

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

DRAFT  
10.7.19

RESOLUTION 1

LLS NO. R20-0349.01 Jason Gelender x4330 INTERIM COMMITTEE Resolution  
Transportation Legislation Review Committee

**BILL TOPIC:** "Replace Motor Fuel Taxes With Additional Sales Tax"  
**DEADLINES:** File by: APR 6, 2020

INTERIM COMMITTEE RESOLUTION

101 SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF  
102 COLORADO AN AMENDMENT TO THE COLORADO CONSTITUTION  
103 CONCERNING A REQUIREMENT THAT THE GENERAL ASSEMBLY  
104 ENACT A LAW TO REPLACE THE EXISTING STATE EXCISE TAXES  
105 ON GASOLINE, DIESEL, AND OTHER LIQUID MOTOR FUEL OTHER  
106 THAN COMPRESSED NATURAL GAS, LIQUEFIED NATURAL GAS,  
107 LIQUEFIED PETROLEUM GAS, AND AVIATION FUEL USED FOR  
108 AVIATION PURPOSES WITH AN ADDITIONAL STATE SALES AND USE  
109 TAX TO BE USED EXCLUSIVELY TO FUND THE CONSTRUCTION,  
110 MAINTENANCE, AND SUPERVISION OF THE SURFACE  
111 TRANSPORTATION SYSTEM.

Resolution Summary

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

*(Note: This summary applies to this resolution as introduced and does not reflect any amendments that may be subsequently adopted. If this resolution passes third reading in the house of introduction, a resolution summary that applies to the reengrossed version of this resolution will be available at <http://leg.colorado.gov/>.)*

**Transportation Legislation Review Committee.** If approved by the voters of the state at the November 2020 general election, the concurrent resolution will amend the state constitution to require the general assembly to enact a law that will:

- Effective July 1, 2021, repeal or reduce to rates of zero the state excise taxes on gasoline, diesel, and other liquid motor fuel other than compressed natural gas, liquefied natural gas, liquefied petroleum gas, and aviation fuel used for aviation purposes (motor fuel taxes);
- On and after July 1, 2021, levy additional state sales and use taxes at a rate calculated to generate the amount of net revenue needed to offset 99% of the state revenue loss resulting from the repeal of the motor fuel taxes for state fiscal year 2021-22; and
- Require the net revenue generated by the additional sales tax to be credited to the highway users tax fund (HUTF), initially allocated to the state, counties, and municipalities in a manner that preserves existing HUTF allocations as nearly as possible, and used exclusively for the construction, maintenance, and supervision of the surface transportation system of the state.

The concurrent resolution specifies that, for purposes of the Taxpayer's Bill of Rights (TABOR), its approval by the voters of the state constitutes voter approval in advance for the state to levy the additional sales tax and to retain and spend all revenue generated by the additional state sales and use tax during a state fiscal year that exceeds the amount of revenue generated during state fiscal year 2020-21 by the repealed gasoline and special fuel taxes as a voter-approved revenue change.

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1            *Be It Resolved by the Senate of the Seventy-second General*  
2            *Assembly of the State of Colorado, the House of Representatives*  
3            *concurring herein:*

4            **SECTION 1. Short title.** The short title of this amendment is the  
5            "Stop Digging the Hole Amendment".

1           **SECTION 2.** At the election held on November 3, 2020, the  
2 secretary of state shall submit to the registered electors of the state the  
3 ballot title set forth in section 3 for the following amendment to the state  
4 constitution:

5           In the constitution of the state of Colorado, **amend** section 18 of  
6 article X as follows:

7           **Section 18. License fees and excise taxes - use of.** (1) EXCEPT  
8 AS OTHERWISE PROVIDED IN SUBSECTIONS (2) AND (3) OF THIS SECTION, on  
9 and after July 1, 1935, the proceeds from the imposition of any license,  
10 registration fee, or other charge with respect to the operation of any motor  
11 vehicle upon any public highway in this state and the proceeds from the  
12 imposition of any excise tax on gasoline or other liquid motor fuel except  
13 aviation fuel used for aviation purposes shall, except costs of  
14 administration, be used exclusively for the construction, maintenance, and  
15 supervision of the public highways of this state. Any taxes imposed upon  
16 aviation fuel shall be used exclusively for aviation purposes.

17           (2) BEFORE JULY 1, 2021, THE GENERAL ASSEMBLY SHALL ENACT  
18 A LAW THAT:

19           (a) REPEALS OR REDUCES TO RATES OF ZERO THE STATE EXCISE  
20 TAXES ON GASOLINE, DIESEL, AND OTHER LIQUID MOTOR FUEL OTHER  
21 THAN COMPRESSED NATURAL GAS, LIQUEFIED NATURAL GAS, LIQUEFIED  
22 PETROLEUM GAS, AND AVIATION FUEL USED FOR AVIATION PURPOSES;

23           (b) LEVIES AN ADDITIONAL STATE SALES AND USE TAX ON AND  
24 AFTER JULY 1, 2021, AT A RATE THAT IS CALCULATED TO GENERATE THE  
25 AMOUNT OF NET REVENUE NEEDED TO OFFSET NINETY-NINE PERCENT OF  
26 THE STATE REVENUE LOSS FOR STATE FISCAL YEAR 2021-22 RESULTING  
27 FROM THE REPEAL OF THE MOTOR FUEL TAXES DESCRIBED IN SUBSECTION

1 (2)(a) OF THIS SECTION; AND

2 (c) REQUIRES THE NET REVENUE GENERATED BY THE ADDITIONAL  
3 SALES TAX TO BE CREDITED TO THE HIGHWAY USERS TAX FUND CREATED  
4 AND EXISTING IN LAW AS OF THE EFFECTIVE DATE OF THIS SUBSECTION  
5 (2)(c) AND ALLOCATED TO THE STATE, COUNTIES, AND MUNICIPALITIES IN  
6 A MANNER THAT IS AS NEAR AS POSSIBLE TO THE MANNER IN WHICH  
7 GASOLINE AND OTHER MOTOR FUEL TAX REVENUE WAS ALLOCATED FROM  
8 THE HIGHWAY USERS TAX FUND AS OF THE EFFECTIVE DATE OF THIS  
9 SUBSECTION (2)(c). NOTHING IN THIS SUBSECTION (2)(c) LIMITS THE  
10 PLENARY POWER OF THE GENERAL ASSEMBLY TO THEREAFTER ENACT  
11 LEGISLATION TO MODIFY THE MANNER IN WHICH THE NET REVENUE  
12 GENERATED BY THE ADDITIONAL SALES AND USE TAX IS ALLOCATED;  
13 EXCEPT THAT THE NET REVENUE SHALL BE USED EXCLUSIVELY FOR THE  
14 CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF THE SURFACE  
15 TRANSPORTATION SYSTEM OF THE STATE.

16 (3) FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THIS  
17 CONSTITUTION, THE APPROVAL OF THIS SECTION BY THE VOTERS OF THE  
18 STATE AT THE NOVEMBER 2020 GENERAL ELECTION CONSTITUTES VOTER  
19 APPROVAL IN ADVANCE FOR THE STATE TO LEVY THE ADDITIONAL STATE  
20 SALES AND USE TAX REQUIRED BY SUBSECTION (2)(b) OF THIS SECTION  
21 AND TO RETAIN AND SPEND AS A VOTER-APPROVED REVENUE CHANGE ALL  
22 REVENUE GENERATED BY THE ADDITIONAL STATE SALES AND USE TAX  
23 DURING A STATE FISCAL YEAR THAT EXCEEDS THE AMOUNT OF REVENUE  
24 GENERATED DURING THE 2020-21 STATE FISCAL YEAR BY THE GASOLINE  
25 AND OTHER MOTOR FUEL TAXES REPEALED OR REDUCED TO RATES OF ZERO  
26 AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION.

27 **SECTION 3.** Each elector voting at the election may cast a vote

1 either "Yes/For" or "No/Against" on the following ballot title: "Shall  
2 there be an amendment to the Colorado constitution concerning a  
3 requirement that the general assembly enact a law to replace the existing  
4 state excise taxes on gasoline, diesel, and other liquid motor fuel other  
5 than compressed natural gas, liquefied natural gas, liquefied petroleum  
6 gas, and aviation fuel used for aviation purposes with an additional state  
7 sales and use tax to be used exclusively to fund the construction,  
8 maintenance, and supervision of the surface transportation system?"

9           **SECTION 4.** Except as otherwise provided in section 1-40-123,  
10 Colorado Revised Statutes, if at least fifty-five percent of the electors  
11 voting on the ballot title vote "Yes/For", then the amendment will become  
12 part of the state constitution.