Final Draft

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

Amendment 51 proposes amending the <u>Colorado statutes</u> to:

- increase the state sales and use tax from 2.9 percent to 3.0 percent on July 1, 2009, and from 3.0 percent to 3.1 percent on July 1, 2010;
- direct that the new money be used to pay for services for people with developmental disabilities and to help eliminate the waiting lists for services;
- prohibit the legislature from reducing the current level of state funding for services for people with developmental disabilities; and
- exempt the new money from state spending limits.

Summary and Analysis

Developmental disabilities. Developmental disabilities include a number of different conditions that affect a person's physical or mental abilities, such as speaking, moving, learning, and independent living. Developmental disabilities can become apparent at anytime up to age 22 and last throughout a person's lifetime. Mental retardation, autism, Down syndrome, and cerebral palsy are examples of developmental disabilities.

Services for people with developmental disabilities. Services for people with developmental disabilities are delivered through a state and local system. The state administers the overall system; twenty local nonprofit agencies throughout the state determine a person's eligibility and arrange and provide services. Services are generally provided in the community or in the family home, and vary based upon the person's specific disability and needs. For instance, one person may need assistance with speech and language development, another may need job training to become employed, and another may need full-time care.

Current funding allows about 11,800 people to receive services in the community. This year, federal, state, and local government funding for services is estimated at $372 million. The state's share of that total is about $184 million.

Waiting lists for services. There are currently about 9,700 adults and children on waiting lists for services within the next two years. That number is expected to grow to over 12,000 people by 2012. If funding to eliminate the waiting lists becomes available, a number of people who are not currently on a waiting list may seek services as services become more accessible. Thus, it is difficult to estimate the total number of people who are eligible for services and the cost to eliminate the waiting lists.

Sales and use tax. The state sales tax is paid on the purchase price of most items. Some items are exempt, such as food bought at grocery stores, prescription drugs, household electricity and heat, and gasoline. The tax applies to some services, most notably local telephone service, cell phone service, food and drink service at restaurants and bars, and lodging. The state use tax is paid on items on which the sales tax was not collected, such as items bought from sellers outside of the state. In addition to the state, local governments also have sales and use taxes, although they may apply to different items than the state tax.

Amount of tax increase. The current state sales and use tax rate is 2.9 percent. When combined with local government sales taxes, the total tax rate varies across the state. For example, the total tax rate in the City of Denver is 7.72 percent, in Fort Collins it is 6.7 percent, in Fort Morgan it is 5.9 percent, in Pueblo it is 7.4 percent, and it is 7.65 percent in Grand Junction.

Amendment 51 raises the state tax rate to 3.1 percent over two years. On July 1, 2009, the rate increases to 3 percent, and on July 1, 2010, and thereafter the rate is 3.1 percent. The measure is estimated to raise about $89 million in the first year of the tax increase and $186 million in the next year when the tax increase is fully in place. Table 1 provides examples of how Amendment 51 affects state sales taxes.

Table 1. Comparison of State Sales Taxes Due under Current Law and Amendment 51

Price	Total Tax Increase	Current State Sales Tax	State Sales Tax in 1st Year of Increase	State Sales Tax in 2nd Year of Increase
$20	4 cents	58 cents	60 cents	62 cents
$100	20 cents	$2.90	$3.00	$3.10
$5,000	$10.00	$145.00	$150.00	$155.00

Use of the new money for services. Amendment 51 requires that all of the new sales tax money be used for services for people with developmental disabilities to help reduce the current waiting lists. The money cannot be used for state administration costs or to reduce current state spending on services. However, in any year in which two-thirds of the state legislature and the governor declare a state fiscal emergency, the money can be used for any purpose relating to services for people with developmental disabilities, such as replacing the current level of spending on services and for state administration costs. In addition, Amendment 51 creates a reserve for any money that is not spent in a given year for use in future years. Finally, a large portion of the new money can be used to leverage additional federal funds, increasing the total amount available to pay for services.

How Colorado's taxes compare with other states. Colorado has the lowest state sales tax rate of the 45 states with a state sales tax. However, Colorado has higher local government sales tax rates than most states. Thus, when comparing combined state and local sales taxes, Colorado ranks higher. Colorado ranks 17th in the amount of sales taxes paid per person and 23rd in the amount paid based on wealth. Colorado's total state and local taxes, including income, property, sales, and other taxes, rank 26th in the amount paid per person and 46th based on wealth.

Arguments For

1) Many children and adults with developmental disabilities — and the families who care for them — are at the point of crisis because they cannot get needed services. The wait time for services can last as long as ten years. The demand for services continues to grow because people with developmental disabilities are vulnerable and often need life-long care, and there are many aging parents who can no longer care for their children with developmental disabilities. The need for services is so great that it cannot be met without a new source of funding unless the state cuts money from other programs.

2) By spending money now, the state can reduce future costs of government services. For example, the new sales tax will provide money to expand early intervention programs for children, such as speech-language or physical therapy, and programs that help train and employ adults with developmental disabilities, which may reduce future reliance on government-funded services.

3) The sales tax increase in Amendment 51 is a small investment for the large return of improving the health, safety, and quality of life for people with developmental disabilities. Furthermore, the tax applies to only a limited number of services, and does not apply to many basic necessities. The money raised from the new sales tax directly benefits people with developmental disabilities, and does not pay for state administrative overhead.

Arguments Against

1) Raising sales taxes may hurt the state's economy and citizens. The economy is already struggling with a weak housing market and high gas and food prices. Further, raising sales taxes burdens lower- and middle-income consumers the most because it cuts into a larger share of their income. Instead of requiring everyone to pay higher taxes, people who wish to help individuals with developmental disabilities can make private donations.

2) Reducing the waiting lists could be accomplished without raising taxes by reprioritizing how the state spends its money and by eliminating government inefficiencies. The state government already spends about $4 billion, or about 30 percent of state and federal operating dollars, to provide health-care-related services, and this spending grows every year. The measure takes $186 million out of the private economy to expand the size and cost of government. This money could be better used by Colorado's citizens and businesses to spend on their own needs and to help grow the economy.

3) Decisions about how to spend state tax dollars are best made through an open and deliberative process that considers the needs and priorities of the entire state. Amendment 51 permanently raises taxes without any discussion about whether the measure raises an appropriate amount of money, how the new money can be spent

most effectively, or how the needs of people with developmental disabilities compare with other needs in the state. The new money must be spent on services for people with developmental disabilities even if the amount raised exceeds what is legitimately needed to provide services, which could lead to wasteful spending while other needs remain underfunded.

Estimate of Fiscal Impact

State revenue. The sales tax increase raises about $89 million in budget year 2010 and about $186 million in budget year 2011 to provide services for people with developmental disabilities. The state is also expected to receive about $19 million in 2010 and about $39 million in 2011 from the federal government to fund these services.

State spending. Amendment 51 increases state administrative costs by about $100,000 in 2009, $270,000 in 2010, and $340,000 in 2011 to oversee the services provided to people with developmental disabilities and to implement the sales tax increase. These costs cannot be paid from the new sales tax money, but a portion will be paid with funding from the federal government.

The nonprofit agencies that provide services will experience additional costs of around $46 million in 2010 and $94 million in 2011. These costs include both providing the actual services to more people and startup and training expenses to accommodate the increase in services provided. The new sales tax money is expected to pay for some of these costs, with the remainder funded by the federal government. It is unlikely that all of the new sales tax money will be spent in the first several years because developing the capacity to serve the number of people who are on waiting lists will take time. Any sales tax money that is not immediately spent on services must be placed in reserve.

Impact on taxpayers. Both individuals and businesses pay sales and use taxes. Businesses pay about 40 percent of the state's sales taxes; Colorado residents pay about half; and the remaining 10 percent is paid by visitors to the state. The additional amount of taxes paid by each Colorado household will depend on a household's income and number of people. A three-person household with around $55,000 in annual income is estimated to pay an additional $20 in state sales taxes in the first year of the tax increase and an additional $40 in the second year when the tax increase is fully in place.

Rep. Douglas Bruce

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- direct that the new money be used to pay for services for people with developmental disabilities and to help eliminate the waiting lists for services;

- prohibit the legislature from reducing the current level of state funding for services for people with developmental disabilities;

- THE GENERAL ASSEMBLY CAN REPEAL ANY PART OF THIS STATUTE AT ANY TIME (REF. O WILL NOT APPLY). THE MONEY CAN BE SPENT ON ANYTHING AND CANNOT BE EARMARKED IN A BINDING WAY. THE GENERAL ASSEMBLY HAS RAIDED TRUST FUNDS REPEATEDLY IN THE RECENT PAST, AND CAN DO SO AGAIN; and

- exempt the new money from state spending limits.

Summary and Analysis

Developmental disabilities. Developmental disabilities include a number of different conditions that affect a person's physical or mental abilities, such as speaking, moving, learning, and independent living. Developmental disabilities can become apparent at anytime up to age 22 and last throughout a person's lifetime. Mental retardation, autism, Down syndrome, and cerebral palsy are examples of developmental disabilities.

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Current funding allows about 11,800 people to receive services in the community. This year, federal, state, and local government funding for services is estimated at ~~$372 million~~ $400 MILLION, OR ABOUT $34,000 PER RECIPIENT OF SERVICES. AMENDMENT 51 WOULD RAISE THAT TOTAL SPENDING ANOTHER 47 PERCENT, TO ABOUT $586 MILLION. The state's share of that total is about $184 million.

Waiting lists for services. There are currently about 9,700 adults and children on waiting lists for services within the next two years. That number is expected to grow to over 12,000 people by 2012. If funding to eliminate the waiting lists becomes available, a number of people who are not currently on a waiting list may seek services as services become more accessible. Thus, it is difficult to estimate the total number of people who are eligible for services and the cost to eliminate the waiting lists.

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Amendment 51 raises the state tax rate to 3.1 percent over two years. On July 1, 2009, the rate increases to 3 percent, and on July 1, 2010, and thereafter the rate is 3.1 percent. The measure is estimated to raise about $89 million in the first year of the tax increase and $186 million in the next year when the tax increase is fully in place. ~~Table 1 provides examples of how Amendment 51 affects state sales taxes.~~ THIS INCREASE AMOUNTS TO $133 IN ADDITIONAL SALES TAXES PER YEAR FOR THE AVERAGE FAMILY OF FOUR.

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How Colorado's taxes compare with other states. Colorado has the lowest state sales tax rate of the 45 states with a state sales tax. However, Colorado has higher local government sales tax rates than most states. Thus, when comparing combined state and local sales taxes, Colorado ranks higher. Colorado ranks 17th in the amount of sales taxes paid per person and 23rd in the amount paid based on wealth. ~~Colorado's total state and local taxes, including income, property, sales, and other taxes, rank 26th in the amount paid per person and 46th based on wealth.~~

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1) Many children and adults with developmental disabilities — and the families who care for them — are at the point of crisis because they cannot get needed services. The wait time for services can last as long as ten years. The demand for services continues to grow because people with developmental disabilities are vulnerable and often need life-long care, and there are many aging parents who can no longer care for their children with developmental disabilities. The need for services is so great that it cannot be met without a new source of funding unless the state cuts money from other programs.

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1) Raising sales taxes may hurt the state's economy and citizens. The economy is already struggling with a weak housing market and high gas and food prices. Further, raising sales taxes burdens lower- and middle-income consumers the most because it cuts into a larger share of their income. Instead of requiring everyone to pay higher taxes, people who wish to help ~~individuals with developmental disabilities~~ OTHERS can

make private donations TO THE CHARITY OF THEIR INDIVIDUAL CHOICE, NOT ONE IMPOSED ON THEM BY POLITICAL FORCE.

2) Reducing the waiting lists could be accomplished without raising taxes by reprioritizing how the state spends its money and by eliminating government inefficiencies. The state government already spends about $4 billion, or about 30 percent of state and federal operating dollars, to provide health-care-related services, and this spending grows every year. The measure takes $186 million out of the private economy to expand the size and cost of government, AN AMOUNT WHICH WILL GROW EVERY YEAR. This money could be better used by Colorado's citizens and businesses to spend on their own needs and to help grow the economy FROM WHICH INCREASED PRIVATE CHARITABLE DONATIONS CAN BE MADE. THE $34,000 PER RECIPIENT NOW BEING SPENT IS VERY GENEROUS. OTHER MEDICAL CONDITIONS AND OTHER NEEDS WILL BE LESS WELL SUPPORTED BECAUSE OF THIS DRAMATIC SPENDING SPREE HERE, WHICH IS SO FAST IT WILL RESULT IN LESS EFFICIENT USE OF THESE FAST-GROWING FUNDS.

3) Decisions about how to spend state tax dollars are best made NOT BY SPECIAL INTEREST GROUPS SEEKING TO GAIN TAX MONEY FOR THEIR ORGANIZATIONS BY APPEALING TO VOTER EMOTIONS, BUT BY LEGISLATORS IN ~~through~~ an open and deliberative process that considers the needs and priorities of the entire state. Amendment 51 permanently raises taxes without any discussion about whether the measure raises an appropriate amount of money, how the new money can be spent most effectively, or how the needs of people with developmental disabilities compare with other needs in the state. The new money must be spent on services for people with developmental disabilities even if the amount raised exceeds what is legitimately needed to provide services, which could lead to wasteful spending while other needs remain underfunded. THIS PLAN ADDS STATE COSTS WITHOUT PROVIDING THE MONEY TO PAY FOR THEM FULLY, FURTHER SQUEEZING THE STATE BUDGET AND TAKING MONEY FROM OTHER PROGRAMS.

Estimate of Fiscal Impact

State revenue. The sales tax increase raises about $89 million in budget year 2010 and about $186 million in budget year 2011 to provide services for people with developmental disabilities. The state is also expected to receive about $19 million in 2010 and about $39 million in 2011 from the federal government to fund these services.

State spending. Amendment 51 increases state administrative costs by about $100,000 in 2009, $315,000 in 2010, and $430,000 in 2011 to oversee the services provided to people with developmental disabilities and to implement the sales tax increase. These costs cannot be paid from the new sales tax money, but a portion will be paid with funding from the federal government.

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Impact on taxpayers. Both individuals and businesses pay sales and use taxes. Businesses pay about 40 percent of the state's sales taxes AND PASS THAT COST ONTO THEIR CUSTOMERS; Colorado residents DIRECTLY pay about half; and the remaining 10 percent is paid by visitors to the state. The additional amount of taxes paid by each Colorado household will depend on a household's income and number of people. ~~A three-person household with around $55,000 in annual income is estimated to pay an additional $20 in state sales taxes in the first year of the tax increase and an additional $40 in the second year when the tax increase is fully in place.~~ FOR THE AVERAGE FAMILY OF FOUR, THE INCREASE AMOUNTS TO $133 IN ADDITIONAL SALES TAXES, WHICH WILL GROW EVERY YEAR FROM INCREASED PRICES.

REP. BRUCE COMMENTS ON LAST DRAFT OF AMENDMENT 51

I ALSO INCORPORATE ALL COMMENTS FROM THE PRIOR DRAFTS.

Page One

1. Lines 4-8---This is misleading. "The general assembly can repeal any part of this statute at any time (Ref. O will not apply). The money can be spent on anything and cannot be earmarked in a binding way. (This point must be made in the opening bullets to avoid deceiving voters.)
   The GA has raided trust funds repeatedly in the recent past, and can do so again."

2. Line 30, add "or about $34,000 per recipient of services. Amendment 34 would raise that total spending another 47%, to about $586 million."

Page Two

3. Line 5--"...uncooked food..." or "unprepared food"

4. Line 15--PLEASE TELL YOUR STAFFER FROM FT. MORGAN TO TAKE A BREAK. It is more relevant to more people to say that it is 7.4% in Colo. Springs (the second largest city in the state). You should also add Aurora, which is third largest.

5. Table 1--dealing with incidental pennies is biased and deceptive. Liberals always say the cost is "just pennies a day." Replace or add to this table the macro view--$186M divided by 5M residents is $37 per person, or $148 per year per average family of four, less 10% paid by tourists, which nets to $133 per average family of four. All business taxes are passed on to consumers as higher prices.

6. Lines 30-40--should repeat comment #1. "The general assembly can repeal any limits or earmarks on these funds, and spend the money on any unrelated program they wish, and do so without getting voter approval. They are not legally required to spend money on the developmentally disabled if they decide to spend it elsewhere."

Page Three

7. Lines 6-7--delete as irrelevant to comparable sales taxes.

8. Line 22--"on a $2.50 purchase" since sales tax half-pennies are required to be rounded up.

9. Line 33-34--replace "individuals with DD" with "others" and add at the end "to the charity of their individual choice, not one imposed on them by political force."

10. Line 37--after "spends," insert the dollar amount in billions before "OR about 30 percent..."

11. Line 40--after "government," insert "an amount which will grow every year."

12. Line 42--add, "from which increased private charitable donations can be made. The $34,000 per recipient now being spent is very generous. Other medical conditions and other needs will be less well supported because of this dramatic spending spree here, which is so fast it will result in less efficient use of these fast-growing funds."

Page Four

13. Line 1--after "made" insert "not by special interest groups seeking to gain tax money for their organizations by appealing to voter emotions, but by legislators in an open and deliberative..."

14. Line 3--add "51"

15. Line 9--"This plan adds state costs without providing the money to pay for them fully, further squeezing the state budget and taking money from other programs."

16. Line 27--after "sales taxes," add "and passsses that cost onto its customers." Then "residents DIRECTLY pay..."

17. Line 28--change "amount" to "10%"

18. Lines 30-33--flawed math. You are not counting the indirect 40% passed on by business. A better model is, $186M divided by 5M residents equals $37 per resident, or $148 per average family of four. Deduct 10% for tourists, and the cost to average Colorado families of four is $133, which will grow every year from increased prices.

State Rep. Douglas Bruce
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Arguments For

1) Many children and adults with developmental disabilities — and the families who care for them — are at the point of crisis because they cannot get needed services. NO ALTERNATIVE SAFETY NET EXISTS TO PROVIDE CARE FOR THEM. The wait time for services can last as long as ten years. The demand for services continues to grow because people with developmental disabilities are vulnerable and often need life-long care, and there are many aging parents who can no longer care for their children with developmental disabilities. The need for services is so great that it cannot be met without a new source of funding unless the state cuts money from other programs.

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3) The sales tax increase in Amendment 51 is a small investment for the large return of PROVIDING BASIC SERVICES AND improving the health, safety, and quality of life for people with developmental disabilities, SUCH AS AUTISM, DOWN SYNDROME, OR MENTAL RETARDATION. Furthermore, the tax applies to only a limited number of services, and does not apply to many basic necessities, SUCH AS GROCERIES, PRESCRIPTION DRUGS, GASOLINE, MEDICAL SERVICES, OR HOUSEHOLD UTILITIES. The money raised from the new sales tax directly benefits people with developmental disabilities, and does not pay for state administrative overhead.

Arguments Against

1) Raising sales taxes may hurt the state's economy and citizens. ~~The economy is already struggling with a weak housing market and high gas and food prices.~~ Further, raising sales taxes burdens lower- and middle-income consumers the most because it cuts into a larger share of their income. Instead of requiring everyone to pay higher taxes, people who wish to help individuals with developmental disabilities can make private donations.

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better used by Colorado's citizens and businesses to spend on their own needs and to help grow the economy.

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State revenue. The sales tax increase raises about $89 million in budget year 2010 and about $186 million in budget year 2011 to provide services for people with developmental disabilities. The state is also expected to receive about $19 million in 2010 and about $39 million in 2011 from the federal government to fund these services.

State spending. Amendment 51 increases state administrative costs by about $100,000 in 2009, $315,000 in 2010, and $430,000 in 2011 to oversee the services provided to people with developmental disabilities and to implement the sales tax increase. These costs cannot be paid from the new sales tax money, but a portion will be paid with funding from the federal government.

The nonprofit agencies that provide services will experience additional costs of around $46 million in 2010 and $94 million in 2011. ~~These costs include both providing the actual services to more people and startup and training expenses to accommodate the increase in services provided.~~ IN ORDER TO OFFER SERVICES TO ADDITIONAL PEOPLE WITH DEVELOPMENTAL DISABILITIES, PROVIDERS WILL EXPERIENCE COSTS FOR SUCH THINGS AS HIRING, TRAINING, AND SUPERVISING ADDITIONAL STAFF, BUYING EQUIPMENT, LOCATING NEW RESIDENTIAL SITES OR OPTIONS AND DEVELOPING THE CAPACITY TO PROVIDE AND SUSTAIN THESE NEW SERVICES. THE REVENUE FROM THIS MEASURE WILL COVER THESE AND OTHER COSTS ASSOCIATED WITH ESTABLISHING SERVICES FOR ADDITIONAL PERSONS. The new sales tax money is expected to pay for some of these costs, with the remainder funded by the federal government. It is unlikely that all of the new sales tax money will be spent in the first several years because developing the capacity to serve the number of people who are on waiting lists will take time. Any sales tax money that is not immediately spent on services must be placed in reserve.

Impact on taxpayers. Both individuals and businesses pay sales and use taxes. Businesses pay about 40 percent of the state's sales taxes; Colorado residents pay about half; and the remaining 10 percent is paid by visitors to the state. The additional amount of taxes paid by each Colorado household will depend on a household's income and number of people. A three-person household with around $55,000 in annual income is estimated to pay an additional $20 in state sales taxes in the first year of the tax increase and an additional $40 in the second year when the tax increase is fully in place.

COALITION TO END THE WAITING LIST COMMENTS ON LAST DRAFT OF AMENDMENT 51

August 20, 2008

To Whom it May Concern:

Please accept the following comments on the Third Draft of the Legislative Council Ballot Analysis for Amendment 51, the "State Sales Tax Increase for Services for People with Developmental Disabilities." We appreciate the consideration of our requests regarding the first and second drafts, as well as the opportunity to provide additional comment on the third.

Request 1 – Summary and Analysis
<u>Page 1, lines 27-30, Services for people with developmental disabilities</u>
Strike the following:
~~Additional money for services is also provided by the federal government, local governments, grants, donations, and fees paid by individuals receiving services. Total funding for services for people with developmental disabilities is estimated at about $400 million annually.~~

Because the number reflected above includes funding for more than the services outlined in Amendment 51, we feel it misleads voters and creates an inaccurate impression regarding available funding to address wait list services. While federal matches can be applied for most services outlined in Amendment 51, local funds, private donations and grants cannot be used – and are not currently used – to augment the cost of these services. Further, each of the alternative funding sources listed in the analysis has its own restrictions, as well as limits on the use of the outlined resource. None, except for the federal match, is available to address needs of people on the waiting list or, in a comprehensive way, the needs of people enrolled in service. For example, where local government funds are available each governmental entity has specified what services and groups of people are to be addressed with those funds and those specifications differ across the state.

If the goal is to provide information regarding the total state and federal funding currently available to address services outlined in Amendment 51, we suggest providing the total state dollars found in line 26, plus federal dollars. Funds that are not intended or used for such services should not be included. To that end, we would alternately suggest lines 27-30 be struck and amended as follows:

~~Additional money for services is also provided by the federal government, local governments, grants, donations, and fees paid by individuals receiving services. Total funding for services for people with developmental disabilities is estimated at about $400 million annually.~~ MANY SERVICES FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES ARE ELIGIBLE FOR A FEDERAL MEDICAID MATCH. THIS YEAR, MEDICAID PROVIDED $X DOLLARS IN MATCHING FUNDS MAKING THE TOTAL FUNDS AVAILABLE $X.

Request 2 -- Arguments For

Page 3, lines 9-10

For purposes of voter clarity, we request the following:

1) Many children and adults with developmental disabilities – and the families who care for them – are at the point of crisis because they cannot get needed services. NO ALTERNATIVE SAFETY NET EXISTS TO PROVIDE CARE FOR THEM.

Page 3, lines 22-24

For purposes of voter clarity, we request the following:

3) A sales tax of one penny per $5 purchase is a small investment for the large return of PROVIDING BASIC SERVICES AND improving the quality of life for people with developmental disabilities, SUCH AS AUTISM, DOWN SYNDROME, OR MENTAL RETARDATION.

Page 3, lines 24-25

For purposes of voter clarity, we request the following:

Furthermore, the tax applies to only a limited number of services, and does not apply to many basic necessities, SUCH AS GROCERIES, PRESCRIPTION DRUGS, GASOLINE, MEDICAL SERVICES, OR HOUSEHOLD UTILITIES."

Request 3 – Arguments Against:

Page 3, lines 29-30, Arguments Against

We believe the following sentence is factually misleading since the state sales tax does not apply to groceries or gasoline. We suggest it be struck.

~~"The economy is already struggling with a weak housing market and high gas and food prices."~~

Request 4 – Estimate of Fiscal Impact

Page 4, lines 19-22, State spending

For purposes of voter clarity, we request the following:

~~The providers of services will also experience additional costs. These costs will be for both providing the actual services to more people and for startup and training expenses to help accommodate the increase in services provided.~~ IN ORDER TO OFFER SERVICES TO ADDITIONAL PEOPLE WITH DEVELOPMENTAL DISABILITES, PROVIDERS WILL EXPERIENCE COSTS FOR SUCH THINGS AS HIRING, TRAINING, AND SUPERVISING ADDITIONAL STAFF, BUYING EQUIPMENT, LOCATING NEW RESIDENTIAL SITES OR OPTIONS AND DEVELOPING THE CAPACITY TO PROVIDE AND SUSTAIN THESE NEW SERVICES. THE REVENUE FROM THIS MEASURE WILL COVER THESE AND OTHER COSTS ASSOCIATED WITH ESTABLISHING SERVICES FOR ADDITIONAL PERSONS.

Thank you for your consideration of our requested changes. We would be happy to discuss these issues with you in greater detail. Please feel free to contact anyone of us with questions.

Sincerely,

Marijo Rymer	Linda Skaflen	Cami Learned
The Arc of Colorado	The Arc of Adams County	CCB Partners
303.864.9334	303.428 0310	303.435.6081

On behalf of the Coalition to End Colorado's Developmental Disability Wait List

Last Draft as Mailed to Interested Parties

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

Amendment 51 proposes amending the Colorado statutes to:

- increase the state sales and use tax from 2.9 percent to 3.0 percent on July 1, 2009, and from 3.0 percent to 3.1 percent on July 1, 2010;
- direct that the new money be used to pay for services for people with developmental disabilities and to help eliminate the waiting lists for services;
- prohibit the legislature from reducing the current level of state funding for services for people with developmental disabilities;
- exempt the new money from state spending limits.

Summary and Analysis

Developmental disabilities. Developmental disabilities include a number of different conditions that affect a person's physical or mental abilities, such as speaking, moving, learning, and independent living. Developmental disabilities can become apparent at anytime up to age 22 and last throughout a person's lifetime. Mental retardation, autism, Down syndrome, and cerebral palsy are examples of developmental disabilities.

Services for people with developmental disabilities. Services for people with developmental disabilities are delivered through a state and local system. The state administers the overall system; twenty local nonprofit agencies throughout the state determine a person's eligibility and arrange and provide services. Services are generally provided in the community or in the family home, and vary based upon the person's specific disability and needs. For instance, one person may need assistance with speech and language development, another may need job training to become employed, and another may need full-time care.

Currently, the state provides funding for about 11,800 people to receive services in the community. This year, the state's share of funding is about $184 million. Additional money for services is also provided by the federal government, local governments, grants, donations, and fees paid by individuals receiving services. Total funding for services for people with developmental disabilities is estimated at about $400 million annually.

Waiting lists for services. There are currently about 9,700 adults and children on waiting lists for services within the next two years. That number is expected to grow to over 12,000 people by 2012. If funding to eliminate the waiting lists becomes available, a number of people who are not currently on a waiting list may seek services as services become more accessible. Thus, it is difficult to estimate the total number of people who are eligible for services and the cost to eliminate the waiting lists.

Sales and use tax*.* The state sales tax is paid on the purchase price of most items. Some items are exempt, such as food bought at grocery stores, prescription drugs, household electricity and heat, and gasoline. The tax applies to some services, most notably local telephone service, cell phone service, food and drink service at restaurants and bars, and lodging. The state use tax is paid on items on which the sales tax was not collected, such as items bought from sellers outside of the state. In addition to the state, local governments also have sales and use taxes, although they may apply to different items than the state tax.

Amount of tax increase*.* The current state sales and use tax rate is 2.9 percent. When combined with local government sales taxes, the total tax rate varies across the state. For example, the total tax rate in the City of Denver is 7.72 percent, in Fort Collins it is 6.7 percent, in Fort Morgan it is 5.9 percent, in Pueblo it is 7.4 percent, and it is 7.65 percent in Grand Junction.

Amendment 51 raises the state tax rate to 3.1 percent over two years. On July 1, 2009, the rate increases to 3 percent, and on July 1, 2010, and thereafter the rate is 3.1 percent. The measure is estimated to raise about $89 million in the first year of the tax increase and $186 million in the next year when the tax increase is fully in place. Table 1 provides examples of how Amendment 51 affects state sales taxes.

Table 1. Comparison of State Sales Taxes Due under Current Law and Amendment 51

Price	Total Tax Increase	Current State Sales Tax	State Sales Tax in 1st Year of Increase	State Sales Tax in 2nd Year of Increase
$20	4 cents	58 cents	60 cents	62 cents
$100	20 cents	$2.90	$3.00	$3.10
$5,000	$10.00	$145.00	$150.00	$155.00

Use of the new money for services. Amendment 51 requires that all of the new sales tax money be used for services for people with developmental disabilities to help reduce the current waiting lists. The money cannot be used for state administration costs or to reduce current state spending on services. However, in any year in which two-thirds of the state legislature and the governor declare a state fiscal emergency, the money can be used for any purpose relating to services for people with developmental disabilities, such as replacing the current level of spending on services and for state administration costs. In addition, Amendment 51 creates a reserve for any money that is not spent in a given year for use in future years. Finally, a large portion of the new money can be used to leverage additional federal funds, increasing the total amount available to pay for services.

How Colorado's taxes compare with other states. Colorado has the lowest state sales tax rate of the 45 states with a state sales tax. However, Colorado has higher local government sales tax rates than most states. Thus, when comparing combined state and local sales taxes, Colorado ranks higher. Colorado ranks 17th in the amount of sales taxes paid per person and 23rd in the amount paid based on wealth. Colorado's total state and local taxes, including income, property, sales, and other taxes, rank 26th in the amount paid per person and 46th based on wealth.

Arguments For

1) Many children and adults with developmental disabilities — and the families who care for them — are at the point of crisis because they cannot get needed services. The wait time for services can last as long as ten years. The demand for services continues to grow because people with developmental disabilities are vulnerable and often need life-long care, and there are many aging parents who can no longer care for their children with developmental disabilities. The need for services is so great that it cannot be met without a new source of funding unless the state cuts money from other programs.

2) By spending money now, the state can reduce future costs of government services. For example, the new sales tax will provide money to expand early intervention programs for children, such as speech-language or physical therapy, and programs that help train and employ adults with developmental disabilities, which may reduce future reliance on government-funded services.

3) A sales tax of one penny per $5 purchase is a small investment for the large return of improving the health, safety, and quality of life for people with developmental disabilities. Furthermore, the tax applies to only a limited number of services, and does not apply to many basic necessities. The money raised from the new sales tax directly benefits people with developmental disabilities, and does not pay for state administrative overhead.

Arguments Against

1) Raising sales taxes may hurt the state's economy and citizens. The economy is already struggling with a weak housing market and high gas and food prices. Further, raising sales taxes burdens lower- and middle-income consumers the most because it cuts into a larger share of their income. Instead of requiring everyone to pay higher taxes, people who wish to help individuals with developmental disabilities can make private donations.

2) Reducing the waiting lists could be accomplished without raising taxes by reprioritizing how the state spends its money and by eliminating government inefficiencies. The state government already spends about 30 percent of state and federal operating dollars to provide health-care-related services, and this spending grows every year. The measure takes $186 million out of the private economy to expand the size and cost of government. This money could be better used by Colorado's citizens and businesses to spend on their own needs and to help grow the economy.

3) Decisions about how to spend state tax dollars are best made through a deliberative process that considers the needs and priorities of the entire state. Amendment _ permanently raises taxes without any discussion about whether the measure raises an appropriate amount of money, how the new money can be spent most effectively, or how the needs of people with developmental disabilities compare with other needs in the state. The new money must be spent on services for people with developmental disabilities even if the amount raised exceeds what is legitimately needed to provide services, which could lead to wasteful spending while other needs remain underfunded.

Estimate of Fiscal Impact

State revenue. The sales tax increase raises about $89 million in budget year 2010 and about $186 million in budget year 2011 to provide services for people with developmental disabilities.

State spending. Amendment 51 increases state spending to oversee the program by about $170,000 in budget year 2010 and by a similar amount in following years. The increase in state costs is the result of a rise in the number of people with developmental disabilities receiving services. These costs cannot be paid from the new money.

The providers of services will also experience additional costs. These costs will be for both providing the actual services to more people and for startup and training expenses to help accommodate the increase in services provided. It is assumed that the state legislature will use the new sales tax money to pay for these costs.

In addition to state spending for program oversight, the state will incur a cost of $100,000 in both budget years 2009 and 2010 for computer programming changes to track the new revenue and to notify businesses of the change in the tax rate.

Impact on taxpayers. Both individuals and businesses pay sales and use taxes. Businesses pay about 40 percent of the state's sales taxes; Colorado residents pay about half; and the remaining amount is paid by visitors to the state. The additional amount of taxes paid by each Colorado household will depend on a household's income and number of people. A three-person household with around $55,000 in annual income is estimated to pay an additional $20 in state sales taxes in the first year of the tax increase and an additional $40 in the second year when the tax increase is fully in place.

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

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

Text of Proposal:

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. 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), 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 OR 8 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); AND

(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.

(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 OR 8 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, 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.