments. For at least the last 25 years, Colorado's school finance system, as is the case with most state programs, has required local taxpayers in some communities to pay more than their local community will receive in aid from the state program. That is true under the current School Finance Act and it will be true if SB 13-213 is funded. This measure does not "create" a new inequity. It continues the long-standing state policy to use state revenues to backfill funding needs in local districts that do not have the local resources to fund the education programs required by state law for every student.

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Legislative Council
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Page 4

Once more, our position is that if this "argument" says more than that the taxpayers of a few school districts may pay more in taxes than the district will receive in new funding, it says too much. It should also clarify that this "inequity" is not a newly created policy, but one long followed in school finance to ensure a student's zip code does not determine the quality of the education received by Colorado's young men and women.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken DeLay", with a long diagonal stroke extending from the bottom right of the signature.

Kenneth A. DeLay
Executive Director

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Initiative #22
Funding for Public Schools

1 **Ballot Title:** SHALL STATE TAXES BE INCREASED BY \$950,100,000 ANNUALLY IN THE
2 FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED THEREAFTER BY
3 AMENDMENTS TO THE COLORADO CONSTITUTION AND THE COLORADO REVISED
4 STATUTES CONCERNING FUNDING FOR PRESCHOOL THROUGH TWELFTH-GRADE PUBLIC
5 EDUCATION, AND, IN CONNECTION THEREWITH, INCREASING THE CURRENT STATE INCOME
6 TAX RATE ON INDIVIDUALS, ESTATES, AND TRUSTS AND IMPOSING AN ADDITIONAL RATE
7 SO HIGHER AMOUNTS OF INCOME ARE TAXED AT HIGHER RATES; REQUIRING THE
8 RESULTING INCREASES IN TAX REVENUES BE SPENT ONLY FOR IMPROVEMENTS TO
9 PRESCHOOL THROUGH TWELFTH-GRADE PUBLIC EDUCATION; ALLOWING ALL TAX
10 REVENUES ATTRIBUTABLE TO THIS MEASURE TO BE COLLECTED AND SPENT WITHOUT
11 FUTURE VOTER APPROVAL; REQUIRING AT LEAST 43% OF STATE SALES, EXCISE, AND
12 INCOME TAX REVENUES BE DEPOSITED IN THE STATE EDUCATION FUND; AND REPEALING
13 CERTAIN EXISTING PUBLIC EDUCATION FUNDING REQUIREMENTS?

14 **Text of Measure:**

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

16 **SECTION 1.** In the constitution of the state of Colorado, section 17 of
17 article IX, **amend** (1), (2), and (4) and **add** (6), (7), and (8) as follows:

18 **Section 17. Education – funding.**

19 **(1) Purpose.** In state fiscal year 2001-2002 through state fiscal year
20 2010-2011, the statewide base per pupil funding, as defined by the Public School
21 Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes, on the
22 effective date of this section, for public education from preschool through the
23 twelfth grade and total state funding for all categorical programs shall grow
24 annually at least by the rate of inflation plus an additional one percentage point.
25 ~~In state fiscal year 2011-2012, and each fiscal year thereafter,~~ FOR STATE FISCAL
26 YEARS 2011-2012 THROUGH 2013-2014, the statewide base per pupil funding for
27 public education from preschool through the twelfth grade and total state funding
28 for all categorical programs shall grow annually at a rate set by the general
29 assembly that is at least equal to the rate of inflation.

30 **(2) Definitions.** (c) "INCOME TAX INCREMENT FOR PUBLIC SCHOOL
31 FUNDING" MEANS THE INCOME TAX CHANGES APPROVED BY THE VOTERS AT THE

1 2013 GENERAL ELECTION FOR PRESCHOOL AND PUBLIC SCHOOL KINDERGARTEN
2 THROUGH TWELFTH GRADE FUNDING.

3 **(4) State education fund created.** (a) There is hereby created in the
4 department of the treasury the state education fund. Beginning on the effective
5 date of this measure, AND THROUGH JUNE 30, 2014, all state revenues collected
6 from a tax of one third of one percent on federal taxable income, as modified by
7 law, of every individual, estate, trust and corporation, as defined in law, shall be
8 deposited in the state education fund. Revenues generated from a tax of one
9 third of one percent on federal taxable income, as modified by law, of every
10 individual, estate, trust and corporation, as defined in law, shall not be subject to
11 the limitation on fiscal year spending set forth in article X, section 20 of the
12 Colorado constitution. BEGINNING IN STATE FISCAL YEAR 2014-2015, THE STATE
13 EDUCATION FUND SHALL, AT A MINIMUM, RECEIVE FORTY-THREE PERCENT OF
14 SALES, EXCISE, AND INCOME TAX REVENUE COLLECTED IN THE GENERAL FUND IN
15 A MANNER AS TO EQUAL SUCH PERCENTAGE IN RELATION TO THE REVENUE
16 GENERATED BY THE TAX RATES IN EFFECT ON DECEMBER 31, 2012 NET OF ANY
17 REFUNDS REQUIRED BY SECTION 20, SUBSECTIONS (3)(c) AND (7) OF ARTICLE X
18 OF THIS CONSTITUTION. All interest earned on monies in the state education fund
19 shall be deposited in the state education fund and shall be used before any
20 principal is depleted. Monies remaining in the state education fund at the end of
21 any fiscal year shall remain in the fund and not revert to the general fund.

22 **(6) STATE EDUCATIONAL ACHIEVEMENT FUND.**

23 (a) THE STATE EDUCATIONAL ACHIEVEMENT FUND IS CREATED IN THE
24 STATE TREASURY.

25 (b) THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY SHALL
26 ANNUALLY DETERMINE THE AMOUNT OF THE INCOME TAX INCREMENT FOR PUBLIC
27 SCHOOL FUNDING. SUCH AMOUNTS SHALL BE DEPOSITED IN THE STATE
28 EDUCATIONAL ACHIEVEMENT FUND.

29 (c) THE STATE EDUCATIONAL ACHIEVEMENT FUND SHALL BE
30 APPROPRIATED TO BENEFIT THE EDUCATION OF PARTICIPANTS IN PRESCHOOL
31 PROGRAMS AND PUBLIC SCHOOL KINDERGARTEN THROUGH TWELFTH GRADE
32 STUDENTS BY IMPLEMENTING EDUCATIONAL REFORMS AND PROGRAMMATIC
33 ENHANCEMENTS, ENACTED BY THE COLORADO GENERAL ASSEMBLY.

34 (d) THE STATE EDUCATIONAL ACHIEVEMENT FUND SHALL BE AUDITED
35 ANNUALLY BY THE STATE AUDITOR TO ENSURE COMPLIANCE WITH THIS ARTICLE.
36 THE RESULTS OF SUCH AUDIT SHALL BE A PUBLIC DOCUMENT THAT IS
37 TRANSMITTED TO THE GOVERNOR, THE PRESIDENT AND MINORITY LEADER OF THE
38 SENATE, AND THE SPEAKER AND THE MINORITY LEADER OF THE HOUSE OF

1 REPRESENTATIVES. SUCH AUDIT SHALL BE CONSPICUOUSLY PLACED ON THE
2 WEBSITES OF THE STATE AUDITOR AND THE COLORADO DEPARTMENT OF
3 EDUCATION OR THEIR SUCCESSOR AGENCIES.

4 (e) ALL INTEREST EARNED ON MONIES IN THE STATE EDUCATIONAL
5 ACHIEVEMENT FUND SHALL BE DEPOSITED IN THE STATE EDUCATIONAL
6 ACHIEVEMENT FUND AND SHALL BE USED BEFORE ANY PRINCIPAL IS DEPLETED.
7 MONIES REMAINING IN THE STATE EDUCATIONAL ACHIEVEMENT FUND AT THE END
8 OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND NOT REVERT OR BE
9 TRANSFERRED TO THE GENERAL OR ANY OTHER FUND.

10 (7) **NEW REVENUE TO SUPPLEMENT PREVIOUS YEAR EDUCATION**
11 **FUNDING.** REVENUES COLLECTED FROM THE INCOME TAX INCREMENT FOR PUBLIC
12 SCHOOL FUNDING SHALL BE USED TO SUPPLEMENT REVENUES THAT WERE
13 APPROPRIATED BY THE GENERAL ASSEMBLY IN THE PREVIOUS FISCAL YEAR FOR
14 KINDERGARTEN THROUGH TWELFTH GRADE AND PRESCHOOL EDUCATION AND
15 SHALL NOT BE USED TO SUPPLANT ANY PORTION OF THOSE PREVIOUSLY
16 APPROPRIATED REVENUES.

17 (8) **REVENUE AND SPENDING LIMITATIONS.** ALL REVENUES
18 ATTRIBUTABLE TO THE INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING OR
19 OTHERWISE ADDRESSED BY SUBSECTION (6) SHALL BE COLLECTED AND SPENT AS
20 VOTER-APPROVED REVENUE CHANGES WITHOUT REGARD TO ANY LIMITATION ON
21 REVENUE, SPENDING, OR APPROPRIATIONS, CONTAINED IN SECTION 20 OF ARTICLE
22 X OF THIS CONSTITUTION OR ANY OTHER LAW. SPENDING OF SUCH REVENUE,
23 CONSISTENT WITH THE EXPRESSED INTENTION OF THE VOTERS AT THE 2013
24 ELECTION, SHALL REQUIRE NO ADDITIONAL VOTER APPROVAL AT ANY STATE OR
25 LOCAL ELECTION.

26 **SECTION 2.** In the constitution of the state of Colorado, section 20 of
27 article X, **amend (8):**

28 (8) **Revenue limits.** (a) New or increased transfer tax rates on real
29 property are prohibited. No new state real property tax or local district income
30 tax shall be imposed. Neither an income tax rate increase nor a new state
31 definition of taxable income shall apply before the next tax year. Any income tax
32 law change after July 1, 1992 shall also require all taxable net income to be taxed
33 at one rate, excluding refund tax credits or voter-approved tax credits, with no
34 added tax or surcharge; EXCEPT THAT MULTIPLE RATES SHALL APPLY TO TAXABLE
35 NET INCOME OF INDIVIDUALS, TRUSTS, AND ESTATES, IF SPECIFIC RATE INCREASES
36 IN EXCESS OF THE TAX RATE IN EFFECT ON THE DAY OF AN ELECTION ARE

1 APPROVED BY VOTERS FOR THE PURPOSE OF PROVIDING AN INCOME TAX
2 INCREMENT FOR PUBLIC SCHOOL FUNDING.

3 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **amend** (1.7) as
4 follows:

5 **39-22-104. Income tax imposed on individuals, estates, and trusts –**
6 **single rate – definitions – repeal.** (1.7) Except as otherwise provided in section
7 39-22-627, subject to subsection (2) of this section, with respect to taxable years
8 commencing on or after January 1, 2000, a tax of four and sixty-three one
9 hundredths percent is imposed on the federal taxable income, as determined
10 pursuant to section 63 of the internal revenue code, of every individual, estate,
11 and trust. IN ADDITION TO THE TAX RATE AUTHORIZED IN THIS SUBSECTION ON
12 FEDERAL TAXABLE INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS, AN INCOME
13 TAX INCREMENT FOR PUBLIC SCHOOL FUNDING SHALL BE IMPOSED ON THE
14 FEDERAL TAXABLE INCOME OF SUCH TAXPAYERS:

15 (a) UP TO AND INCLUDING \$75,000, AT THE RATE OF THIRTY-SEVEN ONE
16 HUNDREDTHS PERCENT; AND

17 (b) OVER \$75,000, AT THE RATE OF ONE AND TWENTY-SEVEN ONE
18 HUNDREDTHS PERCENT.

19 THE GENERAL ASSEMBLY MAY ANNUALLY ADJUST THE INCOME THRESHOLDS FOR
20 THE INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING FOR INFLATION FROM
21 THE PREVIOUS YEAR.

22 **SECTION 4. EFFECTIVE DATE.** THESE VOTER-ENACTED PROVISIONS
23 SHALL TAKE EFFECT ON JANUARY 1, 2014.