

SENATE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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May 2, 2024  
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

SB24-230 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 10, line 17, strike "OR".
- 2 Page 10, line 18, strike "COUNTIES." and substitute "COUNTIES, OR
- 3 NONPROFIT ORGANIZATION THAT PROVIDES PUBLIC TRANSIT.".
- 4 Page 46, strike lines 18 and 19.
- 5 Page 48, strike lines 9 and 10.
- 6 Page 48, after line 16 insert:
  - 7 **"SECTION 13.** In Colorado Revised Statutes, **add** 24-77-109 as
  - 8 follows:
  - 9 **24-77-109. Definition of fee - scope - definitions - repeal.** (1) IF
  - 10 A CONSTITUTIONAL AMENDMENT IS ADOPTED AT THE 2024 STATEWIDE
  - 11 GENERAL ELECTION THAT AMENDS SECTION 20 OF ARTICLE X OF THE
  - 12 COLORADO CONSTITUTION TO DEFINE THE TERM "FEE", THE FOLLOWING
  - 13 PROVISIONS APPLY:
    - 14 (a) THE CONSTITUTIONAL AMENDMENT DESCRIBED IN SUBSECTION
    - 15 (1) OF THIS SECTION APPLIES TO FEES INCREASED ONLY BY:
      - 16 (I) LEGISLATION ENACTED BY THE GENERAL ASSEMBLY ON OR
      - 17 AFTER THE EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT;
      - 18 (II) RULES OF THE APPLICABLE RULE-MAKING AUTHORITY ON OR
      - 19 AFTER THE EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT; AND
      - 20 (III) FORMAL APPROVAL OR ENACTMENT BY A GOVERNING BOARD
      - 21 WITH LEGAL AUTHORITY TO ASSESS AND RAISE FEES ON OR AFTER THE
      - 22 EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT.
      - 23 (b) IF A FEE EXISTS IN STATE LAW OR RULES BEFORE THE EFFECTIVE

1 DATE OF THE CONSTITUTIONAL AMENDMENT AND IS SUBJECT TO A  
2 TIMEFRAME, SCHEDULE, ADJUSTMENT, OR MATHEMATICAL FORMULA WITH  
3 PREDETERMINED OBJECTIVE COMPONENTS FOR INCREASING THE FEE, ANY  
4 INCREASE TO THE FEE AMOUNT DOES NOT CONSTITUTE AN INCREASE FOR  
5 THE PURPOSE OF THE CONSTITUTIONAL AMENDMENT DESCRIBED IN  
6 SUBSECTION (1) OF THIS SECTION.

7 (c) THE CONSTITUTIONAL AMENDMENT DESCRIBED IN SUBSECTION  
8 (1) OF THIS SECTION DOES NOT APPLY TO FEES ESTABLISHED BEFORE THE  
9 EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT. A FEE IS  
10 ESTABLISHED BEFORE THE EFFECTIVE DATE OF THE CONSTITUTIONAL  
11 AMENDMENT IF, REGARDLESS OF WHEN THE FEE BEGINS TO BE CHARGED  
12 OR OTHERWISE ASSESSED, THE FEE IS CREATED BY LEGISLATION OR RULES  
13 ENACTED OR ADOPTED BEFORE THE EFFECTIVE DATE OF THE  
14 CONSTITUTIONAL AMENDMENT OR THE FEE IS CREATED BY A  
15 CITIZEN-INITIATED MEASURE THAT TAKES EFFECT BEFORE THE EFFECTIVE  
16 DATE OF THE CONSTITUTIONAL AMENDMENT.

17 (d) AS USED IN THE CONSTITUTIONAL AMENDMENT DESCRIBED IN  
18 THIS SUBSECTION (1) AND AS USED IN THIS SUBSECTION (1):

19 (I) "COSTS INCURRED BY THE GOVERNMENT IN PROVIDING SAID  
20 SPECIFIC BENEFIT" MEANS ALL DIRECT AND INDIRECT COSTS A  
21 GOVERNMENTAL ENTITY INCURS TO PROVIDE A SPECIFIC BENEFIT,  
22 INCLUDING ADMINISTRATIVE EXPENSES, SALARIES AND WAGES, COSTS OF  
23 MATERIALS, RENTALS OF REAL AND PERSONAL PROPERTY, OVERHEAD,  
24 PAYMENTS TO CONTRACTORS, AND ANY OTHER COSTS INCURRED TO  
25 PROVIDE THE SPECIFIC BENEFIT.

26 (II) (A) "FAIR SHARE" MEANS THE TOTAL ANTICIPATED COSTS  
27 INCURRED BY THE GOVERNMENT IN PROVIDING A SPECIFIC BENEFIT DURING  
28 THE STATE FISCAL YEAR DIVIDED BY THE ANTICIPATED NUMBER OF PAYERS  
29 OF THE FEE DURING THE STATE FISCAL YEAR.

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

33 (III) "SPECIFIC BENEFIT" MEANS A SERVICE, ITEM, OR OTHER TYPE  
34 OF DIRECT OR INDIRECT BENEFIT CONFERRED ON THE PAYER OF THE FEE,  
35 WHICH MAY INCLUDE BENEFITS REALIZED THROUGH INVESTMENTS IN  
36 PUBLIC PRIORITIES, NEEDS, INTERESTS, PROGRAMS, INFRASTRUCTURE, AND  
37 SERVICES, REGARDLESS OF WHETHER THE SPECIFIC BENEFIT IS DIRECTLY  
38 USED BY THE PAYER, WHETHER THE PAYER CHOOSES TO AVAIL THEMSELF  
39 OF THE SPECIFIC BENEFIT, AND WHETHER THE SPECIFIC BENEFITS ARE MADE  
40 AVAILABLE TO PERSONS THAT DO NOT PAY THE FEE.

41 (IV) "VOLUNTARILY INCURRED" MEANS A PAYER IS NOT  
42 FORMALLY COMPELLED, REQUIRED, OR MANDATED TO PAY A FEE AND HAS  
43 THE ABILITY TO REFUSE, TAKE ACTION, OR OPT TO TAKE NO ACTION TO

1 AVOID INCURRING THE FEE. A PAYER'S ACTUAL ABILITY TO REFUSE  
2 SERVICES OR OPT NOT TO PURCHASE PROPERTY THAT IS CONNECTED WITH  
3 A FEE IS EVIDENCE THAT A FEE IS VOLUNTARILY INCURRED.

4 (2) AS USED IN THIS SECTION, "FEE" MEANS ANY FEE CHARGED FOR  
5 REMEDIATION SERVICES THAT POSITIVELY IMPACT THE ENVIRONMENT,  
6 SUCH AS THE PRODUCTION FEE FOR CLEAN TRANSIT IMPOSED PURSUANT TO  
7 SECTION 43-4-1204, THE PRODUCTION FEE FOR WILDLIFE AND LAND  
8 REMEDIATION IMPOSED PURSUANT TO SECTION 33-61-103, AND THE  
9 CONGESTION IMPACT FEE IMPOSED PURSUANT TO SECTION 43-4-806 (7.6).

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

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

16 **24-77-109. Definition of fee - scope - definitions - repeal.** (1) IF  
17 A CONSTITUTIONAL AMENDMENT IS ADOPTED AT THE 2024 STATEWIDE  
18 GENERAL ELECTION THAT AMENDS SECTION 20 OF ARTICLE X OF THE  
19 COLORADO CONSTITUTION TO DEFINE THE TERM "FEE", THE FOLLOWING  
20 PROVISIONS APPLY:

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

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

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

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

30 (b) IF A FEE EXISTS IN STATE LAW OR RULES BEFORE THE EFFECTIVE  
31 DATE OF THE CONSTITUTIONAL AMENDMENT AND IS SUBJECT TO A  
32 TIMEFRAME, SCHEDULE, ADJUSTMENT, OR MATHEMATICAL FORMULA WITH  
33 PREDETERMINED OBJECTIVE COMPONENTS FOR INCREASING THE FEE, ANY  
34 INCREASE TO THE FEE AMOUNT DOES NOT CONSTITUTE AN INCREASE FOR  
35 THE PURPOSE OF THE CONSTITUTIONAL AMENDMENT DESCRIBED IN  
36 SUBSECTION (1) OF THIS SECTION.

37 (c) THE CONSTITUTIONAL AMENDMENT DESCRIBED IN SUBSECTION  
38 (1) OF THIS SECTION DOES NOT APPLY TO FEES ESTABLISHED BEFORE THE  
39 EFFECTIVE DATE OF THE CONSTITUTIONAL AMENDMENT. A FEE IS  
40 ESTABLISHED BEFORE THE EFFECTIVE DATE OF THE CONSTITUTIONAL  
41 AMENDMENT IF, REGARDLESS OF WHEN THE FEE BEGINS TO BE CHARGED  
42 OR OTHERWISE ASSESSED, THE FEE IS CREATED BY LEGISLATION OR RULES  
43 ENACTED OR ADOPTED BEFORE THE EFFECTIVE DATE OF THE

1 CONSTITUTIONAL AMENDMENT OR THE FEE IS CREATED BY A  
2 CITIZEN-INITIATED MEASURE THAT TAKES EFFECT BEFORE THE EFFECTIVE  
3 DATE OF THE CONSTITUTIONAL AMENDMENT.

4 (d) AS USED IN THE CONSTITUTIONAL AMENDMENT DESCRIBED IN  
5 THIS SUBSECTION (1) AND AS USED IN THIS SUBSECTION (1):

6 (I) "COSTS INCURRED BY THE GOVERNMENT IN PROVIDING SAID  
7 SPECIFIC BENEFIT" MEANS ALL DIRECT AND INDIRECT COSTS A  
8 GOVERNMENTAL ENTITY INCURS TO PROVIDE A SPECIFIC BENEFIT,  
9 INCLUDING ADMINISTRATIVE EXPENSES, SALARIES AND WAGES, COSTS OF  
10 MATERIALS, RENTALS OF REAL AND PERSONAL PROPERTY, OVERHEAD,  
11 PAYMENTS TO CONTRACTORS, AND ANY OTHER COSTS INCURRED TO  
12 PROVIDE THE SPECIFIC BENEFIT.

13 (II) (A) "FAIR SHARE" MEANS THE TOTAL ANTICIPATED COSTS  
14 INCURRED BY THE GOVERNMENT IN PROVIDING A SPECIFIC BENEFIT DURING  
15 THE STATE FISCAL YEAR DIVIDED BY THE ANTICIPATED NUMBER OF PAYERS  
16 OF THE FEE DURING THE STATE FISCAL YEAR.

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

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21 OF DIRECT OR INDIRECT BENEFIT CONFERRED ON THE PAYER OF THE FEE,  
22 WHICH MAY INCLUDE BENEFITS REALIZED THROUGH INVESTMENTS IN  
23 PUBLIC PRIORITIES, NEEDS, INTERESTS, PROGRAMS, INFRASTRUCTURE, AND  
24 SERVICES, REGARDLESS OF WHETHER THE SPECIFIC BENEFIT IS DIRECTLY  
25 USED BY THE PAYER, WHETHER THE PAYER CHOOSES TO AVAIL THEMSELF  
26 OF THE SPECIFIC BENEFIT, AND WHETHER THE SPECIFIC BENEFITS ARE MADE  
27 AVAILABLE TO PERSONS THAT DO NOT PAY THE FEE.

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30 THE ABILITY TO REFUSE, TAKE ACTION, OR OPT TO TAKE NO ACTION TO  
31 AVOID INCURRING THE FEE. A PAYER'S ACTUAL ABILITY TO REFUSE  
32 SERVICES OR OPT NOT TO PURCHASE PROPERTY THAT IS CONNECTED WITH  
33 A FEE IS EVIDENCE THAT A FEE IS VOLUNTARILY INCURRED.

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

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

- 1 Renumber succeeding sections accordingly.
- 2 Page 48, line 20, strike "Section 11 of this act takes effect" and substitute  
3 "Sections 11 and 13 of this act take effect".
- 4 Page 48, line 21, strike "section 11 of this act takes effect" and substitute  
5 "sections 11 and 13 of this act take effect".
- 6 Page 48, line 23, strike "Section 12 of this act takes effect" and substitute  
7 "Sections 12 and 14 of this act take effect".
- 8 Page 48, line 24, strike "section 12 of this act takes effect" and substitute  
9 "sections 12 and 14 of this act take effect".
- 10 Strike "APPROVAL," and substitute "APPROVAL REQUIRED BY THE  
11 CONSTITUTIONAL AMENDMENT DESCRIBED IN THIS SUBSECTION (1)," on:  
12 **Page 45**, line 20; and **Page 47**, line 11.
- 13 After "BE" insert "ASSESSED AND" on: **Page 45**, line 24; and **Page 47**, line  
14 15.
- 15 Strike "INFRASTRUCTURE" and substitute "ROADS, HIGHWAYS, BRIDGES,  
16 AND ANY OTHER SURFACE TRANSPORTATION INFRASTRUCTURE ON WHICH  
17 MOTOR VEHICLES OPERATE, INCLUDING INFRASTRUCTURE ON WHICH  
18 MOTOR VEHICLES OPERATE" on: **Page 46**, line 10; and **Page 48**, line 1.
- 19 After "RIDERS;" insert "OR" on: **Page 46**, line 14; and **Page 48**, line 5.
- 20 Strike "EXPENSE PURPOSES; OR" and substitute "EXPENSES." on: **Page 46**,  
21 line 17; and **Page 48**, line 8.

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