

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2015

COUNCIL BILL NO. 15-0553
COMMITTEE OF

4 REFERENCE:

5 FINANCE AND SERVICES COMMITTEE

6 A BILL

7 **For an ordinance increasing the sales and use tax by a rate of .08 percent and**
8 **dedicating the revenue derived from the tax rate increase to fund the Denver**
9 **College Affordability Fund, and setting forth requirements for use of the Fund,**
10 **subject to the approval of the voters at a special municipal election to be**
11 **coordinated with the state odd-year general election on November 3, 2015.**

12 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

13 **Section 1.** Subject to voter approval as provided in Section 9 of this ordinance, Account Number
14 97000-282110 of the Fund Plan, Section 20-18, D.R.M.C., concerning apportionment of the sales,
15 use and lodger’s tax, shall be amended by the addition of a new subsection (i), to read as follows
16 (with existing subsection (i) being re-designated as subsection (j)):

17 **Sec. 20-18. Fund Plan.**

18 *Account No. 97000-282110*

19 *Name of account:* Unapportioned sales, use and lodger’s tax

20 *Source of funds:* City retail sales taxes, city use taxes and city lodger’s taxes that have
21 been collected, returned, and await apportionment

22 *Disposition of funds:*

- 23 (i) Monthly, (1) allocation apportionment and transfer of only those revenues raised at
24 the rate of .08 percent of gross taxable sales from sales and use taxes levied to the
25 Denver College Affordability Fund Project in the General Government Special
26 Revenue Fund.

27 **Section 2.** Subject to the approval of the voters as provided in Section 9 of this Ordinance,
28 subsection (a) of section 53-27, D.R.M.C., concerning sales taxes, shall be amended to read as
29 follows:

- 30 (a) *Tax rates.* A tax of three and ~~sixty-five~~ seventy-three one-hundredths (~~3.6573~~)

1 percent is imposed and levied upon all taxable sales of commodities and services
2 except those commodities or services specified in subsection (b) of this section. In
3 order to avoid amounts that are fractions of pennies, taxpayers shall use a rounding
4 procedure approved by the manager when computing the tax.

5 On those taxable sales of commodities or services specified in subsection (b) of this
6 section, there is levied and imposed upon all taxable sales a tax in accordance with
7 the rates set forth in subsection (b).

8 **Section 3.** Subject to the approval of the voters as provided in Section 9 of this Ordinance,
9 Section 53-27, D.R.M.C., concerning sales taxes shall be amended by the addition of a new
10 subsection (h) to read as follows:

11 (h) Sales tax increment to fund the Denver College Affordability Fund. In addition to the
12 sales tax otherwise imposed by this section, a tax of eight one-hundredths of one
13 (.08) percent shall be paid on all taxable sales of commodities or services, except on
14 commodities or services specified in subsection (b) of this section, beginning January
15 1, 2016 and expiring December 31, 2025. The revenue from such additional tax shall
16 be used for the sole purpose of funding the Denver College Affordability Fund
17 pursuant to article IV of chapter 11.

18 **Section 4.** Subject to the approval of the voters as provided in Section 9 of this Ordinance,
19 subsection (a) of section 53-28, D.R.M.C., concerning sales taxes, shall be amended to read as
20 follows:

21 **Sec. 53-28. Retailer responsible for payment of tax.**

22 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be liable
23 and responsible for the payment of an amount equivalent to three and ~~sixty-five~~
24 seventy-three one-hundredths (3.~~65~~73) percent of the retailer's gross taxable sales of
25 commodities or services specified in this article, except: (1) Aviation and railway fuel,
26 as to which the rate of four cents (\$0.04) for each gallon purchased shall apply; (2)
27 Automotive vehicles when they are for any term of thirty (30) days or less hired for
28 use, rented, leased or transferred under a grant of a license to use, as to which a rate
29 of taxation as set forth in section 53-27(b)(2) shall apply; and (3) Food and beverages
30 not exempted from taxation under section 53-26(8) of this article, as to which the rate

1 of four (4) percent shall apply, and for each of which respective rates aforesaid the
2 retailer shall be liable for an equivalent amount; and every retailer shall on or before
3 the twentieth day of each month pay over such amount and make a return to the
4 manager, less one-half of one (.5) percent of such amount as a discount allowable for
5 prompt payment. If any vendor is delinquent in remitting the tax levied by this article,
6 other than in unusual circumstances shown to the satisfaction of the manager, the
7 vendor shall not be allowed to retain any discount allowable for prompt payment, and
8 the full amount shall be remitted to the manager by any such delinquent vendor,
9 together with any other applicable penalty or interest payable under the terms of this
10 article.

11 **Section 5.** Subject to the approval of the voters as provided in Section 9 of this Ordinance,
12 subsection (a) of section 53-98, D.R.M.C., concerning use taxes, shall be amended to read as
13 follows:

14 (a) *Tax rates.* A tax of three and ~~sixty-five~~ seventy-three one-hundredths (~~3.65~~73)
15 percent is imposed and levied and there shall be collected and paid a tax upon the
16 exercise of the privilege of storing, using, distributing or consuming in the city a
17 service subject to the provisions of this article or any item of tangible personal
18 property purchased at retail, or deemed to be purchased at retail, except those
19 commodities or services specified in subsection (b) of this section. In order to avoid
20 amounts that are fractions of pennies, taxpayers shall use a rounding procedure
21 approved by the manager when computing the tax.

22 On those taxable uses, consumptions, distributions and storages of commodities or
23 services specified in subsection (b) of this section, there is levied and imposed upon
24 the privilege of storing, using, distributing or consuming in the city a tax in accordance
25 with the rates set forth therein.

26 **Section 6.** Subject to the approval of the voters as provided in Section 9 of this Ordinance,
27 Section 53-98, D.R.M.C., concerning use taxes shall be amended by the addition of a new
28 subsection (l) to read as follows:

29 (l) *Use tax increment to fund the Denver College Affordability Fund.* In addition to the
30 use tax otherwise imposed by this section, a tax of eight one-hundredths of one (.08)

1 percent shall be paid on all taxable uses, consumptions, distributions, and storages of
2 commodities and services, except on commodities and services specified in
3 subsection (b) of this section, beginning January 1, 2016 and expiring December 31,
4 2025. The revenue from such additional tax shall be used for the sole purpose of
5 funding the Denver College Affordability Fund pursuant to article IV of chapter 11.

6 **Section 7.** Subject to the approval of the voters as provided in Section 9 of this ordinance,
7 subsection (a) of section 53-99, D.R.M.C., concerning collection of use taxes, shall be amended to
8 read as follows:

9 **Sec.53-99. Retailer responsible for payment of tax.**

10 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be liable
11 and responsible for the payment of an amount equivalent to three and ~~sixty-five~~
12 seventy-three one-hundredths (3.~~65~~73) percent of gross taxable sales made by him
13 of services and tangible personal property specified in this article, except: (1) aviation
14 and railway fuel, as to which the rate of four cents (\$0.04) for each gallon purchased
15 shall apply, (2) automotive vehicles when they are for any term of thirty (30) days or
16 less hired for use, rented, leased or transferred under a grant of a license to use, as
17 to which a rate of taxation as set forth in section 53-98(b)(2) shall apply, and (3) food
18 and beverages not exempted from taxation under section 53-26(8) of the city retail
19 sales tax article, as to which the rate of four (4) percent shall apply, and for each of
20 which respective rates aforesaid the retailer shall be liable for an equivalent amount;
21 and every retailer shall on or before the twentieth day of each month pay over such
22 amount and make a return to the manager, less one-half of one (.5) percent of such
23 amount as a discount allowable for prompt payment. If any vendor is delinquent in
24 remitting the tax levied by this article, other than in unusual circumstances shown to
25 the satisfaction of the manager, the vendor shall not be allowed to retain any discount
26 allowable for prompt payment, and the full amount shall be remitted to the manager
27 by any such delinquent vendor, together with any other applicable penalty or interest
28 payable under the terms of this article.

29 **Section 8.** Subject to the approval of the voters as provided in Section 9 of this Ordinance,
30 Chapter 11, D.R.M.C., concerning Child Care Establishments, shall be amended by the addition of
31 a new Article IV, to read as follows:

- 1 (3) The corporation's articles of incorporation shall provide for a seven member
2 board of directors. Six members of the board shall be appointed by the mayor
3 and confirmed by the city council. One member of the board shall be a
4 member of the city council appointed by the city council. Members of the
5 board shall be appointed to staggered three-year terms of office. Members of
6 the board shall serve without compensation, but may be reimbursed for actual
7 and necessary expenses.
- 8 (4) The records of the corporation shall be treated as public records and subject to
9 the provisions of the Colorado Open Records Act, §§ 24- 72-201, et seq.,
10 C.R.S., as amended. Meetings of the corporation's board of directors shall be
11 treated as public meetings subject to the provisions of the Colorado Open
12 Meetings Law, §§ 24-6-401, et seq., C.R.S., as amended.
- 13 (5) Not less than once annually, the corporation shall report to the mayor, the city
14 council, the auditor, and the public the following information:
- 15 (i) The number of students receiving assistance from the Denver College
16 Affordability Fund, in total and by program.
 - 17 (ii) The number of part time and the number of full time students (as
18 defined by the student's post-secondary institution).
 - 19 (iii) Metrics tracking students year over year, students graduated, students
20 on track to graduate in a timely fashion (as defined by the student's
21 post-secondary institution), students who have lost eligibility due to
22 performance, and students who have stopped going to school.
 - 23 (iv) The long term workforce impact resulting from scholarships and
24 services funded by the Denver College Affordability Fund, to the extent
25 such information is available to the corporation in future years.
 - 26 (v) Audited financial statements for the corporation, including full reports on
27 expenditures for the prior fiscal year and anticipated budgets and work
28 plans for the ensuing fiscal year.
- 29 (6) In administering the Denver College Affordability Fund, or expending any
30 monies derived from the Denver College Affordability tax, the corporation shall
31 not discriminate against any person on the basis of race, color, religion,

1 national origin, gender, age (except as to the age of children qualifying for
2 tuition credits), military status, sexual orientation, gender variance, marital
3 status, or physical or mental disability.

4 **Sec 11-32. Spending limitations to be included in contract.** Any contract between the
5 city and the corporation for disbursement of the Denver College Affordability tax revenues
6 shall include the following provisions and requirements:

- 7 (1) Any expenditure of Denver College Affordability tax revenues under the
8 contract shall be subject to annual appropriation by the city council.
- 9 (2) No more than 10% of the Denver College Affordability tax revenue received by
10 the corporation in any year shall be spent on administrative expenses. For
11 purposes of this limitation, “administrative expenses” shall mean salaries and
12 office expenses related to any staff or employees of the corporation; any
13 expenses reimbursed to members of the board of directors; routine business
14 expenses such as insurance, accounting and legal expenses; and any similar
15 overhead expenses incurred by the corporation. The term “administrative
16 expenses” shall not be deemed to include any fees or expenses paid to third-
17 party contractors or consultants to assist in the development or administration
18 of the Denver College Affordability Fund.
- 19 (3) At least 90% of Denver College Affordability tax revenue received by the
20 corporation in any year shall be used for the following purposes only:
- 21 (i) Organization reimbursement grants administered in accordance with
22 the requirements of section 11-34, D.R.M.C..
- 23 (ii) Debt relief for higher education costs, administered in accordance with
24 the requirements of section 11-35, D.R.M.C..
- 25 (iii) Contracting with qualified experts to design and assist with the
26 implementation of the Denver College Affordability Fund program.
- 27 (iv) Measurement of the performance of the Denver College Affordability
28 Fund and scholarship recipients, and the preparation of reports to city
29 officials and to the public on the performance of the program.

30 **Sec. 11-33. Student eligibility requirements.**

- 1 (a) To be eligible for funding from the Denver College Affordability Fund, the student
2 benefitted (“eligible student”) must have resided in Denver continuously for more than
3 thirty-six (36) months prior to their first scheduled post-secondary class day, and
4 otherwise meet all criteria for in-state tuition.
- 5 (b) Eligible students must have completed the FAFSA application, and have an Expected
6 Family Contribution no greater than 2.5 times the Pell limit.
- 7 (c) Eligible students must attend a regionally accredited non-profit or public post-
8 secondary institution located in Colorado, and be in good standing at said institution,
9 as demonstrated by the institution’s determination that the student has achieved
10 “satisfactory academic progress.”
- 11 (d) Eligible students may not be older than twenty-five years of age as of the final
12 scheduled class day of the academic year for which a reimbursement grant or debt
13 relief is requested.

14 **Sec. 11-34. Organization reimbursement program.** Funding from the Denver College
15 Affordability Fund may be paid to nonprofit organizations (“organizations”) that provide
16 tuition grants and/or support services to eligible students, on a reimbursement basis, in
17 compliance with the following standards and requirements:

- 18 (1) Organizations may apply annually for reimbursement grants from the
19 corporation for eligible students supported by the organization in the prior
20 academic year. The application must include a complete list of the eligible
21 students assisted by the organization during the prior academic year; the
22 amounts spent on account of each eligible student for tuition and support
23 services (as hereafter defined); and any other information required by the
24 corporation.
- 25 (2) Reimbursable “support services” are defined as services designed to increase
26 college student persistence and graduation, including the following: academic
27 tutoring; advice and assistance in college course selection; graduation
28 coaching; services that assist with student financial aid, such as resources for
29 locating scholarships and assistance in completing financial aid applications;
30 education or counseling services designed to improve student financial and

1 economic literacy; assistance for students enrolled in certificate and two-year
2 programs in applying for admission to, and financial assistance for, enrollment
3 in two-year and four-year programs; career and academic counseling; and
4 mentoring programs.

5 (3) Reimbursement for tuition and support services shall be funded by the
6 corporation on a sliding scale, with individual reimbursement rates calculated
7 based on and inversely related to the demonstrated financial need and
8 expected family contribution of the eligible student. Only privately raised funds
9 spent on an eligible student can be reimbursed; in no event may organizations
10 seek reimbursement of their expenditures of funds received from the
11 corporation. In no event will reimbursement exceed 75% of the total amount
12 spent on the eligible student by the organization, and in no event will an
13 organization (or organizations, if more than one is supporting the same eligible
14 student) be reimbursed more than \$4,000 per eligible student. The per
15 student maximum dollar amount may be increased annually by the
16 corporation's board of directors, by an amount not to exceed the most recent
17 percentage increase in the Consumer Price Index for Denver-Boulder-Greeley
18 ("CPI"). Reimbursement for support services shall not exceed a stated
19 percentage of the total amount reimbursed on account of the eligible student,
20 such percentage to be established annually by the corporation's board of
21 directors.

22 (4) Other specific criteria and procedures for the disbursement of Denver College
23 Affordability tax revenue shall be determined by the corporation's board of
24 directors.

25 (5) In order to be qualified to receive payments from the Denver College
26 Affordability Fund, an organization shall meet the following minimum
27 requirements:

28 (i) The organization shall be duly incorporated and in good standing under
29 the Colorado Revised Nonprofit Corporation Act, and approved by the Internal
30 Revenue Service as a tax exempt, charitable organization.

1 (ii) The organization shall have existed and operated as a college
2 scholarship and/or support services entity for not less than three years, and
3 shall operate independently as a financial and operational entity separate from
4 any post-secondary institution, school district, or charter school management
5 organization.

6 (iii) To remain in good standing and eligible to receive reimbursement from
7 the Denver College Affordability Fund, organizations must submit a report
8 each year to the corporation, detailing expenditures of Denver College
9 Affordability tax revenues, the form and substance of such report to be as
10 required by the corporation.

11 (iv) Other requirements as may be established by the corporation's board of
12 directors.

13 **Sec. 11-35. Debt Relief Higher Education Partnership Program.**

14 (a) Eligible students may apply directly to the corporation for a grant to assist with
15 student loan repayment, after successfully completing a year of their degree program.

16 (b) To obtain financial assistance pursuant to this section, the eligible student must
17 disclose the total cost of their tuition and fees for the school year, all student loans
18 obtained from any source, and the total amount of those loans cannot exceed the
19 cost of attendance for the completed school year as determined by the student's
20 higher education institution.

21 (c) Debt relief grants shall be made using the same sliding reimbursement scale
22 described in subsection 11-34(3), D.R.M.C., and funds shall be disbursed only to: (i)
23 the Colorado post-secondary institution attended by the eligible student, to be applied
24 toward the student's next year of study; or (ii) the eligible student's student loan
25 provider, to pay down the principal of debt from the student's just completed
26 academic year. The student will select the method of disbursement, provided that
27 after the final year of a student's program, funds may only be disbursed to the
28 student's loan provider. Except as provided in subsection 11-35(d), D.R.M.C., debt
29 relief grants shall not exceed the lesser of: 150% of the student's total cost of tuition
30 and fees for the completed school year; or \$4,000. The per student maximum dollar
31 amount may be increased annually by the corporation's board of directors, by an

1 amount not to exceed the most recent percentage increase in the CPI. The per
2 student dollar limits applicable to the organization reimbursement and the debt relief
3 programs may not be aggregated. Any student who has received assistance from an
4 organization pursuant to section 11-34, D.R.M.C., and who also applies for debt
5 relief assistance pursuant to this section 11-35, D.R.M.C., is limited to a maximum
6 benefit totaling \$4,000 (or such greater maximum amount as may be approved by the
7 Corporation's board of directors as provided above).

8 (d) Students who participate in this program, who successfully complete their associate
9 degree or technical certification, are also eligible for additional financial support in an
10 amount to be determined by the corporation's board of directors, for the final year
11 leading to their degree or certificate. Payments will be based upon the same sliding
12 reimbursement scale described in subsection 11-34(3), D.R.M.C., and subject to the
13 other requirements of this section 11-35, D.R.M.C.

14 (e) The corporation shall have the authority to partner with post-secondary education
15 institutions for the provision of support services to eligible students participating in the
16 debt relief program described in this section.

17 **Section 9.** In accordance with § 3.3.6 of the Charter and Article X, Section 20 of the Colorado
18 Constitution, this ordinance shall be submitted to a vote of the registered electors of the City and
19 County of Denver at a special municipal election to be coordinated with the state odd-year election
20 occurring on November 3, 2015. Each elector voting at said election and desirous of voting for or
21 against the ordinance shall cast a vote as provided by law either "Yes" or "No" on the proposition:

22 SHALL DENVER SALES AND USE TAXES BE INCREASED \$10.6 MILLION ANNUALLY,
23 COMMENCING JANUARY 1, 2016, AND BY WHATEVER ADDITIONAL AMOUNTS ARE
24 RAISED ANNUALLY THEREAFTER THROUGH DECEMBER 31, 2025, FROM AN EIGHT
25 ONE-HUNDREDTHS OF ONE PERCENT (.08%) SALES AND USE TAX RATE (ABOUT A
26 PENNY ON A TEN DOLLAR PURCHASE), TO INCREASE COLLEGE ENROLLMENT AND
27 DEGREE COMPLETION BY DENVER RESIDENTS WHO QUALIFY FOR NEEDS-BASED
28 FINANCIAL AID AND ARE EARNING A DEGREE FROM A PUBLIC OR NOT-FOR-PROFIT
29 COLLEGE, UNIVERSITY, COMMUNITY COLLEGE, OR TECHNICAL SCHOOL IN

1 COLORADO THROUGH:

2 O PROVIDING STUDENT LOAN DEBT RELIEF; AND

3 O FUNDING SCHOLARSHIPS; AND

4 O FUNDING SUPPORT SERVICES TO PROMOTE COMPLETION OF THAT
5 DEGREE, INCLUDING TUTORING, MENTORING, FINANCIAL AID ASSISTANCE, AND
6 ACADEMIC COUNSELING;

7 PROVIDED THAT THE TAX EXPIRES IN TEN YEARS, THAT NO MORE THAN 10% OF
8 FUNDS GENERATED BE SPENT ON ADMINISTRATIVE COSTS, THAT A REPORT FOR
9 THE PROGRAM BE SUBMITTED ANNUALLY TO THE MAYOR, CITY COUNCIL, CITY
10 AUDITOR, AND THE PUBLIC; AND SHALL THE REVENUES FROM THESE INCREASED
11 TAXES BE COLLECTED AND SPENT IN EACH FISCAL YEAR BY DENVER WITHOUT
12 REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER LIMITATION
13 CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION
14 OR ANY OTHER LAW?

15 The proper officials of the City and County of Denver as are charged with duties relating to the
16 election shall, before the election, issue such calls, make such certifications, and publications, give
17 such notices (including, without limitation, the notice required by Art. X, §20(3)(b) of the Colorado
18 Constitution), make such appointments, and do all such other acts and things in connection with
19 the submission of this question to the registered electors of the City and County of Denver at the
20 election as are required by the constitution and laws of the state of Colorado and the Charter and
21 ordinances of the City and County of Denver. The ballots cast at such election shall be canvassed
22 and the results ascertained, determined, and certified in accordance with the requirements of the
23 Constitution and laws of the State of Colorado and the Charter and ordinances of the City and
24 County of Denver.

25 **Section 10.** Subject to the approval of the voters as provided in Section 7 of this Ordinance, this
26 ordinance shall be effective January 1, 2016.

1 COMMITTEE APPROVAL DATE: August 5, 2015

2 MAYOR-COUNCIL DATE: August 11, 2015

3 PASSED BY THE COUNCIL _____ 2015

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____ 2015

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2015; _____ 2015

10 PREPARED BY: Daniel B. Slattery, Assistant City Attorney DATE: August 13, 2015

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15

16 D. Scott Martinez, City Attorney

17 BY: _____, _____ City Attorney

18 DATE: _____