

HIGHLIGHTED VERSION SHOWING CHANGES

1 Be it Enacted by the People of the State of Colorado:

2
3 SECTION 1. Statement of Intent. (1) It is the intent of the People of the State of
4 Colorado in enacting this initiative to eliminate the waiting lists for the continuum of long-term
5 services for persons who, through no fault of their own, have developmental disabilities,
6 including Autism, Cerebral Palsy, Down Syndrome and Mental Retardation. Long term health
7 care services and supports at a minimum could include a place to live, help with daily living
8 tasks, early intervention care, nursing services, training and employment. Providing funding
9 to end Colorado's waiting lists for children and adults with developmental disabilities will enable
10 them to receive the necessary supports to live with dignity and be fully included in community
11 life.

12
13 (2) As of November 2007 more than twelve thousand children and adults who have
14 developmental disabilities were on waiting lists for long-term health care services and supports.
15 Many of these children and adults wait more than ten years before receiving care. Many
16 individuals need almost constant guidance and assistance due to behavioral or mental health
17 problems, a lack of adaptive skills, major medical issues, and absence of family support.
18 Further, many need assistance to eat, dress, bathe or use the bathroom. Some cannot speak or
19 read and are seriously limited in their ability to express their needs. Still others are young
20 children with autism who cannot access early intervention services that are so desperately needed
21 and proven to be effective. Many of these children and adults and the families who care for them
22 are at the point of an acute crisis due to their unfulfilled needs. The state does not provide back-
23 up options for those in crisis, leaving many with no help at all.

24
25 (3) The People find the current circumstances unacceptable and do hereby enact a slight
26 increase in the rate of the state sales and use tax – an amount equal to one or two pennies on a ten
27 dollar purchase – to be phased in over a two-year period. The People acknowledge that current
28 system infrastructure is insufficient to address the needs of all those on the waiting lists. A
29 phased-in increase of revenue will allow time to build capacity in the current system to better
30 serve those in need. It is the intent of the People that the revenues generated by this initiative be
31 used to serve additional persons with developmental disabilities except in the event of a
32 declaration of a state fiscal emergency as provided herein.

33
34
35 SECTION 2. Article 10.5 of title 27, Colorado Revised Statutes, is amended BY THE
36 ADDITION OF A NEW PART to read:

37 PART 8
38 DEVELOPMENTAL DISABILITIES LONG-TERM SERVICES CASH FUND

39
40 27-10.5-801. Definitions. AS USED IN THIS PART 8, UNLESS THE CONTEXT OTHERWISE
41 REQUIRES:

- 42 (1) "EXEMPT NET REVENUE" SHALL HAVE THE SAME MEANING AS SET FORTH IN
43 SECTION 39-26-123 (1) (a), C.R.S.
44 (2) "DEVELOPMENTAL DISABILITIES" INCLUDE BUT ARE NOT LIMITED TO CONDITIONS
45 DEFINED IN SECTION 27-10.5-102 (11) (a), AUTISM, CEREBRAL PALSY, DOWN SYNDROME, AND
46 MENTAL RETARDATION.

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ELECTIONS
SECRETARY OF STATE

1 (3) "FUND" MEANS THE DEVELOPMENTAL DISABILITIES LONG-TERM SERVICES CASH
2 FUND CREATED IN SECTION 27-10.5-802.

3 (4) (a) "LONG-TERM SERVICES" MEANS LONG-TERM SERVICES FOR PERSONS WITH
4 DEVELOPMENTAL DISABILITIES PURSUANT TO THIS ARTICLE OR PARTS 4 OR 8 OF ARTICLE 6 OF
5 TITLE 25.5, C.R.S. "LONG-TERM SERVICES" INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING
6 SERVICES AS THOSE SERVICES WERE KNOWN OR DEFINED AS OF THE EFFECTIVE DATE OF THIS
7 PART 8:

8 (I) COMPREHENSIVE SERVICES;

9 (II) SUPPORTED LIVING SERVICES;

10 (III) CHILDREN EXTENSIVE SERVICES;

11 (IV) FAMILY SUPPORT SERVICES AS DEFINED IN SECTION 27-10.5-406;

12 (V) EARLY INTERVENTION SERVICES AS DEFINED IN SECTION 27-10.5-702 (5); AND

13 (VI) HOME- AND COMMUNITY-BASED SERVICES AS DEFINED IN SECTION 25.5-6-804 (1),
14 C.R.S., FOR CHILDREN AGE BIRTH TO SIX YEARS WITH A DIAGNOSIS OF AUTISM.

15 (b) "LONG-TERM SERVICES" SHALL NOT INCLUDE STATE PROGRAM ADMINISTRATION.

16 (5) "OLD AGE PENSION FUND" MEANS THE OLD AGE PENSION FUND CREATED IN
17 SECTION 1 OF ARTICLE XXIV OF THE STATE CONSTITUTION.
18

19 **27-10.5-802. Developmental disabilities long-term services cash fund - creation -**
20 **transfers from general fund - specified uses – accountability report.** (1) (a) THERE IS
21 HEREBY CREATED IN THE STATE TREASURY THE DEVELOPMENTAL DISABILITIES LONG-TERM
22 SERVICES CASH FUND. FOR EACH STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1,
23 2009, THE GENERAL ASSEMBLY SHALL APPROPRIATE FROM THE STATE GENERAL FUND TO THE
24 FUND AN AMOUNT EQUAL TO THE AMOUNT OF THE EXEMPT NET REVENUE THAT IS CREDITED
25 TO THE OLD AGE PENSION FUND PURSUANT TO SECTION 39-26-123 (6), C.R.S., FOR THE SAME
26 STATE FISCAL YEAR.

27 (b) THE APPROPRIATIONS TO THE FUND FROM THE GENERAL FUND PURSUANT TO
28 PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE EXEMPT FROM THE LIMITATION ON THE
29 LEVEL OF STATE GENERAL FUND APPROPRIATIONS SET FORTH IN SECTION 24-75-201.1 (1) (a)
30 (II), C.R.S., BY OPERATION OF SECTION 24-75-201.1 (1) (a) (III) (C), C.R.S.

31 (2) EXCEPT AS SET FORTH IN SUBSECTION (3) OF THIS SECTION, MONEYS IN THE FUND
32 SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY SOLELY FOR THE
33 PURPOSE OF PROVIDING LONG-TERM SERVICES FOR PERSONS WITH DEVELOPMENTAL
34 DISABILITIES PURSUANT TO THIS ARTICLE OR PARTS 4 OR 8 OF ARTICLE 6 OF TITLE 25.5,
35 C.R.S., EXCLUDING STATE PROGRAM ADMINISTRATION. APPROPRIATIONS FROM THE FUND
36 SHALL BE MADE IN A BILL SEPARATE FROM THE ANNUAL GENERAL APPROPRIATION BILL.

37 (3) IN ORDER TO ENSURE THAT THERE IS ADEQUATE FUNDING EACH YEAR FOR LONG-
38 TERM SERVICES NOTWITHSTANDING THE VARIABILITY OF THE EXEMPT NET REVENUE, THERE
39 SHALL BE A RESERVE ACCOUNT WITHIN THE FUND. THE RESERVE SHALL CONSIST OF MONEYS
40 THAT ARE NOT EXPENDED OR ENCUMBERED BEFORE THE CLOSE OF THE STATE FISCAL YEAR IN
41 WHICH THEY ARE APPROPRIATED TO THE FUND FROM THE GENERAL FUND AND ANY INTEREST
42 EARNED PURSUANT TO SUBSECTION (5) OF THIS SECTION. THE GENERAL ASSEMBLY MAY
43 APPROPRIATE MONEYS IN THE RESERVE IN ORDER TO PROVIDE ADEQUATE FUNDING FOR LONG-
44 TERM SERVICES, BUT ANY APPROPRIATION FROM THE RESERVE SHALL SUPPLEMENT THE
45 APPROPRIATION MADE PURSUANT TO SUBSECTION (2) OF THIS SECTION AND SHALL BE MADE IN
46 A BILL SEPARATE FROM THE ANNUAL GENERAL APPROPRIATION BILL. MONEYS IN THE
47 RESERVE SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE
48 GENERAL FUND OR ANY OTHER FUND. NOTHING IN THIS SUBSECTION (3) SHALL PREVENT THE

1 GENERAL ASSEMBLY FROM REDUCING THE ANNUAL APPROPRIATION TO THE FUND IN A
2 SUPPLEMENTAL APPROPRIATION BILL TO THE EXTENT THAT SUCH BILL IS NECESSARY TO
3 A VOID APPROPRIATING MORE MONEYS TO THE FUND THAN ARE PERMITTED PURSUANT TO
4 SUBSECTION (1) OF THIS SECTION.

5 (4) (a) ALL MONEYS IN THE FUND SHALL BE USED TO SUPPLEMENT THE LEVEL OF STATE
6 APPROPRIATIONS IN THE ANNUAL GENERAL APPROPRIATION BILL ~~BY THE GENERAL ASSEMBLY~~
7 FOR THE PURPOSE OF PROVIDING LONG-TERM SERVICES WITH THE GOAL OF ELIMINATING ANY
8 WAIT LIST FOR SERVICES.

9 (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
10 GENERAL ASSEMBLY MAY USE THE ~~REVENUE GENERATED BY SECTIONS 39-26-106 (1) (c) AND~~
11 ~~39-26-202 (1) (b.3) OR (b.5), C.R.S.~~, MONEYS IN THE FUND FOR ANY PURPOSE RELATED TO
12 SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, INCLUDING BUT NOT LIMITED TO
13 SUPPLANTING THE LEVEL OF STATE APPROPRIATIONS FOR LONG-TERM SERVICES THAT EXISTED
14 AS OF THE EFFECTIVE DATE OF THIS PART 8, IF SUCH APPROPRIATION IS PRECEDED BY A
15 DECLARATION OF A STATE FISCAL EMERGENCY, WHICH SHALL BE ADOPTED BY JOINT
16 RESOLUTION APPROVED BY A TWO-THIRDS SUPERMAJORITY OF ~~THE ALL MEMBERS ELECTED OF~~
17 ~~TO EACH HOUSE OF THE GENERAL ASSEMBLY AND SIGNED BY THE GOVERNOR.~~ ANY
18 RESOLUTION DECLARING A STATE FISCAL EMERGENCY SHALL APPLY ONLY TO A SINGLE FISCAL
19 YEAR.

20 (5) (a) ON OR BEFORE DECEMBER 1, ~~2010~~, 2011, AND ON OR BEFORE EACH DECEMBER 1
21 THEREAFTER, THE DEPARTMENT SHALL SUBMIT AN ACCOUNTABILITY REPORT TO THE JOINT
22 BUDGET COMMITTEE AND THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF
23 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING THE
24 APPROPRIATIONS MADE FROM THE FUND PURSUANT TO THIS SECTION FOR THE PRECEDING
25 STATE FISCAL YEAR. THE ACCOUNTABILITY REPORT SHALL DESCRIBE THE TYPE OF LONG-
26 TERM SERVICES PROVIDED FROM THE APPROPRIATED MONEYS AND SHALL STATE WHETHER
27 THE APPROPRIATIONS WERE SUFFICIENT TO AVOID A WAIT LIST TO RECEIVE LONG-TERM
28 SERVICES. THE ACCOUNTABILITY REPORT SHALL INCLUDE DESCRIPTIONS OF ANY OUTCOME-
29 BASED QUALITY ASSURANCE MEASURES ADOPTED BY THE DEPARTMENT TOGETHER WITH AN
30 ANALYSIS OF CRITICAL INCIDENT DATA. AT THE TIME THE ACCOUNTABILITY REPORT IS
31 SUBMITTED TO THE RESPECTIVE COMMITTEES, A COPY OF THE ACCOUNTABILITY REPORT
32 SHALL ALSO BE MADE AVAILABLE TO THE PUBLIC ON THE WEBSITE MAINTAINED BY THE
33 DEPARTMENT.

34 (b) THIS SUBSECTION (5) IS EXEMPT FROM THE PROVISIONS OF SECTION 24-1-136 (11),
35 C.R.S., AND THE PERIODIC REPORTING REQUIREMENT OF THIS SECTION SHALL REMAIN IN
36 EFFECT UNTIL CHANGED BY THE GENERAL ASSEMBLY ACTING BY BILL.

37 (6) ANY UNEXPENDED MONEYS IN THE FUND, INCLUDING THE RESERVE ACCOUNT, MAY
38 BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME
39 DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED
40 TO THE RESERVE.

41
42 **27-10.5-803. Maintenance of effort – no supplanting existing appropriations -**
43 **exception.** (1) NO REDUCTION IN THE LEVEL OF STATE APPROPRIATIONS IN THE ANNUAL
44 GENERAL APPROPRIATION BILL FOR LONG-TERM SERVICES AS OF THE EFFECTIVE DATE OF THIS
45 PART 8 SHALL BE PERMITTED.

46 (2) EXCEPT AS PROVIDED IN SECTION 27-10.5-802 (4) (b), MONEYS IN THE FUND SHALL
47 NOT BE USED TO SUPPLANT ANY STATE APPROPRIATION IN THE ANNUAL GENERAL
48 APPROPRIATION BILL FOR LONG-TERM SERVICES THAT EXISTED AS OF THE EFFECTIVE DATE OF
49 THIS PART 8.

50

1 **SECTION 3.** 24-75-402 (5), Colorado Revised Statutes, is amended BY THE
2 ADDITION OF A NEW PARAGRAPH to read:

3 **24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount of fees**
4 **- exclusions.** (5) Notwithstanding any provision of this section to the contrary, the following
5 cash funds are excluded from the limitations specified in this section:

6 (i) THE DEVELOPMENTAL DISABILITIES LONG-TERM SERVICES CASH FUND CREATED IN SECTION
7 27-10.5-802, C.R.S.

8
9 **SECTION 4.** 24-77-103.6 (6) (c), Colorado Revised Statutes, is amended to read:

10 **24-77-103.6. Retention of excess state revenues - general fund exempt account -**
11 **required uses - excess state revenues legislative report.** (6) As used in this section:

12 (c) "State revenues" means state revenues not excluded from state fiscal year spending, as
13 defined in section 24-77-102 (17); EXCEPT THAT "STATE REVENUES" SHALL NOT INCLUDE ANY
14 EXEMPT NET REVENUES, AS DEFINED IN SECTION 39-26-123 (1) (a), C.R.S., THAT THE STATE IS
15 AUTHORIZED TO RETAIN AND SPEND PURSUANT TO SECTION 39-26-106 (4), C.R.S.

16
17 **SECTION 5.** 29-2-108 (3), Colorado Revised Statutes, is amended to read:

18 **29-2-108. Limitation on amount.** (3) A tax imposed pursuant to section 24-90-110.7 (3)
19 (f), 29-1-204.5 (3) (f.1), 29-2-103.7, 29-2-103.8, 29-2-103.9, 29-25-112, 30-11-107.5, 30-11-
20 107.7, 30-11-107.9, 32-18-107, ~~or 37-50-110, C.R.S.~~ 37-50-110, 39-26-106 (1) (c), 39-26-202
21 (1) (b.3) OR 39-26-202 (1) (b.5), C.R.S., and the additional tax authorized by section 30-20-
22 604.5, C.R.S., if imposed, shall be exempt from the six and ninety one-hundredths percent
23 limitation imposed by subsection (1) of this section.

24
25 **SECTION 6.** 39-26-105 (1) (a) and (1) (e), Colorado Revised Statutes, are amended to
26 read:

27 **39-26-105. Vendor liable for tax.** (1) (a) Except as provided in paragraphs (d) and (e) of
28 this subsection (1), every retailer, also in this part 1 called "vendor", shall, irrespective of the
29 provisions of section 39-26-106, be liable and responsible for the payment of an amount
30 equivalent to three percent of all sales made prior to January 1, 2001, and two and ninety one-
31 hundredths percent of all sales made on or after January 1, 2001, BUT PRIOR TO JULY 1, 2009,
32 ~~THREE AND ONE HUNDREDTHS PERCENT ON ALL SALES MADE ON OR AFTER JULY 1, 2009, BUT~~
33 ~~PRIOR TO JULY 1, 2010, AND THREE AND ELEVEN HUNDREDTHS TEN ONE-HUNDREDTHS~~
34 PERCENT ON ALL SALES MADE ON OR AFTER JULY 1, 2010, by the vendor of commodities or
35 services as specified in section 39-26-104 and shall, before the twentieth day of each month,
36 make a return to the executive director of the department of revenue for the preceding calendar
37 month and remit an amount equivalent to said percentage on such sales to said executive
38 director, less three and one-third percent of the sum so remitted for sales occurring prior to July
39 1, 2003, or on or after July 1, 2005, and less two and one-third percent of the sum so remitted for
40 sales occurring on or after July 1, 2003, but before July 1, 2005, to cover the vendor's expense in
41 the collection and remittance of said tax; but, if any vendor is delinquent in remitting said tax,
42 other than in unusual circumstances shown to the satisfaction of the executive director, the
43 vendor shall not be allowed to retain any amounts to cover such vendor's expense in collecting
44 and remitting said tax, and an amount equivalent to the said percentage, plus the amount of any
45 local vendor expense that may be allowed by the local government to the vendor, shall be
46 remitted to the executive director by any such delinquent vendor. Such returns of the taxpayer or
47 the taxpayer's duly authorized agent shall contain such information and be made in such manner

1 and upon such forms as the executive director shall prescribe. Any local vendor expense remitted
2 to the executive director shall be deposited to the state general fund.

3 (e) For any state fiscal year commencing on or after July 1, 2000, BUT PRIOR TO JULY 1,
4 2009, every retailer or vendor who sells items upon which a sales tax is imposed at a rate of one
5 one-hundredth of one percent pursuant to section 39-26-106 (3) (a) shall be liable and
6 responsible for the payment of an amount equivalent to the amount of sales tax imposed on such
7 items less three and one-third percent for sales occurring prior to July 1, 2003, or on or after July
8 1, 2005, and less two and one-third percent for sales occurring on or after July 1, 2003, but
9 before July 1, 2005. EVERY RETAILER OR VENDOR WHO SELLS ITEMS UPON WHICH A SALES TAX
10 IS IMPOSED AT A RATE OF ONE-TENTH OF ONE PERCENT PURSUANT TO SECTION 39-26-106 (1)
11 (c) (I) ~~(b.3)~~ AND (3) (a), OR TWO-TENTHS OF ONE PERCENT PURSUANT TO SECTION 39-26-106 (1)
12 (c) (II) ~~(b.5)~~ AND (3) (a), SHALL BE LIABLE AND RESPONSIBLE FOR THE PAYMENT OF AN
13 AMOUNT EQUIVALENT TO THE AMOUNT OF SALES TAX IMPOSED ON SUCH ITEMS LESS THREE
14 AND ONE-THIRD PERCENT FOR SALES OCCURRING ON OR AFTER JULY 1, 2009.

15
16 **SECTION 7.** 39-26-106 (1) and (3) (a), Colorado Revised Statutes, are amended, and the
17 said 39-26-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18 **39-26-106. Schedule of sales tax.** (1) (a) (I) ~~Except as otherwise provided in~~
19 ~~subparagraph (II) of this paragraph (a) and in subsection (3) of this section, there is imposed~~
20 ~~upon all sales of commodities and services specified in section 39-26-104 a tax at the rate of~~
21 ~~three percent of the amount of the sale, to be computed in accordance with schedules or systems~~
22 ~~approved by the executive director of the department of revenue. Said schedules or systems shall~~
23 ~~be designed so that no such tax is charged on any sale of seventeen cents or less.~~

24 (II) On and after January 1, 2001, there is imposed upon all sales of commodities and
25 services specified in section 39-26-104 a tax at the rate of two and ninety one-hundredths percent
26 of the amount of the sale to be computed in accordance with schedules or systems approved by
27 the executive director of the department of revenue. ~~Said~~ THE schedules or systems shall be
28 designed so that no such tax is charged on any sale of seventeen cents or less.

29 (b) ~~Notwithstanding the three percent rate provisions of paragraph (a) of this subsection~~
30 ~~(1), for the period May 1, 1983, through July 31, 1984, the rate of the tax imposed pursuant to~~
31 ~~this subsection (1) shall be three and one-half percent.~~

32 (c) (I) ON AND AFTER JULY 1, 2009, BUT PRIOR TO JULY 1, 2010, THERE IS IMPOSED
33 UPON ALL SALES OF COMMODITIES AND SERVICES SPECIFIED IN SECTION 39-26-104, A TAX AT
34 THE RATE OF ONE-TENTH OF ONE PERCENT OF THE AMOUNT OF THE SALE TO BE COMPUTED IN
35 ACCORDANCE WITH SCHEDULES OR SYSTEMS APPROVED BY THE EXECUTIVE DIRECTOR OF THE
36 DEPARTMENT OF REVENUE. THE SCHEDULES OR SYSTEMS SHALL BE DESIGNED SO THAT THE
37 TAX IS ONLY CHARGED ON A SALE THAT IS SUBJECT TO THE TAX SET FORTH IN SUBPARAGRAPH
38 (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1). THIS TAX SHALL BE IN ADDITION TO THE TAX
39 IMPOSED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1) AND
40 SHALL BE A TAX RATE INCREASE OF THE STATE SALES TAX FOR PURPOSES OF SECTION 20 (4)
41 (a) OF ARTICLE X OF THE STATE CONSTITUTION.

42 (II) ON AND AFTER JULY 1, 2010, THERE IS IMPOSED UPON ALL SALES OF COMMODITIES
43 AND SERVICES SPECIFIED IN SECTION 39-26-104, A TAX AT THE RATE OF TWO-TENTHS OF ONE
44 PERCENT OF THE AMOUNT OF THE SALE TO BE COMPUTED IN ACCORDANCE WITH SCHEDULES
45 OR SYSTEMS APPROVED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE. THE
46 SCHEDULES OR SYSTEMS SHALL BE DESIGNED SO THAT THE TAX IS ONLY CHARGED ON A SALE
47 THAT IS SUBJECT TO THE TAX SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS

1 SUBSECTION (1). THIS TAX SHALL BE IN ADDITION TO THE TAX IMPOSED PURSUANT TO
2 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1) AND SHALL BE A TAX RATE
3 INCREASE OF THE STATE SALES TAX FOR PURPOSES OF SECTION 20 (4) (a) OF ARTICLE X OF THE
4 STATE CONSTITUTION.

5 (3) (a) Notwithstanding the rate provisions of paragraph (a) of subsection (1) of this
6 section, for any fiscal year commencing on or after July 1, 2000, if the revenue estimate prepared
7 by the staff of the legislative council in March of the calendar year in which that fiscal year ends
8 indicates that the aggregate amount of state revenues for that fiscal year will exceed the
9 limitation on state fiscal year spending imposed by section 20 (7) (a) of article X of the state
10 constitution for that fiscal year by three hundred fifty million dollars or more, as adjusted during
11 such fiscal year pursuant to paragraph (b) of this subsection (3), and, prior to the end of such
12 fiscal year, voters statewide either have not authorized the state to retain and spend all of the
13 excess state revenues or have authorized the state to retain and spend only a portion of the excess
14 state revenues for that fiscal year, the tax imposed pursuant to SUBPARAGRAPH (II) OF
15 PARAGRAPH (a) OF subsection (1) of this section shall be imposed upon any sale of a new or used
16 commercial truck, truck tractor, tractor, semitrailer, or vehicle used in combination therewith that
17 has a gross vehicle weight rating in excess of twenty-six thousand pounds for the period
18 commencing on July 1 of the calendar year in which that fiscal year ends through June 30 of the
19 immediately subsequent calendar year, at a rate of one one-hundredth of one percent. THIS
20 SUBSECTION (3) SHALL NOT AFFECT THE TAX IMPOSED PURSUANT TO PARAGRAPH (c) OF
21 SUBSECTION (1) OF THIS SECTION.

22 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE SHALL BE
23 AUTHORIZED TO RETAIN AND SPEND ALL REVENUES FROM THE TAXES SET FORTH IN
24 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION AND SECTION 39-26-202 (1) (b.3) OR (1)
25 (b.5), AS A VOTER-APPROVED REVENUE CHANGE TO THE LIMITATION ON STATE FISCAL YEAR
26 SPENDING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE
27 CONSTITUTION.

28
29 **SECTION 8.** 39-26-112, Colorado Revised Statutes, is amended to read:

30 **39-26-112. Excess tax - remittance.** If any vendor, during any reporting period, collects
31 as a tax an amount in excess of three percent of all taxable sales made prior to January 1, 2001,
32 ~~and~~ two and ninety one-hundredths percent of all taxable sales made on or after January 1, 2001,
33 BUT PRIOR TO JULY 1, 2009, AND THREE AND ONE HUNDREDTHS PERCENT OF ALL TAXABLE
34 SALES MADE ON OR AFTER JULY 1, 2009, BUT PRIOR TO JULY 1, 2010, AND THREE AND ELEVEN-
35 HUNDREDTHS TEN ONE-HUNDREDTHS PERCENT OF ALL TAXABLE SALES MADE ON OR AFTER
36 JULY 1, 2010, such vendor shall remit to the executive director of the department of revenue the
37 full net amount of the tax imposed in this part 1 and also such excess. The retention by the
38 retailer or vendor of any excess of tax collections over the said percentage of the total taxable
39 sales of such retailer or vendor or the intentional failure to remit punctually to the executive
40 director the full amount required to be remitted by the provisions of this part 1 is declared to be
41 unlawful and constitutes a misdemeanor.

42
43 **SECTION 9.** 39-26-123 (1) (a), Colorado Revised Statutes, is amended, and the said 39-
44 26-123 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

45 **39-26-123. Receipts - disposition - transfers of general fund surplus - exempt net**
46 **revenues - sales and use tax holding fund - creation - definitions.** (1) As used in this section,
47 unless the context otherwise requires:

1 (a) "Net revenue" means the gross amount of sales and use tax receipts collected under
2 the provisions of this article, less a fee retained by vendors for the collection and remittance of
3 the tax pursuant to section 39-26-105 (1) and less refunds and adjustments made by the
4 department of revenue in conjunction with its collection and enforcement duties under this
5 article. "EXEMPT NET REVENUE" MEANS THE GROSS AMOUNT OF SALES AND USE TAX RECEIPTS
6 COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE FOR THE TAXES IMPOSED PURSUANT TO
7 SECTIONS 39-26-106 (1) (c) AND 39-26-202 (1) (b.3) OR (1) (b.5), LESS A FEE RETAINED BY
8 VENDORS FOR THE COLLECTION AND REMITTANCE OF THE TAX PURSUANT TO SECTION 39-26-
9 105 (1), AND LESS REFUNDS AND ADJUSTMENTS MADE BY THE DEPARTMENT OF REVENUE IN
10 CONJUNCTION WITH ITS COLLECTION AND ENFORCEMENT DUTIES UNDER THIS ARTICLE. FOR
11 PURPOSES OF THIS PARAGRAPH (a), THE FEE RETAINED BY VENDORS AND THE REFUNDS AND
12 ADJUSTMENTS MADE BY THE DEPARTMENT SHALL BE PROPORTIONAL TO THE TAX LEVIED
13 PURSUANT TO SECTIONS 39-26-106 (1) (c) AND 39-26-202 (1) (b.3) OR (1) (b.5).

14 (a.5) "NET REVENUE" MEANS THE GROSS AMOUNT OF SALES AND USE TAX RECEIPTS
15 COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE, LESS A FEE RETAINED BY VENDORS FOR
16 THE COLLECTION AND REMITTANCE OF THE TAX PURSUANT TO SECTION 39-26-105 (1), AND
17 LESS REFUNDS AND ADJUSTMENTS MADE BY THE DEPARTMENT OF REVENUE IN CONJUNCTION
18 WITH ITS COLLECTION AND ENFORCEMENT DUTIES UNDER THIS ARTICLE; EXCEPT THAT "NET
19 REVENUE" SHALL NOT INCLUDE ANY EXEMPT NET REVENUE.
20

21 **SECTION 10.** 39-26-123, Colorado Revised Statutes, is amended BY THE ADDITION
22 OF A NEW SUBSECTION to read:

23 **39-26-123. Receipts - disposition - transfers of general fund surplus - exempt net**
24 **revenues - sales and use tax holding fund - creation - definitions.** (6) ON AND AFTER JULY 1,
25 2009, EXEMPT NET REVENUE SHALL BE CREDITED TO THE OLD AGE PENSION FUND CREATED IN
26 SECTION 1 OF ARTICLE XXIV OF THE STATE CONSTITUTION IN ACCORDANCE WITH
27 PARAGRAPHS (a) AND (f) OF SECTION 2 OF ARTICLE XXIV OF THE STATE CONSTITUTION.
28

29 **SECTION 11.** 39-26-202 (1), (2), and (3) (a), Colorado Revised Statutes, are amended to
30 read:

31 **39-26-202. Authorization of tax.** (1) (a) ~~Except as otherwise provided in paragraph (b)~~
32 ~~of this subsection (1) and in subsection (3) of this section, there is imposed and shall be collected~~
33 ~~from every person in this state a tax or excise at the rate of three percent of storage or acquisition~~
34 ~~charges or costs for the privilege of storing, using, or consuming in this state any articles of~~
35 ~~tangible personal property purchased at retail.~~

36 (b) ~~(I)~~ On and after January 1, 2001, BUT PRIOR TO JULY 1, 2009, there is imposed and
37 shall be collected from every person in this state a tax or excise at the rate of two and ninety one-
38 hundredths percent of storage or acquisition charges or costs for the privilege of storing, using,
39 or consuming in this state any articles of tangible personal property purchased at retail.

40 ~~(II) THIS PARAGRAPH (b) IS REPEALED EFFECTIVE JULY 1, 2009.~~

41 (b.3) (I) ON AND AFTER JULY 1, 2009, BUT PRIOR TO JULY 1, 2010, THERE IS IMPOSED
42 AND SHALL BE COLLECTED FROM EVERY PERSON IN THIS STATE A TAX OR EXCISE AT THE RATE
43 OF ONE-TENTH OF ONE PERCENT OF STORAGE OR ACQUISITION CHARGES OR COSTS FOR THE
44 PRIVILEGE OF STORING, USING, OR CONSUMING IN THIS STATE ANY ARTICLES OF TANGIBLE
45 PERSONAL PROPERTY PURCHASED AT RETAIL. THE TAX SET FORTH IN THIS PARAGRAPH (b.3)
46 SHALL BE IN ADDITION TO THE TAX SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (1) AND

1 SHALL BE A TAX RATE INCREASE OF THE STATE USE TAX FOR PURPOSES OF SECTION 20 (4) (a)
2 OF ARTICLE X OF THE STATE CONSTITUTION.

3 (II) THIS PARAGRAPH (b.3) IS REPEALED EFFECTIVE JULY 1, 2010.

4 (b.5) ON AND AFTER JULY 1, 2010, THERE IS IMPOSED AND SHALL BE COLLECTED FROM
5 EVERY PERSON IN THIS STATE A TAX OR EXCISE AT THE RATE OF TWO-TENTHS OF ONE PERCENT
6 OF STORAGE OR ACQUISITION CHARGES OR COSTS FOR THE PRIVILEGE OF STORING, USING, OR
7 CONSUMING IN THIS STATE ANY ARTICLES OF TANGIBLE PERSONAL PROPERTY PURCHASED AT
8 RETAIL. THE TAX SET FORTH IN THIS PARAGRAPH (b.5) SHALL BE IN ADDITION TO THE TAX SET
9 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (1) AND SHALL BE A TAX RATE INCREASE OF
10 THE STATE USE TAX FOR PURPOSES OF SECTION 20 (4) (a) OF ARTICLE X OF THE STATE
11 CONSTITUTION.

12 (c) Such tax shall be payable to and shall be collected by the executive director of the
13 department of revenue and shall be computed in accordance with schedules or systems approved
14 by said executive director. The transfer of wireless telecommunication equipment as an
15 inducement to enter into or continue a contract for telecommunication services that are taxable
16 pursuant to part 1 of this article shall not be construed to be storage, use, or consumption of such
17 equipment by the transferor.

18 (2) Notwithstanding the three percent rate provisions of subsection (1) of this section, for
19 the period May 1, 1983, through July 31, 1984, the rate of the tax imposed pursuant to this
20 section shall be three and one-half percent.

21 (3) (a) Notwithstanding the rate provisions of paragraphs (a) and PARAGRAPH (b) of
22 subsection (1) of this section, for any fiscal year commencing on or after July 1, 2000, if the
23 revenue estimate prepared by the staff of the legislative council in June of the calendar year in
24 which that fiscal year ends indicates that the aggregate amount of state revenues will exceed the
25 limitation on state fiscal year spending imposed by section 20 (7) (a) of article X of the state
26 constitution for that fiscal year by three hundred fifty million dollars or more, as adjusted
27 pursuant to paragraph (b) of this subsection (3), and voters statewide either have not authorized
28 the state to retain and spend all of the excess state revenues or have authorized the state to retain
29 and spend only a portion of the excess state revenues for that fiscal year, the tax imposed
30 pursuant to PARAGRAPH (b) OF subsection (1) of this section shall be imposed upon any sale of a
31 new or used commercial truck, truck tractor, tractor, semitrailer, or vehicle used in combination
32 therewith that has a gross vehicle weight rating in excess of twenty-six thousand pounds for the
33 period commencing on July 1 of the calendar year in which that fiscal year ends through June 30
34 of the immediately subsequent calendar year, at a rate of one one-hundredth of one percent. THIS
35 SUBSECTION (3) SHALL NOT AFFECT THE TAX IMPOSED PURSUANT TO PARAGRAPHS (b.3) OR
36 (b.5) OF SUBSECTION (1) OF THIS SECTION.

37
38 **SECTION 12.** 39-26-402 (1), Colorado Revised Statutes, is amended to read:

39 **39-26-402. Refund of state sales and use tax - application requirements and**
40 **procedures.** (1) For the calendar year commencing January 1, 1999, and for each calendar year
41 thereafter, each qualified taxpayer shall be allowed to claim a refund of all state sales and use tax
42 paid by the qualified taxpayer, pursuant to parts 1 and 2 of this article, on the sale, storage, use,
43 or consumption of tangible personal property to be used in Colorado directly and predominately
44 in research and development of biotechnology during that calendar year; EXCEPT THAT A
45 REFUND MAY NOT BE CLAIMED FOR THE STATE SALES AND USE TAX PAID PURSUANT TO
46 SECTIONS 39-26-106 (1) (c) AND 39-26-202 (1) (b.3) OR (1) (b.5).

1 **SECTION 13. Conforming amendments.** The People hereby direct the general
2 assembly to promptly adopt during the first regular session of the 67th general assembly any
3 further conforming amendments to the Colorado Revised Statutes necessary for the
4 implementation of this initiative so that the intent of the People in approving this measure is
5 given full effect.
6

7 **SECTION 14. Effective date.** If approved by a majority of votes cast thereon, this
8 initiative shall take effect upon proclamation of the governor; except that section 5 of this
9 initiative shall not take effect if Senate Bill 08-128 is enacted by the General Assembly and
10 becomes law.

RECEIVED

April 25, 2008

APR 25 2008
ELECTIONS
SECRETARY OF STATE

OK
11:55 AM
K

The Honorable Mike Coffman
Colorado Secretary of State
1700 Broadway, Suite 270
Denver, Colorado 80290

Dear Secretary Coffman:

Please accept the enclosed ballot initiatives for the 2008 general election which I am submitting pursuant to section 1-40-105 (4), C.R.S. There are two separate initiatives submitted for consideration by the Title Board. For each measure I have enclosed the original version, a highlighted version showing changes made in response to review & comment by the legislative staff agencies, and a final version. The measures were designated by the Legislative Council staff as "Proposed Initiative Measure 2007-2008 #90" and "Proposed Initiative Measure 2007-2008 #91."

The proponents of both initiatives are:

Wendy B. Rosanova
5246 S. Laredo Way
Centennial, CO 80015

Marijo Rymer
9071 E. Mississippi Dr. 34-G
Denver, CO 80247
303-229-9499

I am representing the proponents in all matters related to submission and titling of this measure. Please direct any correspondence or questions to my attention. Thank you.

Sincerely,



Patrick Steadman
1370 Pennsylvania St. #400
Denver, CO 80203
(303) 863-7777
pat@mendezsteadman.com