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MAY 04 2007

ELECTIONS / LICENSING  
SECRETARY OF STATE

*Final #25*

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

The introductory portion to section 3 (1) of article XXVII of the constitution of the state of Colorado is amended to read:

**Section 3. Moneys allocated to Trust Fund.** (1) Beginning with the proceeds from the fourth quarter of the State's Fiscal Year 1992-1993, AND EXCEPT FOR PROCEEDS GENERATED DURING ANY PERIOD COVERED BY THE TERMS OF A LOTTERY OPERATING CONCESSION CONTRACT PURSUANT TO SECTION 6.5 OF THIS ARTICLE, all proceeds from all programs, including Lotto and every other state-supervised lottery game operated under the authority of Article XVIII, Section 2 of the Colorado Constitution, whether by the Colorado Lottery Commission or otherwise (such programs defined hereafter in this Article as "Lottery Programs"), net of prizes and expenses of the state lottery division and after a sufficient amount of money has been reserved, as of the end of any fiscal quarter, to ensure the operation of the lottery for the ensuing fiscal quarter (such netted proceeds defined hereafter in this Article as "Net Proceeds") are set aside, allocated, allotted, and continuously appropriated as follows, and the Treasurer shall distribute such proceeds no less frequently than quarterly, as follows:

The introductory portion to 5 (1) (a) of article XXVII of the constitution of the state of Colorado is amended, and the said section 5 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**Section 5. Trust Fund expenditures.** (1) (a) Expenditures from the Trust Fund shall be made in furtherance of the Great Outdoors Colorado Program, and shall commence in State Fiscal Year 1993-94. The Board of the Trust Fund shall have the duty to assure that expenditures are made for the purposes set forth in this section and in section 6, and, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (a.5) OF THIS SUBSECTION (1), that the amounts expended for each of the following purposes over a period of years be substantially equal:

(a.5) EXPENDITURES FROM MONEYS CREDITED TO THE TRUST FUND PURSUANT TO SECTION 6.5 (4) OF THIS ARTICLE AND INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF SUCH MONEYS SHALL BE MADE FOR THE PURPOSES SET FORTH IN SECTION 6.5(4) OF THIS ARTICLE.

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

**Section 6.5. Lottery operating concession contract - disposition of net**

**proceeds and lottery revenues - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BASELINE NET PROCEEDS" MEANS, FOR ANY FISCAL YEAR IN WHICH A QUALIFIED PRIVATE VENDOR IS OPERATING LOTTERY PROGRAMS UNDER THE TERMS OF A LOTTERY OPERATING CONCESSION CONTRACT, AN AMOUNT OF NET PROCEEDS, AS DEFINED IN SECTION 3 (1) OF THIS ARTICLE, EQUAL TO THE AMOUNT OF NET PROCEEDS FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE FIRST FISCAL YEAR IN WHICH THE QUALIFIED PRIVATE VENDOR OPERATED THE LOTTERY PROGRAMS.

(b) "INCREMENTAL NET PROCEEDS" MEANS, FOR ANY FISCAL YEAR IN WHICH A QUALIFIED PRIVATE VENDOR IS OPERATING LOTTERY PROGRAMS UNDER THE TERMS OF A LOTTERY OPERATING CONCESSION CONTRACT, ALL NET PROCEEDS IN EXCESS OF THE BASELINE NET PROCEEDS.

(c) "LOTTERY OPERATING CONCESSION CONTRACT" MEANS A CONTRACT ENTERED INTO BY THE LOTTERY OPERATING CONCESSION BOARD ON BEHALF OF THE STATE UNDER WHICH THE STATE OBLIGATES ITSELF TO A MULTIPLE-YEAR FINANCIAL OBLIGATION THROUGH THE GRANT OF A CONCESSION TO A QUALIFIED PRIVATE VENDOR THAT GIVES THE VENDOR THE RIGHT AND OBLIGATION TO OPERATE ALL LOTTERY PROGRAMS, RECEIVE ALL GROSS REVENUES OF LOTTERY PROGRAMS, AND PAY ALL LOTTERY OPERATING EXPENSES, INCLUDING ALL PRIZES, AND THE RIGHT TO KEEP ALL BASELINE NET PROCEEDS AND A SPECIFIED SHARE OF THE INCREMENTAL NET PROCEEDS FOR A PERIOD OF UP TO SEVENTY-FIVE YEARS IN EXCHANGE FOR A LUMP-SUM PAYMENT NO LESS THAN \$2 BILLION, ALL INVESTMENT INCOME AND GAINS DERIVED FROM THE LOTTERY TRUST FUND, AND THE RETENTION BY THE STATE OF A SPECIFIED SHARE OF THE INCREMENTAL NET PROCEEDS, WHICH TOGETHER SHALL BE SUFFICIENTLY LARGE TO ENSURE THE CURRENT LOTTERY BENEFICIARIES WILL BE TREATED NO LESS FAVORABLY UNDER THE LAW AT THE TIME OF ADOPTION OF THIS AMENDMENT ; EXCEPT THAT A LOTTERY OPERATING CONCESSION CONTRACT SHALL INCLUDE PROVISIONS THAT DO NOT IMPACT THE GREAT OUTDOORS COLORADO BOARD'S ABILITY TO MEET OBLIGATIONS ENTERED INTO BEFORE JANUARY 1, 2008, AND MAY INCLUDE A FURTHER MULTIPLE-YEAR FINANCIAL OBLIGATION IN THE FORM OF AN AGREEMENT BY THE STATE AND THE VENDOR TO JOINTLY GRANT A THIRD PARTY THE RIGHT TO RECEIVE BASELINE NET PROCEEDS IN EXCHANGE FOR VALUABLE CONSIDERATION.

(d) "QUALIFIED PRIVATE VENDOR" MEANS A NONGOVERNMENTAL BUSINESS THAT DOES NOT HAVE AN OWNERSHIP INTEREST IN ANY LICENSED GAMING ESTABLISHMENT WITHIN THE STATE OR ANY GAMING LICENSE ISSUED BY THE LIMITED GAMING CONTROL COMMISSION DESCRIBED IN SECTION 9 (2) OF ARTICLE XVIII OF THIS CONSTITUTION.

(e) "VIDEO LOTTERY TERMINAL" MEANS AN ELECTRONIC GAMING MACHINE CONNECTED TO A CENTRALIZED COMPUTER SYSTEM THAT DETERMINES THE OUTCOME OF EACH WAGER USING A RANDOM NUMBER GENERATOR.

(2) (a) THE LOTTERY OPERATING CONCESSION BOARD IS HEREBY CREATED AS AN INDEPENDENT AND TEMPORARY BOARD WITHIN THE GOVERNMENT OF THE STATE. THE BOARD SHALL CONSIST OF THE FOLLOWING SEVEN MEMBERS:

(I) THE STATE TREASURER, WHO SHALL SERVE AS THE CHAIR OF THE BOARD;

(II) THE CHAIR OF THE COLORADO LOTTERY COMMISSION;

(III) THE CHAIR OF THE COLORADO HIGHER EDUCATION COMMISSION;

(IV) THE CHAIR OF THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND;

(V) ONE MEMBER JOINTLY APPOINTED BY THE PRESIDENT AND MINORITY LEADER OF THE SENATE;

(VI) ONE MEMBER JOINTLY APPOINTED BY THE SPEAKER AND MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES; AND

(VII) ONE MEMBER, APPOINTED BY THE GOVERNOR, WHO IS AN EMPLOYEE OR REPRESENTATIVE OF AN ORGANIZATION THAT PROVIDES SCHOLARSHIPS FOR LOW-INCOME CHILDREN.

(b) MEMBERS OF THE LOTTERY OPERATING CONCESSION BOARD SHALL BE SUBJECT TO THE SAME CONFLICT OF INTEREST RESTRICTIONS, AS SPECIFIED BY LAW, AS MEMBERS OF THE COLORADO LOTTERY COMMISSION.

(c) THE LOTTERY OPERATING CONCESSION BOARD SHALL BE DISSOLVED ONE YEAR AFTER THE EFFECTIVE DATE OF A LOTTERY OPERATING CONCESSION CONTRACT ENTERED INTO PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(3) THE LOTTERY OPERATING CONCESSION BOARD MAY ENTER INTO A LOTTERY OPERATING CONCESSION CONTRACT ON BEHALF OF THE STATE AT ANY TIME SUBSEQUENT TO JANUARY 1, 2008, AND NO LATER THAN DECEMBER 31, 2010, AND MAY RETAIN ATTORNEYS AND OTHER PROFESSIONAL ADVISORS TO HELP THE BOARD DETERMINE WHETHER TO ENTER INTO A CONTRACT AND TO NEGOTIATE, PREPARE, AND EXECUTE A

CONTRACT. THE LOTTERY OPERATING CONCESSION BOARD SHALL SOLICIT BIDS FOR A LOTTERY OPERATING CONCESSION CONTRACT FROM QUALIFIED PRIVATE VENDORS AND SHALL SELECT THE QUALIFIED PRIVATE VENDOR. THE BIDDING PROCESS SHALL BE COMPETITIVE BUT SHALL NOT BE SUBJECT TO THE PROCUREMENT LAWS OF THE STATE, AND THE BOARD NEED NOT SELECT THE RESPONSIBLE BIDDER WHOSE BID PROVIDES THE MOST FACIALLY FAVORABLE FINANCIAL TERMS TO THE STATE IF THE BOARD BELIEVES, BASED ON THE QUALIFICATIONS, HISTORICAL PERFORMANCE, OR BID SUBMISSIONS OF ALL QUALIFIED PRIVATE VENDORS SUBMITTING BIDS THAT SELECTION OF A DIFFERENT QUALIFIED PRIVATE VENDOR WILL BEST SERVE THE PUBLIC INTEREST, INCLUDING BUT NOT LIMITED TO SPECIFICALLY ALLOWING THE GREAT OUTDOORS COLORADO BOARD TO MEET, WITHIN THE TERMS OF THE CONTRACT OBLIGATIONS IT HAS ENTERED INTO OR MAY ENTER INTO BEFORE JANUARY 1, 2008.

(4) MONEYS RECEIVED BY THE STATE UNDER THE TERMS OF A LOTTERY OPERATING CONCESSION CONTRACT SHALL BE CREDITED TO THE LOTTERY TRUST FUND CREATED BY SUBSECTION (5) OF THIS SECTION AND INVESTED THEREIN OR DISTRIBUTED THEREFROM AS FOLLOWS:

(a) THE ENTIRE LUMP-SUM PAYMENT INITIALLY SHALL BE CREDITED TO THE LOTTERY TRUST FUND CREATED IN SUBSECTION (5) OF THIS SECTION. THE FIRST ONE BILLION SEVEN HUNDRED MILLION DOLLARS OF THE PAYMENT SHALL REMAIN IN THE LOTTERY TRUST FUND, AND THE REMAINDER OF THE LUMP-SUM PAYMENT SHALL IMMEDIATELY BE TRANSFERRED FROM THE LOTTERY TRUST FUND AND CREDITED TO THE FOLLOWING FUNDS:

(I) THE LESSER OF EITHER THE ENTIRE REMAINDER OF THE LUMP-SUM PAYMENT OR THE NEXT SIXTY MILLION DOLLARS OF THE PAYMENT SHALL BE TRANSFERRED AND CREDITED TO THE COLORADO STATE VETERANS TRUST FUND CREATED AND EXISTING IN LAW ON THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (I), FOR THE EXCLUSIVE PURPOSE AS STATED IN C.R.S. 28-5-709.

(II) ALL MONEYS REMAINING TO BE TRANSFERRED AND CREDITED FROM THE LUMP-SUM PAYMENT AFTER MONEYS HAVE BEEN TRANSFERRED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE TRANSFERRED AND CREDITED AS FOLLOWS:

(A) SIXTY FIVE PERCENT IN TRUST TO THE GREAT OUTDOORS COLORADO TRUST FUND FOR USE AS SPECIFIED IN SECTION 5 (1) (a)(III) OF THIS ARTICLE, FOR THE EXCLUSIVE PURPOSE OF MAKING COMPETITIVE GRANTS TO THE COLORADO DIVISIONS OF PARKS AND RECREATION AND WILDLIFE, COUNTIES, MUNICIPALITIES, AND OTHER

POLITICAL SUBDIVISIONS OF THE STATE, OR NONPROFIT LAND CONSERVATION ORGANIZATIONS FOR ACQUISITION OF LAND OR INTERESTS IN LAND AND, TO THE EXTENT ACQUIRED WITH SUCH FUNDS, ASSIST WITH STEWARDSHIP OF LAND OR INTERESTS IN LAND THAT WILL PRESERVE WORKING FARMS OR RANCHES, ALONG RIVER CORRIDORS, PROTECT NATIVE WILDLIFE HABITAT, URBAN PARKS AND OPEN LANDS, AND OPEN SPACE AND NATURAL AREAS OF STATEWIDE SIGNIFICANCE, AND NOT TO BE SUBJECT TO THE SUBSTANTIAL EQUALITY RESTRICTION OF SECTION 5(1)(a) OF ARTICLE XXVII OR THE LIMITATIONS OF SECTION 3(1)(b)(III) OF ARTICLE XXVII OF THIS CONSTITUTION; AND

(B) THIRTY FIVE PERCENT TO A TRUST TO BE CREATED BY THE GENERAL ASSEMBLY FOR THE PROVISION TO PUBLIC AND PRIVATE INSTITUTIONS OF HIGHER EDUCATION LOCATED IN THE STATE OF FUNDING FOR NEED BASED AND MERIT BASED SCHOLARSHIPS;

(b) (I) THE INTEREST AND GAINS GENERATED BY THE LOTTERY TRUST FUND AND THE STATE SHARE OF THE ONGOING INCREMENTAL NET PROCEEDS OF ALL LOTTERY PROGRAMS RECEIVED BY THE STATE UNDER THE TERMS OF A LOTTERY OPERATING CONCESSION CONTRACT SHALL BE CONTINUALLY DISTRIBUTED IN A MANNER CONSISTENT WITH THE PRUDENT MANAGEMENT OF A TRUST FUND, AND SUBJECT TO SECTION 6 OF THIS ARTICLE, NO LESS FREQUENTLY THAN QUARTERLY AS FOLLOWS:

(A) FORTY TWO PERCENT TO THE CONSERVATION TRUST FUND FOR DISTRIBUTION TO MUNICIPALITIES AND COUNTIES AND OTHER ELIGIBLE ENTITIES FOR PARKS, RECREATION, AND OPEN SPACE PURPOSES;

(B) FORTY TWO PERCENT IN TRUST TO THE GREAT OUTDOORS COLORADO TRUST FUND FOR USE AS SPECIFIED IN SECTION 5 OF THIS ARTICLE, AND NOT TO BE SUBJECT TO THE LIMITATIONS OF SECTION 3(1)(b)(III) OF ARTICLE XXVII OF THIS CONSTITUTION;

(C) TEN PERCENT TO THE DIVISION OF PARKS AND OUTDOOR RECREATION FOR THE ACQUISITION, DEVELOPMENT, AND IMPROVEMENT OF NEW AND EXISTING STATE PARKS, RECREATION AREAS, AND RECREATIONAL TRAILS AND FOR DEFRAYING THE COSTS OF MAINTAINING AND ADMINISTERING SUCH PARKS, RECREATION AREAS, AND RECREATIONAL TRAILS;

(D) THREE PERCENT TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (6) OF ARTICLE IX OF THIS CONSTITUTION FOR USE AS SPECIFIED IN SAID SECTION; AND

(E) THREE PERCENT TO THE STATE PUBLIC SCHOOL FUND AS A CONTINGENCY

RESERVE .

(II) ALL MONEYS CREDITED TO THE CONSERVATION TRUST FUND, THE GREAT OUTDOORS COLORADO TRUST FUND, AND THE DIVISION OF PARKS AND RECREATION PURSUANT TO SUB-SUBPARAGRAPHS (A) TO (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) ARE SET ASIDE, ALLOCATED, ALLOTTED, AND CONTINUOUSLY APPROPRIATED FOR THE PURPOSES SPECIFIED IN SAID SUB-SUBPARAGRAPHS.

(5) THE LOTTERY TRUST FUND IS HEREBY CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE FUND SHALL CONSIST OF NET PROCEEDS OF A LOTTERY OPERATING CONCESSION CONTRACT RECEIVED BY THE STATE AS A LUMP-SUM PAYMENT AND CREDITED TO THE FUND PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION. EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION, THE PRINCIPAL OF THE FUND SHALL REMAIN IN TRUST IN THE FUND AND SHALL NOT BE EXPENDED FOR ANY PURPOSE. THE STATE TREASURER MAY INVEST MONEYS IN THE FUND IN ANY INVESTMENT IN WHICH THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION MAY INVEST THE FUNDS OF THE ASSOCIATION AS SPECIFIED BY LAW; EXCEPT THAT NOTHING IN THIS SECTION IS INTENDED TO ALTER THE AUTHORITY AND DUTIES OF THE GREAT OUTDOORS COLORADO BOARD AS SPECIFIED IN ARTICLE XXVII, SECTION 6.

(6) THE EXECUTION OF A LOTTERY OPERATING CONCESSION CONTRACT SHALL NOT TRANSFER OWNERSHIP OF ANY LOTTERY PROGRAM FROM THE STATE TO A QUALIFIED PRIVATE VENDOR OR TO ANY OTHER PERSON OR LIMIT OR IMPAIR THE ABILITY OF THE STATE TO REGULATE AND ENSURE THE INTEGRITY OF LOTTERY PROGRAMS AS SPECIFIED BY LAW. SUBJECT TO SUCH REGULATION AND THE TERMS OF A LOTTERY OPERATING CONCESSION CONTRACT, A QUALIFIED PRIVATE VENDOR OPERATING LOTTERY PROGRAMS MAY OFFER ANY TYPE OF LOTTERY GAME AUTHORIZED BY THIS CONSTITUTION AND BY LAW AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (6) AND ANY OTHER TYPE OF LOTTERY GAME SUBSEQUENTLY AUTHORIZED BY LAW; EXCEPT THAT A QUALIFIED PRIVATE VENDOR MAY NOT OFFER ANY GAME THAT USES A VIDEO LOTTERY TERMINAL. THE STATE SHALL NOT OPERATE ANY LOTTERY PROGRAM DURING THE TERM OF THE CONCESSION GRANTED TO A QUALIFIED PRIVATE VENDOR PURSUANT TO A LOTTERY OPERATING CONCESSION CONTRACT UNLESS THE VENDOR FAILS TO OPERATE LOTTERY PROGRAMS IN ACCORDANCE WITH OPERATING REQUIREMENTS SPECIFIED IN THE CONTRACT OR OTHERWISE SUBSTANTIALLY BREACHES THE CONTRACT, IN WHICH CASE THE STATE MAY TERMINATE OR SUSPEND THE CONTRACT OR CONCESSION BEFORE ITS SCHEDULED EXPIRATION AND RESUME OPERATION OF LOTTERY PROGRAMS.

(7) ANY STATE EMPLOYEES WHOSE POSITIONS RELATE TO THE OPERATION OR

SUPERVISION OF LOTTERY PROGRAMS AND MAY BE AFFECTED BY THE EXECUTION OF A LOTTERY OPERATING CONCESSION CONTRACT AND WHO ARE CLASSIFIED EMPLOYEES IN THE STATE PERSONNEL SYSTEM SHALL RETAIN ALL RIGHTS TO THE PERSONNEL SYSTEM AND RETIREMENT BENEFITS PURSUANT TO THE LAWS OF THIS STATE. IN ACCORDANCE WITH SECTION 13 OF ARTICLE XII OF THIS CONSTITUTION, ANY TRANSFERS OR ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL SYSTEM LAWS AND REGULATIONS.

(8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE OR REQUIRE THE RELOCATION OF THE HOME OFFICE, PHYSICAL FACILITIES, OR EMPLOYEES OF THE COLORADO LOTTERY FROM THEIR PRESENT GEOGRAPHIC LOCATION AS OF JANUARY 1, 2008.

(9) ALL MONEYS RECEIVED BY OPERATION OF THIS SECTION SHALL BE EXCLUDED FROM FISCAL YEAR SPENDING, AS DEFINED IN SECTION 20 OF ARTICLE X OF THIS CONSTITUTION, AND FROM THE SPENDING LIMITS CONTAINED WITHIN SECTION 20 OF ARTICLE X, OR WITHIN ANY OTHER LAW, UPON STATE GOVERNMENT AND ALL OTHER DISTRICTS RECEIVING SUCH MONEYS.

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**TO:** Legislative Legal Services / *Sec. of State*  
**DA:** May 4, 2007  
**RE:** Measure To Be Considered for Title Board Hearing

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**Proponents:**

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