

Changes

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Be it enacted by the people of the state of Colorado:  
Article IX of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

ELECTIONS / LICENSING  
SECRETARY OF STATE

**Section 18. Higher education funding fee on new construction**

(1) BEGINNING JANUARY 1, 2008 AND THEREAFTER, A ONE-HALF OF ONE PERCENT HIGHER EDUCATION FUNDING FEE SHALL BE ASSESSED ON ALL CONSTRUCTION PROJECTS AND USED TO FUND PUBLIC COLORADO COLLEGES AND UNIVERSITIES. THIS FEE SHALL BE ASSESSED ON THE ESTIMATED COST OF ALL QUALIFYING CONSTRUCTION PROJECTS AS DETERMINED BY A RESPECTIVE PLANNING AND ZONING DEPARTMENT AND COLLECTED ON OR BEFORE THE ISSUANCE OF A PERMIT TO BUILD OR ANY SUBSEQUENT PERMIT NEEDED TO COMPLETE SUCH PROJECT IS ISSUED. A PROJECT COMPLETION DATE SHALL BE SET OF NO MORE THAN THREE YEARS SUBJECT TO REVIEW. A NINETY-DAY CURE PERIOD SHALL EXIST AFTER THE COMPLETION OF A CONSTRUCTION PROJECT TO ASSESS THE FINAL AMOUNT OF THIS FEE AND TO COLLECT OR REFUND ANY BALANCE DUE. NO FEE SHALL BE ASSESSED WHEN THE ESTIMATED TOTAL COST OF A CONSTRUCTION PROJECT IS LESS THAN ONE HUNDRED THOUSAND DOLLARS SUBJECT TO REVIEW UPON COMPLETION. LAND ACQUISITIONS SHALL NOT BE CONSIDERED IN THIS FEE. CONSTRUCTION PROJECTS EXEMPTED FROM THIS FEE SHALL REQUIRE THAT SUCH EXEMPTED USE CONTINUE FOR A PERIOD OF NOT LESS THAN TEN YEARS OR THE FEE SHALL BE LEVIED BEFORE A SALE, TRANSFER, OR LEASE TO A NON EXEMPT PURPOSE IS MADE. EXEMPTED PROJECTS INCLUDE: PUBLICLY OWNED PROJECTS; PRIVATELY OWNED HEALTH AND EDUCATIONAL FACILITIES; FARMS AND RANCHES; RAILROADS AND UTILITIES; HOUSES OF WORSHIP SUCH AS CHURCHES, MOSQUES, AND SYNAGOGUES; AND SENIOR HOUSING PROJECTS.

(2) ALL HIGHER EDUCATION FUNDING FEES SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HIGHER EDUCATION CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY AND REFERRED TO THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS SECTION. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. THIS FUND SHALL BE APPROPRIATED TO INSTITUTIONS OF HIGHER EDUCATION BASED ON FACTORS SUCH AS TOTAL STUDENT ENROLLMENT, HIGHER INSTITUTIONAL COSTS WITH REGARDS TO SPECIALIZED COURSE MATTER SUCH AS MEDICAL, ENGINEERING, AND SCIENCES, OR ANY OTHER FACTORS AFFECTING A PARTICULAR INSTITUTION'S DEMONSTRATED COSTS OF OPERATION IN A MANNER AS PRESENTLY APPROPRIATED OR AS DETERMINED BY FUTURE ACTION BY THE GENERAL ASSEMBLY. NOTWITHSTANDING ANY PROVISION OF SECTION 20 OF ARTICLE X OF THIS CONSTITUTION TO THE CONTRARY, THESE FUNDS SHALL NOT CONSTITUTE GRANTS OR REVENUE FROM THE STATE OR ANY LOCAL GOVERNMENT. AT LEAST TWENTY-FIVE PERCENT OF ALLOCATED FUNDS SHALL BE USED TO REDUCE TUITION FOR COLORADO RESIDENTS IN ALL PUBLIC COLLEGES AND UNIVERSITIES. MONEYS FROM THIS FEE SHALL NOT BE USED FOR: ATHLETIC DEPARTMENTS OR PROGRAMS INCLUDING, BUT NOT LIMITED TO, BUILDINGS, COACHES, PERSONNEL, STADIUMS AND EQUIPMENT; MONEYS FROM THIS FEE SHALL NOT BE USED FOR THE FINANCIAL ASSISTANCE PROGRAM, THE COLORADO STUDENT INCENTIVE GRANT PROGRAM, THE TUITION ASSISTANCE GRANT PROGRAM, THE TEACHER LOAN FORGIVENESS PROGRAM IN ARTICLES 3.3, 3.5, 3.7, AND 3.9 OF TITLE 23, COLORADO REVISED STATUTES, RESPECTIVELY, AND, TO THE INSTITUTIONAL LOAN PROGRAMS ADMINISTERED BY COLLEGEINVEST UNDER PART 2 OF ARTICLE 3.1 OF TITLE 23, COLORADO REVISED STATUTES.

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

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

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

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

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

(b) "CONSTRUCTION PROJECTS" MEANS NEW CONSTRUCTION OR REMODELING OF BUILDINGS, PRIVATE ROADS, PIPELINES, DITCHES, SIDEWALKS, DAMS, EXCAVATION, LANDSCAPING, GOLF COURSES, AND ANY OTHER CONSTRUCTION WORK RELATED TO NON-EXEMPTED PROJECTS.

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

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

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

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

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

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

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

(j) "SENIOR HOUSING" MEANS HOUSING PROJECTS CONSISTING OF AT LEAST TWELVE SEPARATE DWELLINGS UNITS IN THE FORM OF AN APARTMENT OR CONDOMINIUM BUILDING OR AT LEAST FOUR SUCH UNITS IN A TOWN HOME BUILDING WHERE **THE TITLE DEEDS SHALL REQUIRE** THAT ALL OCCUPANTS SHALL BE AT LEAST SIXTY YEARS OF AGE.

(k) "UTILITIES" MEANS CONSTRUCTION RELATED TO PROVIDING WATER AND SEWER SERVICES, AND PROVIDING ENERGY IN ALL FORMS THROUGHOUT THE STATE, INCLUDING, BUT NOT LIMITED TO, EXPLORATION, EXTRACTION, GENERATION, AND TRANSMISSION OF ENERGY SOURCES INCLUDING RENEWABLE ENERGY SOURCES SUCH AS WIND AND SOLAR, AND BUILDINGS USED FOR SUCH RELATED PURPOSES INCLUDING ADMINISTRATION. THIS EXEMPTION INCLUDES ONLY **THAT WHICH IS** EXCLUSIVELY OWNED AND MAINTAINED BY **UTILITIES.**

PROPONENTS:

DANIEL HAYES

15409 Hwy 72 Arvada CO 80007-8220

303 424 4455 email: [impactfees@yahoo.com](mailto:impactfees@yahoo.com)

ERIC LEVINE

Ft. Collins, CO. 80521

[ericlevine@juno.com](mailto:ericlevine@juno.com)