

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. R19-0697.01 Jason Gelender x4330

SCR19-003

SENATE SPONSORSHIP

Priola,

HOUSE SPONSORSHIP

Gray,

Senate Committees
Transportation & Energy

House Committees

SENATE CONCURRENT RESOLUTION 19-003

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 AND OTHER LIQUID MOTOR FUEL WITH AN**
106 **ADDITIONAL STATE SALES AND USE TAX TO BE USED**
107 **EXCLUSIVELY TO FUND THE CONSTRUCTION, MAINTENANCE, AND**
108 **SUPERVISION OF THE SURFACE TRANSPORTATION SYSTEM.**

Resolution Summary

(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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

available at <http://leg.colorado.gov/>.)

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 existing state excise taxes on gasoline and other liquid motor fuel, including diesel, compressed natural gas, liquefied natural gas, and liquefied petroleum gas (motor fuel taxes); except that the law shall not repeal the existing state excise tax on aviation fuel used for aviation purposes;
- ! On and after July 1, 2021, levy an additional state sales and use tax (additional sales tax) 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, 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 the 2020-21 state fiscal year by the repealed gasoline and special fuel taxes as a voter-approved revenue change.

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".

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

1 constitution:

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

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

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

16 (a) REPEALS ALL STATE EXCISE TAXES ON GASOLINE AND OTHER
17 LIQUID MOTOR FUEL, INCLUDING BUT NOT LIMITED TO DIESEL,
18 COMPRESSED NATURAL GAS, LIQUEFIED NATURAL GAS, AND LIQUEFIED
19 PETROLEUM GAS; EXCEPT THAT THE LAW OR LAWS SHALL NOT REPEAL THE
20 STATE EXCISE TAX ON AVIATION FUEL USED FOR AVIATION PURPOSES;

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

26 (c) REQUIRES THE NET REVENUE GENERATED BY THE ADDITIONAL
27 SALES TAX TO BE CREDITED TO THE HIGHWAY USERS TAX FUND CREATED

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

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

24 **SECTION 3.** Each elector voting at the election may cast a vote
25 either "Yes/For" or "No/Against" on the following ballot title: "Shall
26 there be an amendment to the Colorado constitution concerning a
27 requirement that the general assembly enact a law to replace the existing

1 state excise taxes on gasoline and other liquid motor fuel with an
2 additional state sales and use tax to be used exclusively to fund the
3 construction, maintenance, and supervision of the surface transportation
4 system?"

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