

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

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

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

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

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

PART 8
DEVELOPMENTAL DISABILITIES LONG-TERM SERVICES CASH FUND

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

(1) "EXEMPT NET REVENUE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 39-26-123 (1) (a), C.R.S.

(2) "DEVELOPMENTAL DISABILITIES" INCLUDE BUT ARE NOT LIMITED TO CONDITIONS DEFINED IN SECTION 27-10.5-102 (11) (a), DISABILITIES THAT MAKE A CHILD ELIGIBLE FOR THE

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ELECTIONS
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“DISABLED CHILDREN CARE PROGRAM” CREATED IN PART 9 OF ARTICLE 6 OF TITLE 25.5, C.R.S., AUTISM, CEREBRAL PALSY, DOWN SYNDROME, AND MENTAL RETARDATION.

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

(4) (a) "LONG-TERM SERVICES" MEANS LONG-TERM SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES PURSUANT TO THIS ARTICLE OR PARTS 4, 8, OR 9 OF ARTICLE 6 OF TITLE 25.5, C.R.S. "LONG-TERM SERVICES" INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING SERVICES AS THOSE SERVICES WERE KNOWN OR DEFINED AS OF THE EFFECTIVE DATE OF THIS PART 8:

- (I) COMPREHENSIVE SERVICES;
 - (II) SUPPORTED LIVING SERVICES;
 - (III) CHILDREN EXTENSIVE SERVICES;
 - (IV) FAMILY SUPPORT SERVICES AS DEFINED IN SECTION 27-10.5-406;
 - (V) EARLY INTERVENTION SERVICES AS DEFINED IN SECTION 27-10.5-702 (5);
 - (VI) HOME- AND COMMUNITY-BASED SERVICES AS DEFINED IN SECTION 25.5-6-804 (1), C.R.S., FOR CHILDREN AGE BIRTH TO SIX YEARS WITH A DIAGNOSIS OF AUTISM; AND
 - (VII) HOME- AND COMMUNITY-BASED SERVICES AS DEFINED IN PART 9 OF ARTICLE 6 OF TITLE 25.5, C.R.S., FOR ELIGIBLE DISABLED CHILDREN AS DEFINED IN SECTION 25.5-6-901
- (3) (a), C.R.S.

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

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

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

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

(2) EXCEPT AS SET FORTH IN SUBSECTION (3) OF THIS SECTION, MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY SOLELY FOR THE PURPOSE OF PROVIDING LONG-TERM SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES PURSUANT TO THIS ARTICLE OR PARTS 4, 8, OR 9 OF ARTICLE 6 OF TITLE 25.5, C.R.S., EXCLUDING STATE PROGRAM ADMINISTRATION. APPROPRIATIONS FROM THE FUND SHALL BE MADE IN A BILL SEPARATE FROM THE ANNUAL GENERAL APPROPRIATION BILL.

(3) IN ORDER TO ENSURE THAT THERE IS ADEQUATE FUNDING EACH YEAR FOR LONG-TERM SERVICES NOTWITHSTANDING THE VARIABILITY OF THE EXEMPT NET REVENUE, THERE SHALL BE A RESERVE ACCOUNT WITHIN THE FUND. THE RESERVE SHALL CONSIST OF MONEYS THAT ARE NOT EXPENDED OR ENCUMBERED BEFORE THE CLOSE OF THE STATE FISCAL YEAR IN WHICH THEY ARE APPROPRIATED TO THE FUND FROM THE GENERAL FUND AND ANY INTEREST EARNED PURSUANT TO SUBSECTION (6) OF THIS SECTION. THE GENERAL ASSEMBLY MAY

APPROPRIATE MONEYS IN THE RESERVE IN ORDER TO PROVIDE ADEQUATE FUNDING FOR LONG-TERM SERVICES, BUT ANY APPROPRIATION FROM THE RESERVE SHALL SUPPLEMENT THE APPROPRIATION MADE PURSUANT TO SUBSECTION (2) OF THIS SECTION AND SHALL BE MADE IN A BILL SEPARATE FROM THE ANNUAL GENERAL APPROPRIATION BILL. MONEYS IN THE RESERVE SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. NOTHING IN THIS SUBSECTION (3) SHALL PREVENT THE GENERAL ASSEMBLY FROM REDUCING THE ANNUAL APPROPRIATION TO THE FUND IN A SUPPLEMENTAL APPROPRIATION BILL TO THE EXTENT THAT SUCH BILL IS NECESSARY TO AVOID APPROPRIATING MORE MONEYS TO THE FUND THAN ARE PERMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

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

(b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE GENERAL ASSEMBLY MAY USE THE MONEYS IN THE FUND FOR ANY PURPOSE RELATED TO SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, INCLUDING BUT NOT LIMITED TO SUPPLANTING THE LEVEL OF STATE APPROPRIATIONS FOR LONG-TERM SERVICES THAT EXISTED AS OF THE EFFECTIVE DATE OF THIS PART 8, IF SUCH APPROPRIATION IS PRECEDED BY A DECLARATION OF A STATE FISCAL EMERGENCY, WHICH SHALL BE ADOPTED BY JOINT RESOLUTION APPROVED BY A TWO-THIRDS SUPERMAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE OF THE GENERAL ASSEMBLY AND SIGNED BY THE GOVERNOR. ANY RESOLUTION DECLARING A STATE FISCAL EMERGENCY SHALL APPLY ONLY TO A SINGLE FISCAL YEAR.

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

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

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

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

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

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

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

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

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

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

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

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

29-2-108. Limitation on amount. (3) A tax imposed pursuant to section 24-90-110.7 (3) (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, 30-11-107.7, 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 (1) (b.3) OR 39-26-202 (1) (b.5), C.R.S., and the additional tax authorized by section 30-20-604.5, C.R.S., if imposed, shall be exempt from the six and ninety one-hundredths percent limitation imposed by subsection (1) of this section.

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

39-26-105. Vendor liable for tax. (1) (a) Except as provided in paragraphs (d) and (e) of this subsection (1), every retailer, also in this part 1 called "vendor", shall, irrespective of the provisions of section 39-26-106, be liable and responsible for the payment of an amount equivalent to three percent of all sales made prior to January 1, 2001, and two and ninety one-hundredths percent of all sales made on or after January 1, 2001, BUT PRIOR TO JULY 1, 2009, THREE PERCENT ON ALL SALES MADE ON OR AFTER JULY 1, 2009, BUT PRIOR TO JULY 1, 2010, AND THREE AND TEN ONE-HUNDREDTHS PERCENT ON ALL SALES MADE ON OR AFTER JULY 1, 2010, by the vendor of commodities or services as specified in section 39-26-104 and shall, before the twentieth day of each month, make a return to the executive director of the department of revenue for the preceding calendar month and remit an amount equivalent to said percentage on such sales to said executive director, less three and one-third percent of the sum so remitted for sales occurring prior to July 1, 2003, or on or after July 1, 2005, and less two and one-third percent of the sum so remitted for sales occurring on or after July 1, 2003, but before July 1, 2005, to cover the vendor's expense in the collection and remittance of said tax; but, if any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the executive director, the vendor shall not be allowed to retain any amounts to

cover such vendor's expense in collecting and remitting said tax, and an amount equivalent to the said percentage, plus the amount of any local vendor expense that may be allowed by the local government to the vendor, shall be remitted to the executive director by any such delinquent vendor. Such returns of the taxpayer or the taxpayer's duly authorized agent shall contain such information and be made in such manner and upon such forms as the executive director shall prescribe. Any local vendor expense remitted to the executive director shall be deposited to the state general fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b.3) (I) ON AND AFTER JULY 1, 2009, BUT PRIOR TO JULY 1, 2010, THERE IS IMPOSED AND SHALL BE COLLECTED FROM EVERY PERSON IN THIS STATE A TAX OR EXCISE AT THE RATE

OF ONE-TENTH OF ONE PERCENT OF STORAGE OR ACQUISITION CHARGES OR COSTS FOR THE PRIVILEGE OF STORING, USING, OR CONSUMING IN THIS STATE ANY ARTICLES OF TANGIBLE PERSONAL PROPERTY PURCHASED AT RETAIL. THE TAX SET FORTH IN THIS PARAGRAPH (b.3) SHALL BE IN ADDITION TO THE TAX SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (1) AND SHALL BE A TAX RATE INCREASE OF THE STATE USE TAX FOR PURPOSES OF SECTION 20 (4) (a) OF ARTICLE X OF THE STATE CONSTITUTION.

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

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

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

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

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

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

39-26-402. Refund of state sales and use tax - application requirements and procedures. (1) For the calendar year commencing January 1, 1999, and for each calendar year thereafter, each qualified taxpayer shall be allowed to claim a refund of all state sales and use tax paid by the qualified taxpayer, pursuant to parts 1 and 2 of this article, on the sale, storage, use, or consumption of tangible personal property to be used in Colorado directly and predominately

in research and development of biotechnology during that calendar year; EXCEPT THAT A REFUND MAY NOT BE CLAIMED FOR THE STATE SALES AND USE TAX PAID PURSUANT TO SECTIONS 39-26-106 (1) (c) AND 39-26-202 (1) (b.3) OR (1) (b.5).

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

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

RECEIVED

April 25, 2008

APR 25 2008
ELECTIONS
SECRETARY OF STATE

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11:55am
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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