

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

11  
12 (2) As of November 2007 more than twelve thousand children and adults who have  
13 developmental disabilities were on waiting lists for long-term health care services and supports.  
14 Many of these children and adults wait more than ten years before receiving care. Many  
15 individuals need almost constant guidance and assistance due to behavioral or mental health  
16 problems, a lack of adaptive skills, major medical issues, and absence of family support.  
17 Further, many need assistance to eat, dress, bathe or use the bathroom. Some cannot speak or  
18 read and are seriously limited in their ability to express their needs. Still others are young  
19 children with autism who cannot access early intervention services that are so desperately needed  
20 and proven to be effective. Many of these children and adults and the families who care for them  
21 are at the point of an acute crisis due to their unfulfilled needs. The state does not provide back-  
22 up options for those in crisis, leaving many with no help at all.

23  
24 (3) The People find the current circumstances unacceptable and do hereby enact a slight increase  
25 in the rate of the state sales and use tax – an amount equal to one or two pennies on a ten dollar  
26 purchase – to be phased in over a two-year period. The People acknowledge that current system  
27 infrastructure is insufficient to address the needs of all those on the waiting lists. A phased-in  
28 increase of revenue will allow time to build capacity in the current system to better serve those in  
29 need. It is the intent of the People that the revenues generated by this initiative be used to serve  
30 additional persons with developmental disabilities except in the event of a declaration of a state  
31 fiscal emergency as provided herein.

32  
33  
34 **SECTION 2.** Article 10.5 of title 27, Colorado Revised Statutes, is amended BY THE  
35 ADDITION OF A NEW PART to read:

36 **PART 8**  
37 **DEVELOPMENTAL DISABILITIES LONG-TERM SERVICES CASH FUND**

38  
39 **27-10.5-801. Definitions.** AS USED IN THIS PART 8, UNLESS THE CONTEXT OTHERWISE  
40 REQUIRES:

41 (1) "EXEMPT NET REVENUE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 39-  
42 26-123 (1) (a), C.R.S.

43 (2) "DEVELOPMENTAL DISABILITIES" INCLUDE BUT ARE NOT LIMITED TO CONDITIONS  
44 DEFINED IN SECTION 27-10.5-102 (11) (a), AUTISM, CEREBRAL PALSY, DOWN SYNDROME, AND  
45 MENTAL RETARDATION.

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

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

6 (I) COMPREHENSIVE SERVICES;

7 (II) SUPPORTED LIVING SERVICES;

8 (III) CHILDREN EXTENSIVE SERVICES;

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

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

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

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

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

16  
17 **27-10.5-802. Developmental disabilities long-term services cash fund - creation - transfers**  
18 **from general fund - specified uses – accountability report.** (1) (a) THERE IS HEREBY CREATED  
19 IN THE STATE TREASURY THE DEVELOPMENTAL DISABILITIES LONG-TERM SERVICES CASH  
20 FUND. FOR EACH STATE FISCAL COMMENCING ON OR AFTER JULY 1, 2009, THE GENERAL  
21 ASSEMBLY SHALL APPROPRIATE FROM THE STATE GENERAL FUND TO THE FUND AN AMOUNT  
22 EQUAL TO THE AMOUNT OF THE EXEMPT NET REVENUE THAT IS CREDITED TO THE OLD AGE  
23 PENSION FUND PURSUANT TO SECTION 39-26-123 (6), C.R.S., FOR THE SAME STATE FISCAL  
24 YEAR.

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

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

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

1 AVOID APPROPRIATING MORE MONEYS TO THE FUND THAN ARE PERMITTED PURSUANT TO  
2 SUBSECTION (1) OF THIS SECTION.

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

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

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

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

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

37  
38 **27-10.5-803. Maintenance of effort – no supplanting existing appropriations - exception.**

39 (1) NO REDUCTION IN THE LEVEL OF STATE APPROPRIATIONS FOR LONG-TERM SERVICES AS OF  
40 THE EFFECTIVE DATE OF THIS PART 8 SHALL BE PERMITTED.

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

44  
45 **SECTION 3.** 24-75-402 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A  
46 NEW PARAGRAPH to read:

47 **24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount of fees -**  
48 **exclusions.** (5) Notwithstanding any provision of this section to the contrary, the following cash  
49 funds are excluded from the limitations specified in this section:

1 (t) THE DEVELOPMENTAL DISABILITIES SERVICES CASH FUND CREATED IN SECTION 27-10.5-  
2 802, C.R.S.

3  
4 **SECTION 4.** 24-77-103.6 (6) (c), Colorado Revised Statutes, is amended to read:

5 **24-77-103.6. Retention of excess state revenues - general fund exempt account - required**  
6 **uses - excess state revenues legislative report.** (6) As used in this section:

7 (c) "State revenues" means state revenues not excluded from state fiscal year spending, as  
8 defined in section 24-77-102 (17); EXCEPT THAT "STATE REVENUES" SHALL NOT INCLUDE ANY  
9 EXEMPT NET REVENUES, AS DEFINED IN SECTION 39-26-123 (1) (a), C.R.S., THAT THE STATE IS  
10 AUTHORIZED TO RETAIN AND SPEND PURSUANT TO SECTION 39-26-106 (4), C.R.S.  
11

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

13 **29-2-108. Limitation on amount.** (3) A tax imposed pursuant to section 24-90-110.7 (3) (f), 29-  
14 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-  
15 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  
16 39-26-202 (1) (b.5), C.R.S., and the additional tax authorized by section 30-20-604.5, C.R.S., if  
17 imposed, shall be exempt from the six and ninety one-hundredths percent limitation imposed by  
18 subsection (1) of this section.  
19

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

21 **39-26-105. Vendor liable for tax.** (1) (a) Except as provided in paragraphs (d) and (e) of this  
22 subsection (1), every retailer, also in this part 1 called "vendor", shall, irrespective of the  
23 provisions of section 39-26-106, be liable and responsible for the payment of an amount  
24 equivalent to three percent of all sales made prior to January 1, 2001, ~~and~~ two and ninety one-  
25 hundredths percent of all sales made on or after January 1, 2001, BUT PRIOR TO JULY 1, 2009,  
26 THREE AND ONE-HUNDREDTHS PERCENT ON ALL SALES MADE ON OR AFTER JULY 1, 2009, BUT  
27 PRIOR TO JULY 1, 2010, AND THREE AND ELEVEN-HUNDREDTHS PERCENT ON ALL SALES MADE  
28 ON OR AFTER JULY 1, 2010, by the vendor of commodities or services as specified in section 39-  
29 26-104 and shall, before the twentieth day of each month, make a return to the executive director  
30 of the department of revenue for the preceding calendar month and remit an amount equivalent  
31 to said percentage on such sales to said executive director, less three and one-third percent of the  
32 sum so remitted for sales occurring prior to July 1, 2003, or on or after July 1, 2005, and less two  
33 and one-third percent of the sum so remitted for sales occurring on or after July 1, 2003, but  
34 before July 1, 2005, to cover the vendor's expense in the collection and remittance of said tax;  
35 but, if any vendor is delinquent in remitting said tax, other than in unusual circumstances shown  
36 to the satisfaction of the executive director, the vendor shall not be allowed to retain any amounts  
37 to cover such vendor's expense in collecting and remitting said tax, and an amount equivalent to  
38 the said percentage, plus the amount of any local vendor expense that may be allowed by the  
39 local government to the vendor, shall be remitted to the executive director by any such  
40 delinquent vendor. Such returns of the taxpayer or the taxpayer's duly authorized agent shall  
41 contain such information and be made in such manner and upon such forms as the executive  
42 director shall prescribe. Any local vendor expense remitted to the executive director shall be  
43 deposited to the state general fund.

44 (e) For any state fiscal year commencing on or after July 1, 2000, BUT PRIOR TO JULY 1, 2009,  
45 every retailer or vendor who sells items upon which a sales tax is imposed at a rate of one one-  
46 hundredth of one percent pursuant to section 39-26-106 (3) (a) shall be liable and responsible for  
47 the payment of an amount equivalent to the amount of sales tax imposed on such items less three

1 and one-third percent for sales occurring prior to July 1, 2003, or on or after July 1, 2005, and  
2 less two and one-third percent for sales occurring on or after July 1, 2003, but before July 1,  
3 2005. EVERY RETAILER OR VENDOR WHO SELLS ITEMS UPON WHICH A SALES TAX IS IMPOSED  
4 AT A RATE OF ONE-TENTH OF ONE PERCENT PURSUANT TO SECTION 39-26-106 (1) (b.3) AND (3)  
5 (a), OR TWO-TENTHS OF ONE PERCENT PURSUANT TO SECTION 39-26-106 (1) (b.5) AND (3) (a),  
6 SHALL BE LIABLE AND RESPONSIBLE FOR THE PAYMENT OF AN AMOUNT EQUIVALENT TO THE  
7 AMOUNT OF SALES TAX IMPOSED ON SUCH ITEMS LESS THREE AND ONE-THIRD PERCENT FOR  
8 SALES OCCURRING ON OR AFTER JULY 1, 2009.

9  
10 **SECTION 7.** 39-26-106 (1) and (3) (a), Colorado Revised Statutes, are amended, and the said  
11 39-26-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12 **39-26-106. Schedule of sales tax.** (1) (a) (I) ~~Except as otherwise provided in subparagraph (II)~~  
13 ~~of this paragraph (a) and in subsection (3) of this section, there is imposed upon all sales of~~  
14 ~~commodities and services specified in section 39-26-104 a tax at the rate of three percent of the~~  
15 ~~amount of the sale, to be computed in accordance with schedules or systems approved by the~~  
16 ~~executive director of the department of revenue. Said schedules or systems shall be designed so~~  
17 ~~that no such tax is charged on any sale of seventeen cents or less.~~

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

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

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

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

46 (3) (a) Notwithstanding the rate provisions of paragraph (a) of subsection (1) of this section, for  
47 any fiscal year commencing on or after July 1, 2000, if the revenue estimate prepared by the staff

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

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

22  
23 **SECTION 8.** 39-26-112, Colorado Revised Statutes, is amended to read:

24 **39-26-112. Excess tax - remittance.** If any vendor, during any reporting period, collects as a tax  
25 an amount in excess of three percent of all taxable sales made prior to January 1, 2001, ~~and~~ two  
26 and ninety one-hundredths percent of all taxable sales made on or after January 1, 2001, BUT  
27 PRIOR TO JULY 1, 2009, AND THREE AND ONE-HUNDREDTHS PERCENT OF ALL TAXABLE SALES  
28 MADE ON OR AFTER JULY 1, 2009, BUT PRIOR TO JULY 1, 2010, AND THREE AND ELEVEN-  
29 HUNDREDTHS PERCENT OF ALL TAXABLE SALES MADE ON OR AFTER JULY 1, 2010, such vendor  
30 shall remit to the executive director of the department of revenue the full net amount of the tax  
31 imposed in this part 1 and also such excess. The retention by the retailer or vendor of any excess  
32 of tax collections over the said percentage of the total taxable sales of such retailer or vendor or  
33 the intentional failure to remit punctually to the executive director the full amount required to be  
34 remitted by the provisions of this part 1 is declared to be unlawful and constitutes a  
35 misdemeanor.

36  
37 **SECTION 9.** 39-26-123 (1) (a), Colorado Revised Statutes, is amended, and the said 39-26-123  
38 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

42 (a) ~~"Net revenue" means the gross amount of sales and use tax receipts collected under the~~  
43 ~~provisions of this article, less a fee retained by vendors for the collection and remittance of the~~  
44 ~~tax pursuant to section 39-26-105 (1) and less refunds and adjustments made by the department~~  
45 ~~of revenue in conjunction with its collection and enforcement duties under this article.~~ "EXEMPT  
46 NET REVENUE" MEANS THE GROSS AMOUNT OF SALES AND USE TAX RECEIPTS COLLECTED  
47 UNDER THE PROVISIONS OF THIS ARTICLE FOR THE TAXES IMPOSED PURSUANT TO SECTIONS 39-

1 26-106 (1) (c) AND 39-26-202 (1) (b.3) OR (b.5), LESS A FEE RETAINED BY VENDORS FOR THE  
2 COLLECTION AND REMITTANCE OF THE TAX PURSUANT TO SECTION 39-26-105 (1), AND LESS  
3 REFUNDS AND ADJUSTMENTS MADE BY THE DEPARTMENT OF REVENUE IN CONJUNCTION WITH  
4 ITS COLLECTION AND ENFORCEMENT DUTIES UNDER THIS ARTICLE. FOR PURPOSES OF THIS  
5 PARAGRAPH (a), THE FEE RETAINED BY VENDORS AND THE REFUNDS AND ADJUSTMENTS MADE  
6 BY THE DEPARTMENT SHALL BE PROPORTIONAL TO THE TAX LEVIED PURSUANT TO SECTIONS  
7 39-26-106 (1) (c) AND 39-26-202 (1) (b.3) OR (b.5).

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

14  
15 **SECTION 10.** 39-26-123, Colorado Revised Statutes, is amended BY THE ADDITION OF A  
16 NEW SUBSECTION to read:

17 **39-26-123. Receipts - disposition - transfers of general fund surplus - exempt net revenues -**  
18 **sales and use tax holding fund - creation - definitions.** (6) ON AND AFTER JULY 1, 2009,  
19 EXEMPT NET REVENUE SHALL BE CREDITED TO THE OLD AGE PENSION FUND CREATED IN  
20 SECTION 1 OF ARTICLE XXIV OF THE STATE CONSTITUTION IN ACCORDANCE WITH  
21 PARAGRAPHS (a) AND (f) OF SECTION 2 OF ARTICLE XXIV OF THE STATE CONSTITUTION.

22  
23 **SECTION 11.** 39-26-202 (1), (2), and (3) (a), Colorado Revised Statutes, are amended to read:

24 **39-26-202. Authorization of tax.** (1) (a) ~~Except as otherwise provided in paragraph (b) of this~~  
25 ~~subsection (1) and in subsection (3) of this section, there is imposed and shall be collected from~~  
26 ~~every person in this state a tax or excise at the rate of three percent of storage or acquisition~~  
27 ~~charges or costs for the privilege of storing, using, or consuming in this state any articles of~~  
28 ~~tangible personal property purchased at retail.~~

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

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

34 (b.3) (I) ON AND AFTER JULY 1, 2009, BUT PRIOR TO JULY 1, 2010, THERE IS IMPOSED AND  
35 SHALL BE COLLECTED FROM EVERY PERSON IN THIS STATE A TAX OR EXCISE AT THE RATE OF  
36 ONE-TENTH OF ONE PERCENT OF STORAGE OR ACQUISITION CHARGES OR COSTS FOR THE  
37 PRIVILEGE OF STORING, USING, OR CONSUMING IN THIS STATE ANY ARTICLES OF TANGIBLE  
38 PERSONAL PROPERTY PURCHASED AT RETAIL. THE TAX SET FORTH IN THIS PARAGRAPH (b.3)  
39 SHALL BE IN ADDITION TO THE TAX SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (1) AND  
40 SHALL BE A TAX RATE INCREASE OF THE STATE USE TAX FOR PURPOSES OF SECTION 20 (4) (a)  
41 OF ARTICLE X OF THE STATE CONSTITUTION.

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

43 (b.5) ON AND AFTER JULY 1, 2010, THERE IS IMPOSED AND SHALL BE COLLECTED FROM EVERY  
44 PERSON IN THIS STATE A TAX OR EXCISE AT THE RATE OF TWO-TENTHS OF ONE PERCENT OF  
45 STORAGE OR ACQUISITION CHARGES OR COSTS FOR THE PRIVILEGE OF STORING, USING, OR  
46 CONSUMING IN THIS STATE ANY ARTICLES OF TANGIBLE PERSONAL PROPERTY PURCHASED AT  
47 RETAIL. THE TAX SET FORTH IN THIS PARAGRAPH (b.5) SHALL BE IN ADDITION TO THE TAX SET

1 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (1) AND SHALL BE A TAX RATE INCREASE OF  
2 THE STATE USE TAX FOR PURPOSES OF SECTION 20 (4) (a) OF ARTICLE X OF THE STATE  
3 CONSTITUTION.

4 (c) Such tax shall be payable to and shall be collected by the executive director of the department  
5 of revenue and shall be computed in accordance with schedules or systems approved by said  
6 executive director. The transfer of wireless telecommunication equipment as an inducement to  
7 enter into or continue a contract for telecommunication services that are taxable pursuant to part  
8 1 of this article shall not be construed to be storage, use, or consumption of such equipment by  
9 the transferor.

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

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

29  
30 **SECTION 12.** 39-26-402 (1), Colorado Revised Statutes, is amended to read:

31 **39-26-402. Refund of state sales and use tax - application requirements and procedures.** (1)

32 For the calendar year commencing January 1, 1999, and for each calendar year thereafter, each  
33 qualified taxpayer shall be allowed to claim a refund of all state sales and use tax paid by the  
34 qualified taxpayer, pursuant to parts 1 and 2 of this article, on the sale, storage, use, or  
35 consumption of tangible personal property to be used in Colorado directly and predominately in  
36 research and development of biotechnology during that calendar year; EXCEPT THAT A REFUND  
37 MAY NOT BE CLAIMED FOR THE STATE SALES AND USE TAX PAID PURSUANT TO SECTIONS 39-  
38 26-106 (1) (c) AND 39-26-202 (1) (b.3) OR (b.5).

39  
40 **SECTION 13. Conforming amendments.** The People hereby direct the general assembly to  
41 promptly adopt during the first regular session of the 67<sup>th</sup> general assembly any further  
42 conforming amendments to the Colorado Revised Statutes necessary for the implementation of  
43 this initiative so that the intent of the People in approving this measure is given full effect.

44  
45 **SECTION 14. Effective date.** If approved by a majority of votes cast thereon, this initiative  
46 shall take effect upon proclamation of the governor.