

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

SB24-230 be amended as follows:

1 Amend printed bill, page 48, after line 16 insert:

2 "SECTION 13. In Colorado Revised Statutes, **add** 24-77-109 as
3 follows:

4 **24-77-109. Definition of fee - scope - definitions - repeal.** (1) If
5 A CONSTITUTIONAL AMENDMENT IS ADOPTED AT THE 2024 STATEWIDE
6 GENERAL ELECTION THAT AMENDS SECTION 20 OF ARTICLE X OF THE
7 COLORADO CONSTITUTION TO DEFINE THE TERM "FEE", THE FOLLOWING
8 PROVISIONS APPLY:

9 (a) THE CONSTITUTIONAL AMENDMENT DESCRIBED IN SUBSECTION
10 (1) OF THIS SECTION APPLIES TO FEES INCREASED ONLY BY:

11 (I) LEGISLATION ENACTED BY THE GENERAL ASSEMBLY ON OR
12 AFTER THE EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT;

13 (II) RULES OF THE APPLICABLE RULE-MAKING AUTHORITY ON OR
14 AFTER THE EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT; AND

15 (III) FORMAL APPROVAL OR ENACTMENT BY A GOVERNING BOARD
16 WITH LEGAL AUTHORITY TO ASSESS AND RAISE FEES ON OR AFTER THE
17 EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT.

18 (b) IF A FEE EXISTS IN STATE LAW OR RULES BEFORE THE EFFECTIVE
19 DATE OF THE CONSTITUTIONAL AMENDMENT AND IS SUBJECT TO A
20 TIMEFRAME, SCHEDULE, ADJUSTMENT, OR MATHEMATICAL FORMULA WITH
21 PREDETERMINED OBJECTIVE COMPONENTS FOR INCREASING THE FEE, ANY
22 INCREASE TO THE FEE AMOUNT DOES NOT CONSTITUTE AN INCREASE FOR
23 THE PURPOSE OF THE CONSTITUTIONAL AMENDMENT DESCRIBED IN
24 SUBSECTION (1) OF THIS SECTION.

25 (c) THE CONSTITUTIONAL AMENDMENT DESCRIBED IN SUBSECTION
26 (1) OF THIS SECTION DOES NOT APPLY TO FEES ESTABLISHED BEFORE THE
27 EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT. A FEE IS
28 ESTABLISHED BEFORE THE EFFECTIVE DATE OF THE CONSTITUTIONAL
29 AMENDMENT IF, REGARDLESS OF WHEN THE FEE BEGINS TO BE CHARGED
30 OR OTHERWISE ASSESSED, THE FEE IS CREATED BY LEGISLATION OR RULES
31 ENACTED OR ADOPTED BEFORE THE EFFECTIVE DATE OF THE
32 CONSTITUTIONAL AMENDMENT OR THE FEE IS CREATED BY A
33 CITIZEN-INITIATED MEASURE THAT TAKES EFFECT BEFORE THE EFFECTIVE
34 DATE OF THE CONSTITUTIONAL AMENDMENT.

35 (d) AS USED IN THE CONSTITUTIONAL AMENDMENT DESCRIBED IN
36 THIS SUBSECTION (1) AND AS USED IN THIS SUBSECTION (1):

37 (I) "COSTS INCURRED BY THE GOVERNMENT IN PROVIDING SAID
38 SPECIFIC BENEFIT" MEANS ALL DIRECT AND INDIRECT COSTS A
39 GOVERNMENTAL ENTITY INCURS TO PROVIDE A SPECIFIC BENEFIT,
40 INCLUDING ADMINISTRATIVE EXPENSES, SALARIES AND WAGES, COSTS OF

1 MATERIALS, RENTALS OF REAL AND PERSONAL PROPERTY, OVERHEAD,
2 PAYMENTS TO CONTRACTORS, AND ANY OTHER COSTS INCURRED TO
3 PROVIDE THE SPECIFIC BENEFIT.

4 (II) (A) "FAIR SHARE" MEANS THE TOTAL ANTICIPATED COSTS
5 INCURRED BY THE GOVERNMENT IN PROVIDING A SPECIFIC BENEFIT DURING
6 THE STATE FISCAL YEAR DIVIDED BY THE ANTICIPATED NUMBER OF PAYERS
7 OF THE FEE DURING THE STATE FISCAL YEAR.

8 (B) "FAIR SHARE" DOES NOT MEAN A MATHEMATICAL CERTAINTY
9 OR APPROXIMATION OF THE PAYER'S TOTAL BENEFIT IN COMPARISON TO
10 THE TOTAL PAYERS THAT REMIT THE FEE.

11 (III) "SPECIFIC BENEFIT" MEANS A SERVICE, ITEM, OR OTHER TYPE
12 OF DIRECT OR INDIRECT BENEFIT CONFERRED ON THE PAYER OF THE FEE,
13 WHICH MAY INCLUDE BENEFITS REALIZED THROUGH INVESTMENTS IN
14 PUBLIC PRIORITIES, NEEDS, INTERESTS, PROGRAMS, INFRASTRUCTURE, AND
15 SERVICES, REGARDLESS OF WHETHER THE SPECIFIC BENEFIT IS DIRECTLY
16 USED BY THE PAYER, WHETHER THE PAYER CHOOSES TO AVAIL THEMSELF
17 OF THE SPECIFIC BENEFIT, AND WHETHER THE SPECIFIC BENEFITS ARE MADE
18 AVAILABLE TO PERSONS THAT DO NOT PAY THE FEE.

19 (IV) "VOLUNTARILY INCURRED" MEANS A PAYER IS NOT
20 FORMALLY COMPELLED, REQUIRED, OR MANDATED TO PAY A FEE AND HAS
21 THE ABILITY TO REFUSE, TAKE ACTION, OR OPT TO TAKE NO ACTION TO
22 AVOID INCURRING THE FEE. A PAYER'S ACTUAL ABILITY TO REFUSE
23 SERVICES OR OPT NOT TO PURCHASE PROPERTY THAT IS CONNECTED WITH
24 A FEE IS EVIDENCE THAT A FEE IS VOLUNTARILY INCURRED.

25 (2) AS USED IN THIS SECTION, "FEE" MEANS ANY FEE CHARGED FOR
26 REMEDIATION SERVICES THAT POSITIVELY IMPACT THE ENVIRONMENT,
27 SUCH AS THE PRODUCTION FEE FOR CLEAN TRANSIT IMPOSED PURSUANT TO
28 SECTION 43-4-1204, THE PRODUCTION FEE FOR WILDLIFE AND LAND
29 REMEDIATION IMPOSED PURSUANT TO SECTION 33-61-103, AND THE
30 CONGESTION IMPACT FEE IMPOSED PURSUANT TO SECTION 43-4-806 (7.6).

31 (3) IF A CONSTITUTIONAL AMENDMENT THAT AMENDS SECTION 20
32 OF ARTICLE X OF THE COLORADO CONSTITUTION TO DEFINE THE TERM
33 "FEE" IS NOT ADOPTED AT THE 2024 STATEWIDE GENERAL ELECTION, THIS
34 SECTION IS REPEALED, EFFECTIVE JUNE 30, 2025.

35 **SECTION 14.** In Colorado Revised Statutes, **add** 24-77-109 as
36 follows:

37 **24-77-109. Definition of fee - scope - definitions - repeal.** (1) If
38 A CONSTITUTIONAL AMENDMENT IS ADOPTED AT THE 2024 STATEWIDE
39 GENERAL ELECTION THAT AMENDS SECTION 20 OF ARTICLE X OF THE
40 COLORADO CONSTITUTION TO DEFINE THE TERM "FEE", THE FOLLOWING
41 PROVISIONS APPLY:

42 (a) THE CONSTITUTIONAL AMENDMENT DESCRIBED IN SUBSECTION
43 (1) OF THIS SECTION APPLIES TO FEES INCREASED ONLY BY:

1 (I) LEGISLATION ENACTED BY THE GENERAL ASSEMBLY ON OR
2 AFTER THE EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT;
3 (II) RULES OF THE APPLICABLE RULE-MAKING AUTHORITY ON OR
4 AFTER THE EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT; AND
5 (III) FORMAL APPROVAL OR ENACTMENT BY A GOVERNING BOARD
6 WITH LEGAL AUTHORITY TO ASSESS AND RAISE FEES ON OR AFTER THE
7 EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT.
8 (b) IF A FEE EXISTS IN STATE LAW OR RULES BEFORE THE EFFECTIVE
9 DATE OF THE CONSTITUTIONAL AMENDMENT AND IS SUBJECT TO A
10 TIMEFRAME, SCHEDULE, ADJUSTMENT, OR MATHEMATICAL FORMULA WITH
11 PREDETERMINED OBJECTIVE COMPONENTS FOR INCREASING THE FEE, ANY
12 INCREASE TO THE FEE AMOUNT DOES NOT CONSTITUTE AN INCREASE FOR
13 THE PURPOSE OF THE CONSTITUTIONAL AMENDMENT DESCRIBED IN
14 SUBSECTION (1) OF THIS SECTION.
15 (c) THE CONSTITUTIONAL AMENDMENT DESCRIBED IN SUBSECTION
16 (1) OF THIS SECTION DOES NOT APPLY TO FEES ESTABLISHED BEFORE THE
17 EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT. A FEE IS
18 ESTABLISHED BEFORE THE EFFECTIVE DATE OF THE CONSTITUTIONAL
19 AMENDMENT IF, REGARDLESS OF WHEN THE FEE BEGINS TO BE CHARGED
20 OR OTHERWISE ASSESSED, THE FEE IS CREATED BY LEGISLATION OR RULES
21 ENACTED OR ADOPTED BEFORE THE EFFECTIVE DATE OF THE
22 CONSTITUTIONAL AMENDMENT OR THE FEE IS CREATED BY A
23 CITIZEN-INITIATED MEASURE THAT TAKES EFFECT BEFORE THE EFFECTIVE
24 DATE OF THE CONSTITUTIONAL AMENDMENT.
25 (d) AS USED IN THE CONSTITUTIONAL AMENDMENT DESCRIBED IN
26 THIS SUBSECTION (1) AND AS USED IN THIS SUBSECTION (1):
27 (I) "COSTS INCURRED BY THE GOVERNMENT IN PROVIDING SAID
28 SPECIFIC BENEFIT" MEANS ALL DIRECT AND INDIRECT COSTS A
29 GOVERNMENTAL ENTITY INCURS TO PROVIDE A SPECIFIC BENEFIT,
30 INCLUDING ADMINISTRATIVE EXPENSES, SALARIES AND WAGES, COSTS OF
31 MATERIALS, RENTALS OF REAL AND PERSONAL PROPERTY, OVERHEAD,
32 PAYMENTS TO CONTRACTORS, AND ANY OTHER COSTS INCURRED TO
33 PROVIDE THE SPECIFIC BENEFIT.
34 (II) (A) "FAIR SHARE" MEANS THE TOTAL ANTICIPATED COSTS
35 INCURRED BY THE GOVERNMENT IN PROVIDING A SPECIFIC BENEFIT DURING
36 THE STATE FISCAL YEAR DIVIDED BY THE ANTICIPATED NUMBER OF PAYERS
37 OF THE FEE DURING THE STATE FISCAL YEAR.
38 (B) "FAIR SHARE" DOES NOT MEAN A MATHEMATICAL CERTAINTY
39 OR APPROXIMATION OF THE PAYER'S TOTAL BENEFIT IN COMPARISON TO
40 THE TOTAL PAYERS THAT REMIT THE FEE.
41 (III) "SPECIFIC BENEFIT" MEANS A SERVICE, ITEM, OR OTHER TYPE
42 OF DIRECT OR INDIRECT BENEFIT CONFERRED ON THE PAYER OF THE FEE,
43 WHICH MAY INCLUDE BENEFITS REALIZED THROUGH INVESTMENTS IN

1 PUBLIC PRIORITIES, NEEDS, INTERESTS, PROGRAMS, INFRASTRUCTURE, AND
2 SERVICES, REGARDLESS OF WHETHER THE SPECIFIC BENEFIT IS DIRECTLY
3 USED BY THE PAYER, WHETHER THE PAYER CHOOSES TO AVAIL THEMSELF
4 OF THE SPECIFIC BENEFIT, AND WHETHER THE SPECIFIC BENEFITS ARE MADE
5 AVAILABLE TO PERSONS THAT DO NOT PAY THE FEE.

6 (IV) "VOLUNTARILY INCURRED" MEANS A PAYER IS NOT
7 FORMALLY COMPELLED, REQUIRED, OR MANDATED TO PAY A FEE AND HAS
8 THE ABILITY TO REFUSE, TAKE ACTION, OR OPT TO TAKE NO ACTION TO
9 AVOID INCURRING THE FEE. A PAYER'S ACTUAL ABILITY TO REFUSE
10 SERVICES OR OPT NOT TO PURCHASE PROPERTY THAT IS CONNECTED WITH
11 A FEE IS EVIDENCE THAT A FEE IS VOLUNTARILY INCURRED.

12 (2) AS USED IN THIS SECTION, "FEE" MEANS ANY FEE CHARGED FOR
13 REMEDIATION SERVICES THAT POSITIVELY IMPACT THE ENVIRONMENT,
14 SUCH AS THE PRODUCTION FEE FOR CLEAN TRANSIT IMPOSED PURSUANT TO
15 SECTION 43-4-1204 AND THE PRODUCTION FEE FOR WILDLIFE AND LAND
16 REMEDIATION IMPOSED PURSUANT TO SECTION 33-61-103.

17 (3) IF A CONSTITUTIONAL AMENDMENT THAT AMENDS SECTION 20
18 OF ARTICLE X OF THE COLORADO CONSTITUTION TO DEFINE THE TERM
19 "FEE" IS NOT ADOPTED AT THE 2024 STATEWIDE GENERAL ELECTION, THIS
20 SECTION IS REPEALED, EFFECTIVE JUNE 30, 2025."

21 Renumber succeeding sections accordingly.

22 Page 48, line 20, strike "Section 11 of this act takes effect" and substitute
23 "Sections 11 and 13 of this act take effect".

24 Page 48, line 21, strike "section 11 of this act takes effect" and substitute
25 "sections 11 and 13 of this act take effect".

26 Page 48, line 23, strike "Section 12 of this act takes effect" and substitute
27 "Sections 12 and 14 of this act take effect".

28 Page 48, line 24, strike "section 12 of this act takes effect" and substitute
29 "sections 12 and 14 of this act take effect".

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