

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

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LLS NO. 15-0107.01 Nicole Myers x4326

INTERIM COMMITTEE BILL

Marijuana Tax Revenues Committee

A BILL FOR AN ACT

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

Bill Summary

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

Marijuana Tax Revenues Committee. Currently, any county or municipality that allows the sale of retail marijuana is authorized to levy

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the standard county or municipal sales tax on the sale of retail marijuana in addition to the state retail marijuana sales taxes and the state retail marijuana excise tax.

The bill clarifies that counties and municipalities are authorized, subject to voter approval, to levy a sales tax on all sales of retail marijuana and retail marijuana products by retailer, in addition to any sales tax imposed by the state or by the county or municipality as applicable. Beginning January 1, 2016, the tax rate that a county or a municipality may impose is capped at 5% of the amount of the sale.

In addition, the bill authorizes, subject to voter approval, any county and any municipality to levy **and collect** an excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility, in addition to any sales tax imposed by the state or by the county or municipality, as applicable, and in addition to the state excise tax imposed on retail marijuana. The excise tax rate that a county or a municipality may impose is capped at 7.5% of the average market rate of the unprocessed retail marijuana.

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

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

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

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

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

1 COUNTY IN THE STATE IS AUTHORIZED TO LEVY A COUNTY SALES TAX
2 UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA
3 PRODUCTS BY A RETAILER. THE TAX MAY BE IMPOSED IN ALL
4 INCORPORATED AND UNINCORPORATED AREAS OF THE COUNTY.
5 BEGINNING JANUARY 1, 2016, THE TAX RATE IMPOSED PURSUANT TO THIS
6 PARAGRAPH (a) SHALL NOT EXCEED FIVE PERCENT OF THE AMOUNT OF THE
7 SALE IN ANY COUNTY. <*Do you want to include this cap at the county*
8 *level?*>

9 (b) NO SALES TAX SHALL BE LEVIED PURSUANT TO THE PROVISIONS
10 OF PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL THE PROPOSAL HAS BEEN
11 REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE COUNTY
12 IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE. ANY PROPOSAL
13 FOR THE LEVY OF A SALES TAX IN ACCORDANCE WITH PARAGRAPH (a) OF
14 THIS SUBSECTION (1) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF
15 THE COUNTY ONLY ON THE DATE OF THE STATE GENERAL ELECTION OR ON
16 THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY
17 ELECTION ON THE PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK
18 AND RECORDER IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF
19 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S.

20 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
21 SECTION 29-2-102 AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND
22 NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), EACH
23 MUNICIPALITY IN THE STATE IS AUTHORIZED TO LEVY A MUNICIPAL SALES
24 TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA
25 PRODUCTS BY A RETAILER. BEGINNING JANUARY 1, 2016, THE TAX RATE
26 IMPOSED PURSUANT TO THIS PARAGRAPH (a) SHALL NOT EXCEED FIVE
27 PERCENT OF THE AMOUNT OF THE SALE IN ANY MUNICIPALITY. <*Do you*

1 want to include a cap at the municipal level?}>

2 (b) NO SALES TAX SHALL BE LEVIED PURSUANT TO THE PROVISIONS
3 OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE PROPOSAL HAS BEEN
4 REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE
5 MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 11 OF
6 TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF A SALES TAX IN
7 ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) MAY BE
8 SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY ONLY ON
9 THE DATE OF THE STATE GENERAL ELECTION OR ON THE FIRST TUESDAY IN
10 NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY ELECTION ON THE
11 PROPOSAL MUST BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN
12 ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF 1992", ARTICLES
13 1 TO 13 OF TITLE 1, C.R.S.

14 (3) A RETAIL MARIJUANA STORE IN A COUNTY OR MUNICIPALITY IN
15 WHICH A TAX IS IMPOSED PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS
16 SECTION MAY RETAIN PERCENT OF THE RETAIL MARIJUANA SALES TAX
17 COLLECTED PURSUANT TO SECTIONS (1) AND (2) OF THIS SECTION TO
18 COVER THE EXPENSES OF COLLECTING AND REMITTING THE TAX TO THE
19 DEPARTMENT OF REVENUE. <DOR - is this necessary? Does the
20 language in 29-2-106 cover it?}>

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

1 DETERMINED BY THE GOVERNING BODY OR THE ELECTORS OF THE COUNTY
2 OR MUNICIPALITY, AS APPLICABLE.

3 **29-2-115. Retail marijuana excise tax - county - municipality**

4 **- election.** (1) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
5 SECTIONS 29-2-103 AND 29-2-114 (1) AND ARTICLES 26 AND 28.8 OF TITLE
6 39, C.R.S., AND IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
7 ARTICLE 28.8 OF TITLE 39, C.R.S., EACH COUNTY IN THE STATE IS
8 AUTHORIZED TO LEVY AND COLLECT A COUNTY EXCISE TAX ON THE FIRST
9 SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL
10 MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE IMPOSED AT THE
11 TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST SELLS
12 OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL
13 MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
14 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
15 RETAIL MARIJUANA CULTIVATION FACILITY. THE EXCISE TAX RATE
16 IMPOSED PURSUANT TO THIS PARAGRAPH (a) MUST NOT EXCEED SEVEN
17 AND ONE HALF PERCENT OF THE AVERAGE MARKET RATE OF THE
18 UNPROCESSED RETAIL MARIJUANA. <***Do you want to include this cap?***>

19 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
20 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL THE
21 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE
22 ELECTORS OF THE COUNTY IN ACCORDANCE WITH THE PROVISIONS OF THIS
23 ARTICLE. ANY PROPOSAL FOR THE LEVY OF AN EXCISE TAX IN
24 ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1) MAY BE
25 SUBMITTED TO THE ELIGIBLE ELECTORS OF THE COUNTY ONLY ON THE
26 DATE OF THE STATE GENERAL ELECTION OR ON THE FIRST TUESDAY IN
27 NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY ELECTION ON THE

1 PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK AND RECORDER
2 IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF 1992", ARTICLES
3 1 TO 13 OF TITLE 1, C.R.S. <{Article 2 of title 29 will need to be further
4 amended to address the election provisions and DOR's collection and
5 administration of a county excise tax.}>

6 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
7 SECTIONS 29-2-102 AND 29-2-114(2) AND ARTICLES 26 AND 28.8 OF TITLE
8 39, C.R.S., AND IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
9 ARTICLE 28.8 OF TITLE 39, C.R.S., EACH MUNICIPALITY IN THE STATE IS
10 AUTHORIZED TO LEVY AND COLLECT A MUNICIPAL EXCISE TAX ON THE
11 FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A
12 RETAIL MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE IMPOSED
13 AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST
14 SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL
15 MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
16 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
17 RETAIL MARIJUANA CULTIVATION FACILITY. THE EXCISE TAX RATE
18 IMPOSED PURSUANT TO THIS PARAGRAPH (a) MUST NOT EXCEED SEVEN
19 AND ONE HALF PERCENT OF THE AVERAGE MARKET RATE OF THE
20 UNPROCESSED RETAIL MARIJUANA. <{Do you want to include this cap?}>

21 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
22 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE
23 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE
24 ELECTORS OF THE MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS
25 OF ARTICLE 11 OF TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF AN
26 EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2)
27 MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY

1 ONLY ON THE DATE OF THE STATE GENERAL ELECTION OR ON THE FIRST
2 TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY ELECTION
3 ON THE PROPOSAL SHALL BE CONDUCTED BY THE CLERK OF THE
4 MUNICIPALITY IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF
5 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S.

6 (3) FOR THE PURPOSES OF THIS SECTION, THE "AVERAGE MARKET
7 RATE" OF UNPROCESSED RETAIL MARIJUANA SHALL HAVE THE SAME
8 MEANING AS "AVERAGE MARKET RATE" DEFINED IN SECTION 39-28.8-101
9 (1), C.R.S.

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

19 **SECTION 2.** In Colorado Revised Statutes, 39-28.8-203, **amend**
20 (1) (a) (VI) as follows:

21 **39-28.8-203. Disposition of collections.** (1) The proceeds of all
22 moneys collected from the retail marijuana sales tax shall be credited to
23 the old age pension fund created in section 1 of article XXIV of the state
24 constitution in accordance with paragraphs (a) and (f) of section 2 of
25 article XXIV of the state constitution. For each fiscal year in which a tax
26 is collected pursuant to this part 2, an amount shall be distributed from the
27 general fund as follows:

1 (a) (VI) Nothing in this paragraph (a) shall be construed to prevent
2 a local government from imposing, levying, and collecting any fee or any
3 tax upon the sale of retail marijuana or retail marijuana products or upon
4 the occupation or privilege of selling retail marijuana products, nor shall
5 the provisions of this paragraph (a) be interpreted to affect any existing
6 authority of a local government to impose a tax on retail marijuana or
7 retail marijuana products to be used for local and municipal purposes.
8 ~~however, any local tax imposed at other than the local jurisdiction's~~
9 ~~general sales tax rate shall not be collected, administered, and enforced~~
10 ~~by the department of revenue pursuant to section 29-2-106, C.R.S., but~~
11 ~~shall instead be collected, administered, and enforced by the local~~
12 ~~government itself.~~

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

16 <{*Additional Questions/Issues: 1. The language in section 29-2-106*
17 *addresses the collection, administration, and enforcement of sales taxes*
18 *by the DOR:*

19 *a. Does DOR need more specific authority/direction to collect the*
20 *county or municipal sales tax if the committee decides that DOR should*
21 *collect and administer the sales tax, or is the current language*
22 *sufficient?*

23 *b. DOR will need specific authority/direction to collect both the*
24 *county and municipal excise tax if the committee decides that DOR*
25 *should collect and administer the excise tax.*

26 *2. Currently, the draft uses several terms that are defined in*

1 article 28.8 of title 39, C.R.S., but that are not defined in article 2 of title
2 29. Do you want to include definitions or make some reference to the
3 definitions in title 39, so that all counties and municipalities have
4 common definitions? Or do you want to allow local governments to
5 define these terms individually?

6 3. Are there other provisions of section 29-2-105 that are not
7 applicable to a special sales tax on a specific product? Does the bill
8 need to include specific language that those provisions do not need to
9 be included in the proposal submitted to the voters?}>