

**Amendment 51**  
**State Sales Tax Increase for Services for**  
**People with Developmental Disabilities**

1     **Ballot Title:** STATE TAXES SHALL BE INCREASED \$186.1 MILLION ANNUALLY AFTER  
2 FULL IMPLEMENTATION BY AN AMENDMENT TO THE COLORADO REVISED STATUTES  
3 CONCERNING AN INCREASE IN THE STATE SALES AND USE TAX TO PROVIDE FUNDING FOR  
4 LONG-TERM SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, AND, IN  
5 CONNECTION THEREWITH, INCREASING THE RATE OF THE STATE SALES AND USE TAX  
6 BEGINNING ON JULY 1, 2009, BY ONE-TENTH OF ONE PERCENT IN EACH OF THE NEXT TWO  
7 FISCAL YEARS; PERMITTING THE STATE TO RETAIN AND SPEND ALL REVENUES FROM THE  
8 NEW TAX, NOTWITHSTANDING THE STATE SPENDING LIMIT; REQUIRING AN AMOUNT  
9 EQUAL TO THE NET REVENUE FROM THE NEW TAX TO BE DEPOSITED IN THE NEWLY  
10 CREATED DEVELOPMENTAL DISABILITIES LONG-TERM SERVICES CASH FUND; REQUIRING  
11 THE MONEY IN THE FUND TO BE USED TO PROVIDE LONG-TERM SERVICES FOR PERSONS  
12 WITH DEVELOPMENTAL DISABILITIES; AND PROHIBITING REDUCTIONS IN THE LEVEL OF  
13 STATE APPROPRIATIONS IN THE ANNUAL GENERAL APPROPRIATION BILL EXISTING ON THE  
14 EFFECTIVE DATE OF THIS MEASURE FOR LONG-TERM SERVICES FOR PERSONS WITH  
15 DEVELOPMENTAL DISABILITIES?

16     **Text of Proposal:**

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

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

27             (2) As of November 2007 more than twelve thousand children and adults who have  
28 developmental disabilities were on waiting lists for long-term health care services and  
29 supports. Many of these children and adults wait more than ten years before receiving  
30 care. Many individuals need almost constant guidance and assistance due to behavioral  
31 or mental health problems, a lack of adaptive skills, major medical issues, and absence  
32 of family support. Further, many need assistance to eat, dress, bathe or use the  
33 bathroom. Some cannot speak or read and are seriously limited in their ability to express  
34 their needs. Still others are young children with autism who cannot access early

1 intervention services that are so desperately needed and proven to be effective. Many  
2 of these children and adults and the families who care for them are at the point of an  
3 acute crisis due to their unfulfilled needs. The state does not provide back-up options  
4 for those in crisis, leaving many with no help at all.

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

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

16 **PART 8**  
17 **DEVELOPMENTAL DISABILITIES LONG-TERM SERVICES CASH FUND**

18 **27-10.5-801. Definitions.** AS USED IN THIS PART 8, UNLESS THE CONTEXT  
19 OTHERWISE REQUIRES:

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

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

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

27 (4) (a) "LONG-TERM SERVICES" MEANS LONG-TERM SERVICES FOR PERSONS WITH  
28 DEVELOPMENTAL DISABILITIES PURSUANT TO THIS ARTICLE OR PARTS 4 OR 8 OF ARTICLE  
29 6 OF TITLE 25.5, C.R.S. "LONG-TERM SERVICES" INCLUDES BUT IS NOT LIMITED TO THE  
30 FOLLOWING SERVICES AS THOSE SERVICES WERE KNOWN OR DEFINED AS OF THE  
31 EFFECTIVE DATE OF THIS PART 8:

- 32 (I) COMPREHENSIVE SERVICES;  
33 (II) SUPPORTED LIVING SERVICES;  
34 (III) CHILDREN EXTENSIVE SERVICES;

1 (IV) FAMILY SUPPORT SERVICES AS DEFINED IN SECTION 27-10.5-406;  
2 (V) EARLY INTERVENTION SERVICES AS DEFINED IN SECTION 27-10.5-702 (5); AND  
3 (VI) HOME- AND COMMUNITY-BASED SERVICES AS DEFINED IN SECTION 25.5-6-804  
4 (1), C.R.S., FOR CHILDREN AGE BIRTH TO SIX YEARS WITH A DIAGNOSIS OF AUTISM.

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

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

8 **27-10.5-802. Developmental disabilities long-term services cash fund - creation**  
9 **- transfers from general fund - specified uses - accountability report.** (1) (a) THERE  
10 IS HEREBY CREATED IN THE STATE TREASURY THE DEVELOPMENTAL DISABILITIES  
11 LONG-TERM SERVICES CASH FUND. FOR EACH STATE FISCAL YEAR COMMENCING ON OR  
12 AFTER JULY 1, 2009, THE GENERAL ASSEMBLY SHALL APPROPRIATE FROM THE STATE  
13 GENERAL FUND TO THE FUND AN AMOUNT EQUAL TO THE AMOUNT OF THE EXEMPT NET  
14 REVENUE THAT IS CREDITED TO THE OLD AGE PENSION FUND PURSUANT TO SECTION  
15 39-26-123 (6), C.R.S., FOR THE SAME STATE FISCAL YEAR.

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

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

27 (3) IN ORDER TO ENSURE THAT THERE IS ADEQUATE FUNDING EACH YEAR FOR  
28 LONG-TERM SERVICES NOTWITHSTANDING THE VARIABILITY OF THE EXEMPT NET  
29 REVENUE, THERE SHALL BE A RESERVE ACCOUNT WITHIN THE FUND. THE RESERVE SHALL  
30 CONSIST OF MONEYS THAT ARE NOT EXPENDED OR ENCUMBERED BEFORE THE CLOSE OF  
31 THE STATE FISCAL YEAR IN WHICH THEY ARE APPROPRIATED TO THE FUND FROM THE  
32 GENERAL FUND AND ANY INTEREST EARNED PURSUANT TO SUBSECTION (6) OF THIS  
33 SECTION. THE GENERAL ASSEMBLY MAY APPROPRIATE MONEYS IN THE RESERVE IN  
34 ORDER TO PROVIDE ADEQUATE FUNDING FOR LONG-TERM SERVICES, BUT ANY  
35 APPROPRIATION FROM THE RESERVE SHALL SUPPLEMENT THE APPROPRIATION MADE  
36 PURSUANT TO SUBSECTION (2) OF THIS SECTION AND SHALL BE MADE IN A BILL SEPARATE  
37 FROM THE ANNUAL GENERAL APPROPRIATION BILL. MONEYS IN THE RESERVE SHALL

1 REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL  
2 FUND OR ANY OTHER FUND. NOTHING IN THIS SUBSECTION (3) SHALL PREVENT THE  
3 GENERAL ASSEMBLY FROM REDUCING THE ANNUAL APPROPRIATION TO THE FUND IN A  
4 SUPPLEMENTAL APPROPRIATION BILL TO THE EXTENT THAT SUCH BILL IS NECESSARY TO  
5 AVOID APPROPRIATING MORE MONEYS TO THE FUND THAN ARE PERMITTED PURSUANT  
6 TO SUBSECTION (1) OF THIS SECTION.

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

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

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

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

38 (6) ANY UNEXPENDED MONEYS IN THE FUND, INCLUDING THE RESERVE ACCOUNT,

1 MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND  
2 INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL  
3 BE CREDITED TO THE RESERVE.

4 **27-10.5-803. Maintenance of effort - no supplanting existing appropriations -**  
5 **exception.** (1) NO REDUCTION IN THE LEVEL OF STATE APPROPRIATIONS IN THE ANNUAL  
6 GENERAL APPROPRIATION BILL FOR LONG-TERM SERVICES AS OF THE EFFECTIVE DATE OF  
7 THIS PART 8 SHALL BE PERMITTED.

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

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

14 **24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount**  
15 **of fees - exclusions.** (5) Notwithstanding any provision of this section to the contrary,  
16 the following cash funds are excluded from the limitations specified in this section:

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

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

20 **24-77-103.6. Retention of excess state revenues - general fund exempt account -**  
21 **required uses - excess state revenues legislative report.** (6) As used in this section:

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

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

28 **29-2-108. Limitation on amount.** (3) A tax imposed pursuant to section 24-90-  
29 110.7 (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 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,  
31 39-26-106 (1) (c), 39-26-202 (1) (b.3) OR 39-26-202 (1) (b.5), C.R.S., and the additional  
32 tax authorized by section 30-20-604.5, C.R.S., if imposed, shall be exempt from the six  
33 and ninety one-hundredths percent limitation imposed by subsection (1) of this section.

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

3           **39-26-105. Vendor liable for tax.** (1) (a) Except as provided in paragraphs (d) and  
4 (e) of this subsection (1), every retailer, also in this part 1 called "vendor", shall,  
5 irrespective of the provisions of section 39-26-106, be liable and responsible for the  
6 payment of an amount equivalent to three percent of all sales made prior to January 1,  
7 2001, ~~and~~ two and ninety one-hundredths percent of all sales made on or after January  
8 1, 2001, BUT PRIOR TO JULY 1, 2009, THREE PERCENT ON ALL SALES MADE ON OR AFTER  
9 JULY 1, 2009, BUT PRIOR TO JULY 1, 2010, AND THREE AND TEN ONE-HUNDREDTHS  
10 PERCENT ON ALL SALES MADE ON OR AFTER JULY 1, 2010, by the vendor of commodities  
11 or services as specified in section 39-26-104 and shall, before the twentieth day of each  
12 month, make a return to the executive director of the department of revenue for the  
13 preceding calendar month and remit an amount equivalent to said percentage on such  
14 sales to said executive director, less three and one-third percent of the sum so remitted  
15 for sales occurring prior to July 1, 2003, or on or after July 1, 2005, and less two and  
16 one-third percent of the sum so remitted for sales occurring on or after July 1, 2003, but  
17 before July 1, 2005, to cover the vendor's expense in the collection and remittance of  
18 said tax; but, if any vendor is delinquent in remitting said tax, other than in unusual  
19 circumstances shown to the satisfaction of the executive director, the vendor shall not  
20 be allowed to retain any amounts to cover such vendor's expense in collecting and  
21 remitting said tax, and an amount equivalent to the said percentage, plus the amount of  
22 any local vendor expense that may be allowed by the local government to the vendor,  
23 shall be remitted to the executive director by any such delinquent vendor. Such returns  
24 of the taxpayer or the taxpayer's duly authorized agent shall contain such information  
25 and be made in such manner and upon such forms as the executive director shall  
26 prescribe. Any local vendor expense remitted to the executive director shall be deposited  
27 to the state general fund.

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

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

4           **39-26-106. Schedule of sales tax.** (1) (a) (I) ~~Except as otherwise provided in~~  
5 ~~subparagraph (H) of this paragraph (a) and in subsection (3) of this section, there is~~  
6 ~~imposed upon all sales of commodities and services specified in section 39-26-104 a tax~~  
7 ~~at the rate of three percent of the amount of the sale, to be computed in accordance with~~  
8 ~~schedules or systems approved by the executive director of the department of revenue.~~  
9 ~~Said schedules or systems shall be designed so that no such tax is charged on any sale~~  
10 ~~of seventeen cents or less.~~

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

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

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

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

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

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

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

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

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



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

4           **39-26-123. Receipts - disposition - transfers of general fund surplus - exempt**  
5 **net revenues - sales and use tax holding fund - creation - definitions.** (1) As used in  
6 this section, unless the context otherwise requires:

7           (a) ~~"Net revenue" means the gross amount of sales and use tax receipts collected~~  
8 ~~under the provisions of this article, less a fee retained by vendors for the collection and~~  
9 ~~remittance of the tax pursuant to section 39-26-105 (1) and less refunds and adjustments~~  
10 ~~made by the department of revenue in conjunction with its collection and enforcement~~  
11 ~~duties under this article.~~ "EXEMPT NET REVENUE" MEANS THE GROSS AMOUNT OF SALES  
12 AND USE TAX RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE FOR THE  
13 TAXES IMPOSED PURSUANT TO SECTIONS 39-26-106 (1) (c) AND 39-26-202 (1) (b.3) OR  
14 (1) (b.5), LESS A FEE RETAINED BY VENDORS FOR THE COLLECTION AND REMITTANCE OF  
15 THE TAX PURSUANT TO SECTION 39-26-105 (1), AND LESS REFUNDS AND ADJUSTMENTS  
16 MADE BY THE DEPARTMENT OF REVENUE IN CONJUNCTION WITH ITS COLLECTION AND  
17 ENFORCEMENT DUTIES UNDER THIS ARTICLE. FOR PURPOSES OF THIS PARAGRAPH (a), THE  
18 FEE RETAINED BY VENDORS AND THE REFUNDS AND ADJUSTMENTS MADE BY THE  
19 DEPARTMENT SHALL BE PROPORTIONAL TO THE TAX LEVIED PURSUANT TO SECTIONS  
20 39-26-106 (1) (c) AND 39-26-202 (1) (b.3) OR (1) (b.5).

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

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

29           **39-26-123. Receipts - disposition - transfers of general fund surplus - exempt**  
30 **net revenues - sales and use tax holding fund - creation - definitions.** (6) ON AND  
31 AFTER JULY 1, 2009, EXEMPT NET REVENUE SHALL BE CREDITED TO THE OLD AGE  
32 PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE CONSTITUTION  
33 IN ACCORDANCE WITH PARAGRAPHS (a) AND (f) OF SECTION 2 OF ARTICLE XXIV OF THE  
34 STATE CONSTITUTION.

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

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

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

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

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

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

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

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

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

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

19 **39-26-402. Refund of state sales and use tax - application requirements and**  
20 **procedures.** (1) For the calendar year commencing January 1, 1999, and for each  
21 calendar year thereafter, each qualified taxpayer shall be allowed to claim a refund of  
22 all state sales and use tax paid by the qualified taxpayer, pursuant to parts 1 and 2 of this  
23 article, on the sale, storage, use, or consumption of tangible personal property to be used  
24 in Colorado directly and predominately in research and development of biotechnology  
25 during that calendar year; EXCEPT THAT A REFUND MAY NOT BE CLAIMED FOR THE STATE  
26 SALES AND USE TAX PAID PURSUANT TO SECTIONS 39-26-106 (1) (c) AND 39-26-202 (1)  
27 (b.3) OR (1) (b.5).

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

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