

RESOLUTION NO. 5-2024

A RESOLUTION PERTAINING TO THE SUBMISSION TO THE REGISTERED QUALIFIED ELECTORS OF MONTEZUMA COUNTY, OF A QUESTION AUTHORIZING THE IMPOSITION OF A PUBLIC SAFETY SALES TAX FOR THE PURPOSE OF FUNDING THE MONTEZUMA COUNTY SHERIFF'S OFFICE, THE MONTEZUMA COUNTY JAIL, AND MONTEZUMA COUNTY'S DRUG TASK FORCE

WHEREAS, the Board of County Commissioners of Montezuma County, Colorado (hereinafter "the County") has determined that there is a need to fund the Montezuma County Sheriff's Office, the Montezuma County Jail, and Montezuma County's Drug Task Force. Such organizations are eligible to receive funds generated by a Public Safety Sales Tax based on their inclusion in Section 30-11-107.9 of the Colorado Revised Statutes, and the fact that such organizations provide services related to public safety at the county or local level in the State of Colorado; and

WHEREAS, the County does not have the funds in its treasury sufficient to finance the capital expenditures or operational costs associated with Montezuma County Sheriff's Office, the Montezuma County Jail, or Montezuma County's Drug Task Force, without curtailing to an unacceptable level other services which the County is obligated to provide; and

WHEREAS, current Public Safety requirements that have been identified by the County include, but are not limited to, a need to properly staff the Montezuma County Sheriff's Department and the Montezuma County Jail, a need to properly equip all Sheriff's Office and Jail personnel, and a need to maintain and possibly increase the size of the local drug task force; and

WHEREAS, sales tax is paid by all – not just residents, but tourists and visitors; and

WHEREAS, the Montezuma County Board of County Commissioners desires to relieve the tax burden on local residents and property owners and shift such burden to tourists and visitors that utilize Montezuma County's infrastructure and services; and

WHEREAS, pursuant to Section 30-11-107.9 of the Colorado Revised Statutes (hereinafter "C.R.S."), the County is authorized by law to impose a sales tax on the sale of tangible personal property of retail services taxable in the County pursuant to the provisions of Sections 39-26-104, C.R.S., subject to approval of the registered electors of the County; and

WHEREAS, pursuant to Section 39-26-716, farm equipment, not including animal identification equipment unless expressly exempted by the city or county, may be exempted from an imposed sales tax; and

WHEREAS, the Montezuma County Board of County Commissioners wishes to exempt farm equipment, not including animal identification equipment, pursuant to Section 39-26-716, in order to relieve pressure from farmers and agricultural producers in the County; and

WHEREAS, the Board of County Commissioners has determined that it is in the interest of the residents of the County to impose a 1.0 percent sales tax (hereinafter the "Public Safety Sales Tax"), beginning January 1, 2025; and

WHEREAS, the Public Safety Sales Tax does not exceed the 2.0 percent rate permitted by 30-11-107.9 C.R.S.; and

WHEREAS, all net revenues of the Public Safety Sales Tax collected by the County after the payment of the costs of collection, administration, and enforcement to the Colorado Department of Revenue (hereinafter the “Revenue Department”) shall be used exclusively to fund the Montezuma County Sheriff’s Office, the Montezuma County Jail, and Montezuma County’s Drug Task Force, as set forth more fully herein; and

WHEREAS, the Board of County Commissioners has determined that a question regarding the imposition of the Public Safety Sales Tax for the purposes enunciated herein should be submitted by the Board of County Commissioners to the registered electors of the County; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, known as the Taxpayer’s Bill of Rights (hereinafter “TABOR”) requires voter approval in advance of any new tax; and

WHEREAS, November 5, 2024 is one of the dates upon which TABOR allows ballot issues to be submitted to the registered electors of the County.

NOW BE IT RESOLVED by the Montezuma County Board of Commissioners as follows:

I. General Provisions

- A. Purpose. The purpose of this Resolution is, upon approval by a majority of the registered electors of the County voting on such proposal, to impose a 1.0 percent Public Safety Sales Tax upon the sale of tangible personal property of retail and services taxable in the County pursuant to the provisions of Section 39-26-104, C.R.S. The Public Safety Sales Tax is authorized by Section 30-11-107.9, C.R.S., which is incorporated herein by this reference. The Public Safety Sales Tax shall become effective on January 1, 2025.
- B. Statutory Definitions Incorporated. Unless otherwise defined herein, for the purposes of this Resolution, the definitions of the words contained herein shall be as defined in Sections 30-11-107.9 and 39-26-102, C.R.S.

II. Imposition of Public Safety Sales Tax. Upon approval by a majority of the registered electors of the County voting thereon, commencing January 1, 2025, there shall be a 1.0 percent Public Safety Sales Tax on the sale of tangible personal property of retail and services taxable in the County pursuant to the provisions of Section 39-26-104, C.R.S., effective throughout the incorporated and unincorporated portions of the County, subject to the following terms and conditions:

- A. The tangible personal property and services taxable in the County subject to the Public Safety Sales Tax shall be the same as the tangible personal property of retail and services taxable pursuant to Section 39-26-104, C.R.S.
- B. The Public Safety Sales Tax shall be collected, administered, and enforced, to the extent feasible, pursuant to Section 29-2-106, C.R.S.

- C. Pursuant to Section 39-26-716, farm equipment, not including animal identification equipment unless expressly exempted by the city or county, is exempted from an imposed sales tax; and
- III. **Effective Date.** Upon approval by a majority of the registered electors in the County voting thereon at the election on November 5, 2024, the Public Safety Sales Tax shall become effective and be imposed beginning at 12:00 a.m. on January 1, 2025.
- IV. **Statute of Limitations.** The statute of limitations applicable to the enforcement of the Public Safety Sales Tax shall be the statute of limitations applicable to the enforcement of state sales tax collections, the statute of limitations applicable to refunds of state sales tax, the amount of penalties and interest payable on delinquent remittances of state sales taxes, and the posting of bonds pursuant to Section 39-21-105(4), C.R.S.
- V. **Necessity of Election.** The Public Safety Sales Tax shall not become effective until and unless a majority of the registered electors voting thereon, pursuant to Section 30-11-107.9, C.R.S. approve the ballot issue at the election to be held within the County on November 5, 2024.
 - A. **Ballot Title and Submission Clause.** The ballot title and submission clause for the Public Safety Sales Tax, shall be, in substantially the following form:

PUBLIC SAFETY SALES TAX

SHALL MONTEZUMA COUNTY TAXES BE INCREASED BY AN ESTIMATED \$8,123,002 BEGINNING IN 2025 AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED THEREAFTER BY THE IMPOSITION OF A 1.0 PERCENT SALES TAX TO BE USED EXCLUSIVELY FOR CAPITAL EXPENDITURES OR OPERATIONAL COSTS ASSOCIATED WITH THE MONTEZUMA COUNTY SHERIFF'S DEPARTMENT, THE MONTEZUMA COUNTY JAIL, AND MONTEZUMA COUNTY'S DRUG TASK FORCE; SHALL MONTEZUMA COUNTY BE AUTHORIZED TO COLLECT, RETAIN, AND SPEND ALL REVENUE GENERATED BY SUCH TAX IN EXCESS OF THE LIMITATION PROVIDED IN SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION AS A VOTER-APPROVED REVENUE CHANGE; SHALL SUCH TAX COMMENCE ON JANUARY 1, 2025 AND BE IMPOSED AS FOLLOWS: A SALES TAX AT A RATE OF 1.0 PERCENT ON THE SALE OF TANGIBLE PERSONAL PROPERTY OF RETAIL AND SERVICES TAXABLE IN THE COUNTY PURSUANT TO THE PROVISIONS OF SECTION 39-26-104, COLORADO REVISED STATUTES, PROVIDED THAT THIS QUESTION DOES NOT AUTHORIZE THE COUNTY TO INCREASE ANY OTHER FEE OR TAX, INCLUDING PROPERTY TAXES; SHALL FARM EQUIPMENT, NOT INCLUDING ANIMAL IDENTIFICATION EQUIPMENT, BE EXEMPTED FROM THE IMPOSED SALES TAX; AND SHALL THIS TAX INCREASE CONSTITUTE A VOTER APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS THAT OTHERWISE WOULD APPLY TO THE COUNTY UNDER ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, COMMON KNOWN AS THE TAXPAYER'S BILL OF RIGHTS OF "TABOR"; ALL IN ACCORDANCE WITH THE RESOLUTION ADOPTED BY THE BOARD OF COMMISSIONERS OF MONTEZUMA COUNTY AND SET FORTH IN RESOLUTION NO. 5-2024

- B. **Cost of Election.** The entire cost of the election shall be paid from the general fund of the County.
- C. **Notice by Publication.** The Montezuma County Clerk and Recorder shall publish the text of this resolution four separate times, a week apart, in the official newspaper of the

county of each incorporated municipality within the County.

- D. **Designated Election Official.** The Board of County Commissioners hereby appoints the County Clerk and Recorder as the designated election official for the purposes of performing acts required or permitted by law in connection with the Election. Pursuant to section 1-1-111(2), C.R.S., all powers and authority granted to the Board of County Commissioners may be exercised by the designated election official including but not limited to the power to appoint election judges. The designated election official shall undertake all measures necessary to comply with the election provisions of TABOR, including, but not limited to, the mailing of required election notices and ballot issue summaries.
 - E. **Conduct of Election.** The conduct of the election shall conform to the general election laws of the State of Colorado and with the provisions of TABOR.
 - F. **Contests.** Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue election concerning the order of the ballot of the form or content of the ballot title shall be commenced within five days after the title of the ballot issue is set or the order of the ballot is set.
 - G. **Public Moneys.** No public moneys from any source shall be expended direction or indirectly to urge electors to vote in favor or against the imposition of the Public Safety Sales Tax. Nothing in this Subsection shall be construed as prohibiting an elected official from expressing his or her personal opinion concerning the imposition of the Public Safety Sales Tax.
- VI. **Use of Proceeds.** All of the revenue derived from the Public Safety sales Tax shall be deposited into the Public Safety Fund, to be used solely as described herein.
- A. **TABOR Restrictions:** For purposes of TABOR; the receipt and expenditure of revenues of the Public Safety Sales Tax shall be accounted for, budgeted and appropriated separately from other revenues and expenditures of the County and outside of the fiscal year spending of the County as calculated under TABOR, and nothing in TABOR shall limit the receipt and expenditure in each fiscal year of the full amount of such Public Safety Sales Tax, nor shall receipt and expenditure of such revenues affect or limit the receipt or expenditure of any and all other revenues of the County for any fiscal year.
 - B. **Expenditure of Public Safety Sales Tax Revenue.** All net revenues of the Public Safety Sales Tax collected by the County after the payment of the costs of collection, administration, and enforcement to the Revenue Department in accordance with Section 30-11-107.9(4), C.R.S. (hereinafter the "Net Tax Revenues") shall be used exclusively for funding operational costs and capital expenditures for the Montezuma County Sheriff's Department, the Montezuma County Jail, and Montezuma County's Drug Task Force.
 - C. **Audit.** On an annual basis, the County will hire an independent auditor to audit the County's expenditures of the Public Safety Fund.
 - D. **The Board of County Commissioners shall annually review completed allocations of Net Tax Revenues and receive input in regard to proposed future allocations.** The Board of

County Commissioners shall make a report to the public regarding the use of Net Tax Revenues from the preceding year and shall conduct a public hearing to present its findings.


VII. Repeal and Amendment

- A. If this Resolution is approved by a majority of the registered electors of the County voting thereon at the election to be held on November 5, 2024, its provisions shall not be or amended except by a subsequent vote of the registered electors of the County other than to: (1) cure any typographical or ministerial error or ambiguity contained in this Resolution; or 2) conform this Resolution to any applicable law of the State of Colorado.
- B. If this Resolution is not approved by a majority of the registered electors of the County voting thereon at the election to be held on November 5, 2024, this Resolution and all of its provisions shall be of no further effect.

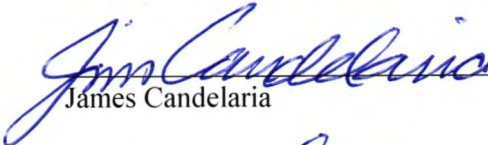
VIII. Severability. If any section, paragraph, clause, or provision of this Resolution, or the ballot issue submitted to the registered electors at the election provided in Section V above, shall be adjudged to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution or said ballot issue. It is the intention of the Board of County Commissioners that the various parts of this Resolution and said ballot issues are severable.

Approved and adopted this 30th day of April, 2024.

BOARD OF COUNTY COMMISSIONERS,
MONTEZUMA COUNTY, COLORADO



County Clerk and Recorder
Montezuma County, Colorado



James Candelaria



Kent Lindsay



Gerald Koppenhafer

