

1 Be it enacted by the people of the state of Colorado:
2 Article IX of the constitution of the state of Colorado is amended BY THE ADDITION
3 OF A NEW SECTION to read:
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5 **Section 18. Higher education funding fee on new construction**
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7 (1) BEGINNING JANUARY 1, 2008 AND THEREAFTER, A ONE-HALF OF ONE PERCENT HIGHER
8 EDUCATION FUNDING FEE SHALL BE ASSESSED ON ALL CONSTRUCTION PROJECTS AND USED
9 TO FUND PUBLIC COLORADO COLLEGES AND UNIVERSITIES. THIS FEE SHALL BE ASSESSED
10 ON THE ESTIMATED COST OF ALL QUALIFYING CONSTRUCTION PROJECTS AS DETERMINED
11 BY A RESPECTIVE PLANNING AND ZONING DEPARTMENT AND COLLECTED ON OR BEFORE
12 THE ISSUANCE OF A PERMIT TO BUILD OR ANY SUBSEQUENT PERMIT NEEDED TO COMPLETE
13 SUCH PROJECT IS ISSUED. A PROJECT COMPLETION DATE SHALL BE SET OF NO MORE THAN
14 THREE YEARS SUBJECT TO REVIEW. A NINETY-DAY CURE PERIOD SHALL EXIST AFTER THE
15 COMPLETION OF A CONSTRUCTION PROJECT TO ASSESS THE FINAL AMOUNT OF THIS FEE
16 AND TO COLLECT OR REFUND ANY BALANCE DUE. NO FEE SHALL BE ASSESSED WHEN THE
17 ESTIMATED TOTAL COST OF A CONSTRUCTION PROJECT IS LESS THAN ONE HUNDRED
18 THOUSAND DOLLARS SUBJECT TO REVIEW UPON COMPLETION. LAND ACQUISITIONS SHALL
19 NOT BE CONSIDERED IN THIS FEE. CONSTRUCTION PROJECTS EXEMPTED FROM THIS FEE
20 SHALL REQUIRE THAT SUCH EXEMPTED USE CONTINUE FOR A PERIOD OF NOT LESS THAN
21 TEN YEARS OR THE FEE SHALL BE LEVIED BEFORE A SALE, TRANSFER, OR LEASE TO A NON
22 EXEMPT PURPOSE IS MADE. EXEMPTED PROJECTS INCLUDE: PUBLICLY OWNED PROJECTS;
23 PRIVATELY OWNED HEALTH AND EDUCATIONAL FACILITIES; FARMS AND RANCHES;
24 RAILROADS AND UTILITIES; HOUSES OF WORSHIP SUCH AS CHURCHES, MOSQUES, AND
25 SYNAGOGUES; SENIOR HOUSING PROJECTS.

26 (2) ALL HIGHER EDUCATION FUNDING FEES SHALL BE TRANSMITTED TO THE STATE
27 TREASURER, WHO SHALL CREDIT THE SAME TO THE HIGHER EDUCATION CASH FUND,
28 WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY AND REFERRED TO THIS
29 SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO APPROPRIATION
30 BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE
31 IMPLEMENTATION OF THIS SECTION. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE
32 PURPOSE OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY
33 LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF
34 MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND
35 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL
36 REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL
37 FUND OR ANY OTHER FUND. THIS FUND SHALL BE APPROPRIATED TO INSTITUTIONS OF
38 HIGHER EDUCATION BASED ON FACTORS SUCH AS TOTAL STUDENT ENROLLMENT, HIGHER
39 INSTITUTIONAL COSTS WITH REGARDS TO SPECIALIZED COURSE MATTER SUCH AS
40 MEDICAL, ENGINEERING AND SCIENCES, OR ANY OTHER FACTORS AFFECTING A
41 PARTICULAR INSTITUTIONS DEMONSTRATED COSTS OF OPERATION IN A MANNER AS
42 PRESENTLY APPROPRIATED OR AS DETERMINED BY FUTURE ACTION BY THE GENERAL
43 ASSEMBLY. THESE FUNDS ARE NOT INTENDED TO AFFECT THE ENTERPRISE STATUS OF
44 INSTITUTIONS OF HIGHER EDUCATION. AT LEAST TWENTY FIVE PERCENT OF ALLOCATED
45 FUNDS SHALL BE USED TO REPLACE STUDENT ENROLLMENT FEES FOR COLORADO
46 RESIDENTS THEREBY LOWERING TUITION IN EACH INSTITUTION FOR HIGHER LEARNING FOR
47 COLORADO RESIDENTS ONLY. MONEYS FROM THIS FEE SHALL NOT BE USED FOR: ATHLETIC
48 DEPARTMENTS OR PROGRAMS INCLUDING, BUT NOT LIMITED TO, BUILDINGS, COACHES,
49 PERSONNEL, STADIUMS AND EQUIPMENT; MONEYS FROM THIS FEE SHALL NOT BE USED FOR
50 THE FINANCIAL ASSISTANCE PROGRAM, THE COLORADO STUDENT INCENTIVE GRANT
51 PROGRAM, THE TUITION ASSISTANCE GRANT PROGRAM, THE TEACHER LOAN FORGIVENESS
52 PROGRAM IN ARTICLES 3.3, 3.5, 3.7 AND 3.9 OF TITLE 23, COLORADO REVISED STATUTES
53 RESPECTIVELY, OR SIMILAR PROGRAMS, AND TO THE INSTITUTIONAL LOAN PROGRAMS
54 ADMINISTERED BY COLLEGEINVEST UNDER PART 2 OF ARTICLE 3.1 OF TITLE 23,
55 COLORADO REVISED STATUTES OR SIMILAR PROGRAMS.

56 (3) REVENUES FROM THIS FEE SHALL BE FOR THE BENEFIT OF PUBLIC COLORADO

1 COLLEGES AND UNIVERSITIES AND DO NOT CONSTITUTE "FISCAL YEAR SPENDING" FOR THE
2 PURPOSES OF SECTION 20 OF ARTICLE X OF THIS CONSTITUTION ("TABOR"). MONEYS
3 FROM THE FEE SHALL NOT BE USED TO DISPLACE PUBLIC FUNDING COMMITMENTS
4 ESTABLISHED PRIOR TO THE PASSAGE OF THIS SECTION.

5 (4) LEGISLATION MAY BE ENACTED TO FACILITATE THE OPERATION OF THIS SECTION 18,
6 BUT IN NO WAY SHALL SUCH LEGISLATION LIMIT OR RESTRICT THE PROVISIONS OF THIS
7 ARTICLE OR THE POWERS HEREIN GRANTED.

8 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (a) "COLORADO RESIDENTS" MEANS PERSONS WHO ARE CITIZENS OF THE UNITED STATES
10 OF AMERICA AND WHO ARE QUALIFIED AS COLORADO IN STATE RESIDENTS AS DEFINED BY
11 THE GENERAL ASSEMBLY FOR ALL INSTITUTIONS OF HIGHER EDUCATION.

12 (b) "CONSTRUCTION PROJECTS" MEANS NEW CONSTRUCTION OR REMODELING OF
13 BUILDINGS, PRIVATE ROADS, PIPELINES, DITCHES, GAS AND ELECTRICAL INFRASTRUCTURE,
14 SIDEWALKS, DAMS, EXCAVATION, LANDSCAPING, GOLF COURSES, AND ANY OTHER
15 CONSTRUCTION WORK RELATED TO NON-EXEMPTED PROJECTS. EACH BUILDING IN A
16 RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL PROJECT SHALL BE CONSIDERED A NEW
17 CONSTRUCTION PROJECT.

18 (c) "EDUCATIONAL FACILITIES" MEANS BUSINESS INSTITUTIONS DEDICATED TO
19 ELEMENTARY, MIDDLE OR HIGH SCHOOL EDUCATION, OR TO HIGHER EDUCATION OFFERING
20 AN ASSOCIATE, BACHELOR, MASTER, DOCTORATE, LAW OR MEDICAL DEGREE.

21 (d) "FARMS AND RANCHES" MEANS FACILITIES USED FOR CULTIVATION, FEEDING AND
22 RAISING FOOD PRODUCTS, AND INCLUDE NEEDED BUILDINGS AND HOUSING LOCATED ON A
23 PARTICULAR COMMONLY OWNED AGRICULTURAL LAND PARCEL OR PARCELS.

24 (e) "HEALTH FACILITIES" MEANS BUSINESS INSTITUTIONS WHERE PEOPLE RECEIVE
25 MEDICAL, SURGICAL, OR PSYCHIATRIC TREATMENT AND NURSING CARE.

26 (f) "LOCAL COUNTY" MEANS THAT PART OF A COUNTY MOST GENERALLY KNOWN AS THE
27 UNINCORPORATED OR STATUTORY COUNTY BUT MAY BE HOME RULE WHEN A CHARTER IS
28 ADOPTED. LOCAL COUNTY IS A LOCAL GOVERNMENT WITH A DISTINCT ZONING
29 JURISDICTION WHICH DOES NOT INCLUDE A CITY, TOWN, OR CITY AND COUNTY.

30 (g) "LOCAL GOVERNMENT" MEANS, WITHOUT REGARD TO HOME RULE STATUS, A COUNTY,
31 CITY AND COUNTY, CITY, MUNICIPALITY, TOWN, SCHOOL DISTRICT, SPECIAL DISTRICT, OR
32 ANY OTHER DEPARTMENT, AGENCY, OR INSTRUMENTALITY THEREOF, OR ANY POLITICAL
33 OR PUBLIC CORPORATION OF THE STATE.

34 (h) "PLANNING AND ZONING DEPARTMENT" MEANS THAT PART OF A STATE OR LOCAL
35 GOVERNMENT WITH THE RESPONSIBILITY TO ASSESS THE COST FOR AND DIRECT THE
36 ISSUANCE OF BUILDING PERMITS IN A PARTICULAR ZONING JURISDICTION.

37 (i) "PUBLIC COLLEGE AND UNIVERSITY" MEANS AN EDUCATIONAL FACILITY OFFERING AN
38 ASSOCIATE, BACHELOR, MASTER, DOCTORATE, LAW OR MEDICAL DEGREE THAT IS OWNED
39 AND MAINTAINED BY A COLORADO STATE OR LOCAL GOVERNMENT AND REGULATED AT
40 LEAST IN PART BY THE COLORADO COMMISSION ON HIGHER EDUCATION.

41 (j) "PUBLICLY OWNED" MEANS A PROJECT CONSTRUCTED FOR THE EXCLUSIVE OWNERSHIP
42 OF A FEDERAL, STATE, OR LOCAL GOVERNMENT REGARDLESS OF HOW SUCH PROJECT IS
43 FINANCED.

44 (k) "SENIOR HOUSING" MEANS HOUSING PROJECTS CONSISTING OF AT LEAST TWELVE
45 SEPARATE DWELLINGS UNITS IN THE FORM OF AN APARTMENT OR CONDOMINIUM BUILDING
46 OR AT LEAST FOUR SUCH UNITS IN A TOWN HOME BUILDING WHERE ALL OCCUPANTS SHALL
47 BE AT LEAST SIXTY YEARS OF AGE.

48 (l) "UTILITIES" MEANS CONSTRUCTION RELATED TO PROVIDING WATER AND SEWER
49 SERVICES, AND PROVIDING ENERGY IN ALL FORMS THROUGHOUT THE STATE, INCLUDING,
50 BUT NOT LIMITED TO, EXPLORATION, EXTRACTION, GENERATION, AND TRANSMISSION OF
51 ENERGY SOURCES INCLUDING RENEWABLE ENERGY SOURCES SUCH AS WIND AND SOLAR,
52 AND BUILDINGS USED FOR SUCH RELATED PURPOSES INCLUDING ADMINISTRATION.

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55 PROPOSERS:
56 DANIEL HAYES

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