

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2024

COUNCIL BILL NO. 24-0717
COMMITTEE OF REFERENCE:
4 Safety, Housing, Education & Homelessness

5 A BILL

6 **For an ordinance increasing the sales and use tax by a rate of 0.34 percent and**
7 **dedicating the revenue derived from the tax rate increase to fund certain services**
8 **provided by Denver Health and Hospital Authority subject to the approval of the**
9 **voters at a special municipal election to be conducted in coordination with the**
10 **state general election on November 5, 2024.**
11

12 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**
13

14 **Section 1.** Subject to voter approval as specified in Section 7 of this ordinance,
15 Account Number 97000/282110 of the Fund Plan, Section 20-18, D.R.M.C., concerning
16 unapportioned sales, use and lodger's tax, is amended by the addition of a new subsection
17 (o), to read as follows (with existing subsections (o) and (p) being re-designated as
18 subsections (p) and (q)):
19

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

21
22 *Account No. 97000/282110*

23
24 *Name of account:* Unapportioned sales, use and lodger's tax

25 *Source of funds:* City retail sales taxes, city use taxes and city lodger's taxes that
26 have been collected, returned, and await apportionment.

27 *Disposition of funds:*
28

29 o. Monthly, allocation apportionment and transfer of only those revenues raised
30 at the rate of thirty-four one-hundredths (0.34) percent of gross taxable sales from
31 sales and use taxes levied to the Denver Health and Hospital Authority Tax Fund in
32 the General Government Special Revenue Fund.
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34 **Section 2.** Subject to the approval of the voters as specified in Section 7 of this
35 ordinance, Section 53-56, D.R.M.C., concerning sales taxes is amended by the addition of a

1 new subsection (n) to read as follows:

2

3 **Sec. 53-56. - Retailers to collect tax.**

4 (n) *Sales tax increment to fund Denver Health and Hospital Authority Tax Fund.* In
5 addition to the sales tax otherwise imposed by this section, a tax of thirty-four one-hundredths
6 of one percent (.34%) must be paid on all taxable sales of commodities or services, except
7 on commodities or services specified in subsection (b) of this section, beginning January 1,
8 2025. The revenue from such additional tax must be used for the sole purpose of funding the
9 Denver Health and Hospital Authority Services Fund created Article XV of Chapter 24.

10

11 **Section 3.** Subject to the approval of the voters as provided in Section 7 of this
12 Ordinance, subsection (a) of section 53-57, D.R.M.C., concerning collection of sales is
13 amended by adding the language underlined and deleting the language stricken, to read as
14 follows:

15

16 **Sec. 53-57. Retailer responsible for payment of tax.**

17 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be
18 liable and responsible for the payment of an amount equivalent to ~~four and eighty-one one-~~
19 ~~hundredths (4.81) percent~~ five and fifteen one-hundredths (5.15) percent of the retailer's
20 taxable sales of tangible personal property, products, or services specified in this article,
21 except:

22 (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each
23 gallon purchased shall apply;

24 (2) Automotive vehicles when they are for any term of thirty (30) days or less hired
25 for use, rented, leased or transferred under a grant of a license to use, as to which a rate of
26 taxation as set forth in subsection 53-56(b)(2) shall apply;

27 (3) Food and beverages not exempted from taxation under subsection 53-55(a)(8)
28 of this article, as to which the rate of four (4) percent shall apply;

29 (4) For each of which respective rates aforesaid the retailer shall be liable for an
30 equivalent amount;

31 (5) Every retailer shall, on its return, round each calculation, as directed on such
32 form as the manager may require, to the nearest whole dollar and remit the rounded amount.
33 In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be rounded
34 down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

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Section 4. Subject to the approval of the voters as provided in Section 7 of this ordinance, Section 53-106, D.R.M.C., concerning use taxes is amended by the addition of a new subsection (r) to read as follows:

Sec. 53-106. - Retailers to collect tax.

(r) *Use tax increment to fund the Denver Health and Hospital Authority Tax Fund.*
In addition to the use tax otherwise imposed by this section, a tax of thirty-four one-hundredths of one percent (.34%) must be paid on all taxable uses, consumptions, distributions, and storages of commodities and services, except on commodities and services specified in subsection (b) of this section, beginning January 1, 2025. The Denver Health and Hospital Authority Services Fund created in article XV of chapter 24.

Section 5. Subject to the approval of the voters as provided in Section 7 of this ordinance, subsection (a) of section 53-107, D.R.M.C., concerning collection of use taxes, is amended by the addition of the language underlined and the deletion of the language stricken, to read as follows:

Sec.53-107. Retailer responsible for payment of tax.

(a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be liable and responsible for the payment of an amount equivalent to ~~four and eighty-one one-hundredths (4.81) percent~~ five and fifteen one-hundredths (5.15) percent of taxable sales made by him of tangible personal property, products, and services, except:

- (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon purchased shall apply;
- (2) Automotive vehicles when they are for any term of thirty (30) days or less hired for use, rented, leased or transferred under a grant of a license to use, as to which a rate of taxation as set forth in subsection 53-98(b)(2) shall apply;
- (3) Food and beverages not exempted from taxation under subsection 53-26(8) of the city retail sales tax article, as to which the rate of four (4) percent shall apply;
- (4) For each of which respective rates aforesaid the retailer shall be liable for an equivalent amount; and
- (5) Every retailer shall, on its return, round each calculation, as directed on such form as the manager may require, to the nearest whole dollar and remit the rounded amount.

1 In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be rounded
2 down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

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4 **Section 6.** Subject to the approval of the voters as provided in Section 7 of this
5 ordinance, Chapter 24, D.R.M.C., concerning Health and Sanitation, is amended by the
6 addition of a new Article XV, to read as follows:

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8 **ARTICLE XV. DENVER HEALTH AND HOSPITAL AUTHORITY TAX FUND**

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10 **Sec. 24-708. Legislative Intent.**

11 (a) The City Council finds, determines, and declares:

12 (1) Denver Health and Hospital Authority (“Denver Health”) is a bedrock of Denver
13 as the safety net hospital for Colorado whose mission includes providing access to high quality
14 health care and related supportive services to those in need in Denver, regardless of their
15 ability to pay;

16 (2) Providing healthcare to individuals, regardless of their ability to pay, contributes
17 substantially to the health and wellbeing of those receiving the care as well as to the overall
18 quality of life and vitality of the entire community;

19 (3) As a safety net hospital, a disproportionate percentage of those served by
20 Denver Health are individuals who are uninsured, underinsured, and members of vulnerable
21 populations who are without the means to cover the costs of their needed healthcare and
22 services, or for whom there are insufficient governmental or other sources for reimbursement
23 to Denver Health for providing that care;

24 (4) On average, Denver Health has absorbed approximately \$100 million in each of
25 the last two (2) years for uncompensated care being provided to Denver residents, and that
26 figure is projected to rise to \$124 million in 2025;

27 (5) Dedicated funding to apply to that gap is necessary to sustain the critically
28 important work and services being provided by Denver Health; and

29 (6) Monies in the Fund must be used in accordance with this article, and nothing
30 herein is intended to reduce the current level of general fund support for Denver Health based
31 on the availability of the Fund, provided, however, that nothing herein shall otherwise prevent
32 annual increases or decreases of general fund support for Denver Health based on the factors
33 set forth in the section of the 2024 Operating Agreement entitled ‘Patient Care Services,’ or
34 any subsequent agreement or provision negotiated between the City and Denver Health.

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(b) Therefore, the City Council has determined that the question of whether the City shall be authorized to impose a 0.34 percent sales and use tax for the purposes and in the manner set forth in this ordinance should be submitted to the registered electors of the City at the special municipal election to be conducted in coordination with the state general election on November 5, 2024.

Sec. 24-73. Permitted Uses of Revenue in the Denver Health and Hospital Authority Tax Fund.

(a) All monies derived from the sales and use taxes in the Denver Health and Hospital Authority Tax Fund must be expended through an intergovernmental agreement contract with the Denver Health and Hospital Authority for emergency and trauma care, primary medical care, mental health care, drug and alcohol use recovery, and pediatric care services.

(b) *Cap on administrative costs.* Monies in the Denver Health and Hospital Authority Tax Fund may be expended to pay the costs incurred by the city associated directly with the administration of the funds as defined in the intergovernmental agreement; except that, in no event may the amount expended from the funds for city administrative expenses in any year exceed one (1) percent of the amount of revenue received in the fund in that year.

(c) *Fund earnings.* Any interest earned on the balance of the Fund accrues to the Fund.

(d) *Administration of funds.* The manager of public health and environment shall manage the Denver Health and Hospital Authority Tax Fund.

(e) *Permanency.* If the monies in the Fund are not expended at the end of the fiscal year, such monies must remain in the fund to be expended in subsequent fiscal years.

(f) *Maintenance of effort.* All monies in the Fund must be used in accordance with this section and may not be the sole basis for reducing any proposed general fund appropriation allocated each year to the Department of Public Health and Environment.

(g) *Rulemaking.* The manager of public health and environment may promulgate any rules necessary for the proper administration of this section.

(h) *Reporting.* Commencing January 1, 2026, not less than once annually and no later the end of the third month of the city's fiscal year, the Department of Public Health and Environment shall provide a report containing the following information to the mayor, the city council, and the auditor, which shall be available to the public:

(1) Audited financial statements for Denver Health and Hospital Authority, conducted by an independent auditor, including full reports on expenditures for the prior fiscal

1 year and anticipated budgets for the ensuing fiscal year.

2 (2) An annual report that sets forth, at a minimum, the uses of revenue received
3 pursuant to this section, including total dollars expended in each category of service as set
4 forth in subsection (a).

5
6 **Section 7.** The ballot shall contain the following title and submission clause:

7 SHALL CITY AND COUNTY OF DENVER SALES AND USE TAXES BE INCREASED
8 BY \$70 MILLION ANNUALLY, COMMENCING IN JANUARY 1, 2025, AND BY
9 WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER,
10 FROM A THIRTY-FOUR ONE-HUNDREDTHS OF ONE PERCENT (0.34%) SALES
11 AND USE TAX RATE (3.4 CENTS ON A TEN-DOLLAR PURCHASE), TO BE
12 COLLECTED ON TANGIBLE PERSONAL PROPERTY, PRODUCTS, AND SERVICES
13 CURRENTLY SUBJECT TO SALES AND USE TAX, IN ORDER TO MAINTAIN AND
14 EXPAND DENVER HEALTH AND HOSPITAL AUTHORITY SERVICES, INCLUDING:

- 15 • EMERGENCY AND TRAUMA CARE;
16 • PRIMARY MEDICAL CARE;
17 • MENTAL HEALTH CARE;
18 • DRUG AND ALCOHOL USE RECOVERY; AND
19 • PEDIATRIC CARE.

20
21 AND, IN CONNECTION THEREWITH, SHALL NO MORE THAN ONE PERCENT (1%) OF
22 THE TOTAL ANNUAL REVENUES DERIVED FROM THE INCREASE IN SALES AND USE
23 TAX BE SPENT ON CITY ADMINISTRATIVE COSTS RELATED TO THE
24 ADMINISTRATION OF FUNDS FOR THE ABOVE PURPOSES, AND SHALL THE MONIES
25 DERIVED FROM THE INCREASE IN SALES AND USE TAX NOT BE USED AS THE SOLE
26 BASIS FOR PROPOSING A REDUCTION IN CURRENT REVENUE EXPENDITURES
27 FROM THE GENERAL FUND; AND SHALL THE REVENUE AND EARNINGS ON THIS
28 SALES AND USE TAX BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE
29 CHANGE AND AN EXCEPTION TO THE LIMITS THAT MAY OTHERWISE APPLY UNDER
30 ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?
31

32 **Section 8.** The proper officials of the City and County of Denver as are charged with
33 duties relating to the election shall, before the election, issue such calls, make such
34 certifications and publications, give such notices, make such appointments, and do all such
35 other acts and things in connection with the submission of this code amendment to the
36 registered electors of the City and County of Denver at the election as are required by the
37 Constitution and laws of the State of Colorado and the Charter and ordinances of the City and
38 County of Denver.

39 **Section 9.** The ballots cast at such election shall be canvassed and the results
40 ascertained, determined, and certified in accordance with the requirements of the Constitution

1 and laws of the State of Colorado and the Charter and ordinances of the City and County of
2 Denver.

3 **Section 10.** If any section, paragraph, clause, or other portion of this ordinance is held
4 to be invalid or unenforceable for any reason, the validity of the remaining portions of this
5 ordinance shall not be affected.

6
7 COMMITTEE APPROVAL DATE: June 5, 2024

8 MAYOR-COUNCIL DATE: June 11, 2024 by Consent

9 PASSED BY THE COUNCIL _____

10 _____ - PRESIDENT

11 APPROVED: _____ - MAYOR _____

12 ATTEST: _____ - CLERK AND RECORDER,
13 EX-OFFICIO CLERK OF THE
14 CITY AND COUNTY OF DENVER
15

16 NOTICE PUBLISHED IN THE DAILY JOURNAL _____; _____

17

18 PREPARED BY: Anshul Bagga, Assistant City Attorney; DATE: June 13, 2024

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20 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office
21 of the City Attorney. We find no irregularity as to form, and have no legal objection to the
22 proposed ordinance. The proposed ordinance is not submitted to the City Council for approval
23 pursuant to § 3.2.6 of the Charter.
24

25

26 Kerry Tipper, Denver City Attorney

27

BY: Anshul Bagga, Assistant City Attorney DATE: Jun 13, 2024