

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

INTRODUCED

LLS NO. 21-0749.02 Jason Gelender x4330

HOUSE BILL 21-1205

HOUSE SPONSORSHIP

Pico,

SENATE SPONSORSHIP

(None),

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A ROAD USAGE EQUALIZATION FEE FOR PLUG-IN**
102 **ELECTRIC MOTOR VEHICLES.**

Bill Summary

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

The bill requires a road usage equalization fee (equalization fee) to be imposed at the time of annual registration on each plug-in electric motor vehicle that is required to be registered in the state. The fee is set in an amount that is estimated to achieve parity between the aggregate amount of motor vehicle registration fees and motor fuel excise taxes paid per vehicle by owners of plug-in electric motor vehicles and vehicles

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.

fueled by gasoline, diesel, or other special fuels and is annually adjusted for inflation.

The executive directors of the department of transportation and the department of revenue are required to form a joint working group to develop recommendations as to whether and to what extent the equalization fee should be adjusted to achieve the goal of maintaining parity between plug-in electric motor vehicle owners and owners of motor vehicles that use motor fuel for propulsion with respect to the aggregate amount in motor vehicle registration fees and motor fuel taxes paid. The recommendations must include recommendations as to whether the road equalization fee needs to be adjusted to account for changes to motor fuel excise tax rates or the imposition of other government charges that are calculated on the basis of motor fuel consumption, whether the amount of the fee should be different for personal and commercial vehicles, or whether the amount of the fee should vary based on specified factors. After the joint working group reports to the executive directors, the executive directors or their designees must prepare a written report regarding the recommendations for presentation to the transportation legislation review committee during the 2022 legislative interim.

Revenue generated by the fee:

- Must be credited to the highway users tax fund (HUTF) and distributed pursuant to the existing "second stream" HUTF allocation formula as follows:
 - 60% to the state highway fund;
 - 22% to counties; and
 - 18% to municipalities; and
- Must be used only for maintenance of existing highways, streets, and roads.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) State motor fuel excise taxes levied on the purchase of
5 gasoline and special fuel represent the largest source of state funding for
6 the construction, maintenance, and supervision of the highways, roads,
7 and streets of the state;

8 (b) The amount of motor fuel taxes paid for motor fuel used to
9 propel a motor vehicle bears a reasonable relationship to the vehicle's use

1 of and impact on the highways, roads, and streets of the state because the
2 amount of motor fuel used by a vehicle is in large part a function of the
3 amount of miles traveled by the vehicle and the weight of the vehicle;

4 (c) Plug-in electric motor vehicle owners generally pay less for
5 their usage of highways, roads, and streets of the state than owners of
6 vehicles that use motor fuels for propulsion because:

7 (I) Plug-in electric motor vehicle owners do not pay motor fuel
8 taxes for electricity-powered travel; and

9 (II) The existing additional fifty dollar annual registration fee for
10 plug-in electric motor vehicles is substantially lower than the average
11 amount of motor fuel taxes annually paid by owners of motor vehicles
12 that use motor fuels for propulsion; and

13 (d) In order to ensure that plug-in electric motor vehicle owners
14 pay their fair share of funding for their use of state highways, roads, and
15 streets and offset declines in motor fuel excise tax revenue that are
16 expected to result from increasingly widespread use of plug-in electric
17 motor vehicles, it is necessary, appropriate, and in the best interests of the
18 state to collect a road usage equalization fee annually on every plug-in
19 electric motor vehicle in an amount calculated to result in plug-in electric
20 motor vehicle owners paying the same aggregate amount in motor vehicle
21 registration fees and motor fuel taxes as owners of motor vehicles that use
22 motor fuel for propulsion.

23 **SECTION 2.** In Colorado Revised Statutes, 42-3-304, **amend**
24 (25)(b); and **add** (25)(a.5) as follows:

25 **42-3-304. Registration fees - passenger and passenger-mile**
26 **taxes - clean screen fund - definitions.** (25) (a.5) (I) IN ADDITION TO
27 ANY OTHER FEE IMPOSED BY THIS SECTION, INCLUDING THE FEE IMPOSED

1 BY SUBSECTION (25)(a) OF THIS SECTION, EACH AUTHORIZED AGENT SHALL
2 ANNUALLY COLLECT A ROAD USAGE EQUALIZATION FEE AT THE TIME OF
3 REGISTRATION ON EVERY PLUG-IN ELECTRIC MOTOR VEHICLE. FOR
4 REGISTRATION PERIODS COMMENCING ON OR AFTER JANUARY 1, 2022, BUT
5 BEFORE JANUARY 1, 2023, THE AMOUNT OF THE FEE IS SEVENTY-FIVE
6 DOLLARS. FOR REGISTRATION PERIODS COMMENCING ON OR AFTER
7 JANUARY 1, 2023, THE AMOUNT OF THE FEE SHALL BE ANNUALLY
8 ADJUSTED FOR INFLATION AS SET FORTH IN SUBSECTION (25)(a.5)(II) OF
9 THIS SECTION. THE AUTHORIZED AGENT SHALL TRANSMIT THE FEE TO THE
10 STATE TREASURER, WHO SHALL CREDIT IT TO THE HIGHWAY USERS TAX
11 FUND FOR ALLOCATION AND EXPENDITURE AS SPECIFIED IN SECTION
12 43-4-205 (6.8).

13 (II) (A) FOR REGISTRATION PERIODS BEGINNING ON AND AFTER
14 JANUARY 1, 2023, AND FOR REGISTRATION PERIODS BEGINNING ON AND
15 AFTER JANUARY 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL
16 ANNUALLY ADJUST THE AMOUNT OF THE ROAD USAGE EQUALIZATION FEE
17 FOR INFLATION, ROUNDING UP OR DOWN TO THE NEAREST WHOLE DOLLAR.

18 (B) AS USED IN THIS SUBSECTION (25)(a.5)(II), "INFLATION"
19 MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES
20 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE
21 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
22 CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX.

23 (III) THE EXECUTIVE DIRECTORS OF THE DEPARTMENT OF
24 TRANSPORTATION AND THE DEPARTMENT OF REVENUE SHALL FORM A
25 JOINT WORKING GROUP TO DEVELOP RECOMMENDATIONS AS TO WHETHER
26 AND TO WHAT EXTENT THE AMOUNT OF THE ROAD USAGE EQUALIZATION
27 FEE SET FORTH IN SUBSECTION (25)(a.5)(I) OF THIS SECTION SHOULD BE

1 ADJUSTED TO ACHIEVE THE GOAL OF MAINTAINING PARITY BETWEEN
2 PLUG-IN ELECTRIC MOTOR VEHICLE OWNERS AND OWNERS OF MOTOR
3 VEHICLES THAT USE MOTOR FUEL FOR PROPULSION WITH RESPECT TO THE
4 AGGREGATE AMOUNT IN MOTOR VEHICLE REGISTRATION FEES AND MOTOR
5 FUEL TAXES PAID. THE JOINT WORKING GROUP SHALL SPECIFICALLY MAKE
6 RECOMMENDATIONS AS TO WHETHER THE ROAD USAGE EQUALIZATION FEE
7 NEEDS TO BE ADJUSTED TO ACCOUNT FOR CHANGES TO MOTOR FUEL
8 EXCISE TAX RATES OR THE IMPOSITION OF OTHER GOVERNMENT CHARGES
9 THAT ARE CALCULATED ON THE BASIS OF MOTOR FUEL CONSUMPTION,
10 WHETHER THE AMOUNT OF THE FEE SHOULD BE DIFFERENT FOR PERSONAL
11 AND COMMERCIAL VEHICLES, OR WHETHER THE AMOUNT OF THE FEE
12 SHOULD VARY BASED ON MOTOR VEHICLE WEIGHT, THE AVERAGE AMOUNT
13 OF MILES TRAVELED ANNUALLY BY DIFFERENT CLASSES OR TYPES OF
14 MOTOR VEHICLES, OR ANY OTHER FACTORS. THE JOINT WORKING GROUP
15 SHALL REPORT ITS RECOMMENDATIONS TO THE EXECUTIVE DIRECTORS NO
16 LATER THAN MAY 15, 2022, AND THE EXECUTIVE DIRECTORS OR THEIR
17 DESIGNEES SHALL PREPARE A WRITTEN REPORT REGARDING THE
18 RECOMMENDATIONS FOR PRESENTATION TO THE TRANSPORTATION
19 LEGISLATION REVIEW COMMITTEE DURING THE 2022 LEGISLATIVE INTERIM.

20 (b) The department of revenue shall create an electric vehicle
21 decal, which an authorized agent shall give to each person who pays the
22 ~~fee~~ FEES charged under ~~subsection (25)(a)~~ SUBSECTIONS (25)(a) AND
23 (25)(a.5) of this section. The decal must be attached to the upper
24 right-hand corner of the front windshield on the motor vehicle for which
25 it was issued. If there is a change of vehicle ownership, the decal is
26 transferable to the new owner.

27 **SECTION 3.** In Colorado Revised Statutes, 43-4-205, **add** (6.8)

1 as follows:

2 **43-4-205. Allocation of fund.** (6.8) REVENUE FROM THE ROAD
3 USAGE EQUALIZATION FEE CREDITED TO THE HIGHWAY USERS TAX FUND
4 AS REQUIRED BY SECTION 42-3-304 (25)(a.5) MUST BE ALLOCATED AND
5 EXPENDED IN ACCORDANCE WITH THE FORMULA SPECIFIED IN SUBSECTION
6 (6)(b) OF THIS SECTION; EXCEPT THAT SUCH REVENUE MUST BE EXPENDED
7 ONLY FOR MAINTENANCE OF EXISTING STATE HIGHWAYS, COUNTY ROADS,
8 AND CITY STREETS WITHIN THE STATE.

9 **SECTION 4.** In Colorado Revised Statutes, 43-4-206, **amend** (1)
10 introductory portion; and **add** (4) as follows:

11 **43-4-206. State allocation.** (1) Except as otherwise provided in
12 subsections (1)(b)(V), (2), ~~and~~ (3), AND (4) of this section, after paying
13 the costs of the Colorado state patrol and any other costs of the
14 department, exclusive of highway construction, highway improvements,
15 or highway maintenance, that are appropriated by the general assembly,
16 money in the highway users tax fund shall be paid to the state highway
17 fund and expended for the following purposes:

18 (4) REVENUE FROM THE ROAD USAGE EQUALIZATION FEE CREDITED
19 TO THE HIGHWAY USERS TAX FUND AS REQUIRED BY SECTION 42-3-304
20 (25)(a.5) MUST BE EXPENDED BY THE DEPARTMENT OF TRANSPORTATION
21 ONLY FOR MAINTENANCE OF EXISTING HIGHWAYS.

22 **SECTION 5.** In Colorado Revised Statutes, 43-4-207, **amend** (1)
23 as follows:

24 **43-4-207. County allocation.** (1) After paying the costs of the
25 Colorado state patrol and any other costs of the department, exclusive of
26 highway construction, highway improvements, or highway maintenance,
27 that are appropriated by the general assembly, the money, including

1 money transferred from the general fund to the highway users tax fund
2 pursuant to section 24-75-219 (5)(a)(II) and (5)(b)(II), that section
3 43-4-205 requires to be paid from the highway users tax fund to the
4 county treasurers of the respective counties shall be paid to the county
5 treasurers of the respective counties, subject to annual appropriation by
6 the general assembly, and shall be allocated and expended as provided in
7 this section. The money received is allocated to the counties as provided
8 by law and shall be expended by the counties only on the construction,
9 engineering, reconstruction, maintenance, repair, equipment,
10 improvement, and administration of the county highway systems and any
11 other public highways, including any state highways, together with
12 acquisition of rights-of-way and access rights for the same, for the
13 planning, designing, engineering, acquisition, installation, construction,
14 repair, reconstruction, maintenance, operation, or administration of
15 transit-related projects, including, but not limited to, designated bicycle
16 or pedestrian lanes of highway and infrastructure needed to integrate
17 different transportation modes within a multimodal transportation system,
18 and for no other purpose; except that money received pursuant to section
19 43-4-205 (6.3) shall be expended by the counties only for road safety
20 projects, as defined in section 43-4-803 (21), AND MONEY RECEIVED
21 PURSUANT TO SECTION 43-4-205 (6.8) SHALL BE EXPENDED BY THE
22 COUNTIES ONLY FOR MAINTENANCE OF EXISTING HIGHWAYS AND ROADS.
23 The amount expended for administrative purposes shall not exceed five
24 percent of each county's share of the funds available.

25 **SECTION 6.** In Colorado Revised Statutes, 43-4-208, **amend** (1)
26 as follows:

27 **43-4-208. Municipal allocation.** (1) After paying the costs of the

1 Colorado state patrol and any other costs of the department, exclusive of
2 highway construction, highway improvements, or highway maintenance,
3 that are appropriated by the general assembly, the money, including
4 money transferred from the general fund to the highway users tax fund
5 pursuant to section 24-75-219 (5)(a)(II) and (5)(b)(II), that section
6 43-4-205 requires to be paid from the highway users tax fund to cities and
7 incorporated towns shall be paid to the cities and incorporated towns
8 within the limits of the respective counties, subject to annual
9 appropriation by the general assembly, and shall be allocated and
10 expended as provided in this section. Each city treasurer shall account for
11 the money received as provided in this part 2. Money so allocated shall
12 be expended by the cities and incorporated towns for the construction,
13 engineering, reconstruction, maintenance, repair, equipment,
14 improvement, and administration of the system of streets of such city or
15 incorporated town or of any public highways located within such city or
16 incorporated town, including any state highways, together with the
17 acquisition of rights-of-way and access rights for the same, and for the
18 planning, designing, engineering, acquisition, installation, construction,
19 repair, reconstruction, maintenance, operation, or administration of
20 transit-related projects, including, but not limited to, designated bicycle
21 or pedestrian lanes of highway and infrastructure needed to integrate
22 different transportation modes within a multimodal transportation system,
23 and for no other purpose; except that money paid to the cities and
24 incorporated towns pursuant to section 43-4-205 (6.3) shall be expended
25 by the cities and incorporated towns only for road safety projects, as
26 defined in section 43-4-803 (21), AND MONEY PAID TO THE CITIES AND
27 INCORPORATED TOWNS PURSUANT TO SECTION 43-4-205 (6.8) SHALL BE

1 EXPENDED BY THE CITIES AND INCORPORATED TOWNS ONLY FOR
2 MAINTENANCE OF EXISTING HIGHWAYS AND STREETS. The amount
3 expended for administrative purposes shall not exceed five percent of
4 each city's share of the funds available.

5 **SECTION 7. Act subject to petition - effective date -**
6 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
7 the expiration of the ninety-day period after final adjournment of the
8 general assembly; except that, if a referendum petition is filed pursuant
9 to section 1 (3) of article V of the state constitution against this act or an
10 item, section, or part of this act within such period, then the act, item,
11 section, or part will not take effect unless approved by the people at the
12 general election to be held in November 2022 and, in such case, will take
13 effect on the date of the official declaration of the vote thereon by the
14 governor.

15 (2) This act applies to motor vehicle registrations for registration
16 periods beginning on or after the later of January 1, 2022, or the effective
17 date of this act.