

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

INTRODUCED

LLS NO. 01-0401.01 Dan Cartin

SENATE BILL 01-094

SENATE SPONSORSHIP

Andrews

HOUSE SPONSORSHIP

(None)

Senate Committees

Public Policy and Planning

House Committees

A BILL FOR AN ACT

101 **CONCERNING A REFUND OF TAXES PAID ON FUEL TO PERSONS WHO PAY**
102 **TOLLS TO A QUALIFIED TOLL AUTHORITY FOR THE PRIVILEGE OF**
103 **TRAVELING ON A PUBLIC HIGHWAY THAT IS UNDER THE PURVIEW**
104 **OF THAT AUTHORITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Allows persons who pay tolls to a public highway authority or public-private entity for the privilege of operating a motor vehicle over a toll road under the control of such authority to claim a refund of taxes paid on gasoline or special fuel. Specifies the process by which refunds are paid to toll road users.

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

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) Section 18 of article X of the state constitution requires that the
5 proceeds from the imposition of any excise tax on gasoline or other liquid
6 motor fuel be used exclusively for the construction, maintenance, and
7 supervision of public highways of this state.

8 (b) Certain public highways of the state are constructed,
9 maintained, and supervised by a public highway authority or a
10 public-private entity authorized by law that finances such construction,
11 maintenance, and supervision by collecting tolls rather than utilizing
12 gasoline or special fuel tax proceeds.

13 (c) Persons who pay taxes on gasoline or special fuel and operate
14 a vehicle on a highway financed by the collection of tolls do not receive
15 the full benefit from such taxes since they do not travel exclusively on
16 highways that are financed by the proceeds of such taxes.

17 (d) State law currently provides a refund of the gasoline and
18 special fuel tax when gasoline and special fuel are purchased for certain
19 purposes other than operation of a motor vehicle on a publicly financed
20 highway.

21 (e) Allowing a refund of taxes paid on gasoline and special fuel to
22 persons who purchase gasoline and special fuel for the purpose of
23 operating a motor vehicle on a public highway that is constructed,
24 maintained, and supervised by a public highway authority or a
25 public-private entity through the collection of tolls is consistent with both
26 the state constitution and current state law allowing a refund of taxes paid

1 on gasoline and special fuel.

2 **SECTION 2.** 39-27-103 (3) (a), Colorado Revised Statutes, is
3 amended, and the said 39-27-103 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

5 **39-27-103. Refunds - penalties - checkoff.** (3) (a) Any person
6 who purchases or uses any gasoline for the purpose of operating stationary
7 gas engines, motor vehicles operated on or over fixed rails, MOTOR
8 VEHICLES OPERATED ON A PUBLIC HIGHWAY THAT IS MAINTAINED BY A
9 QUALIFIED TOLL AUTHORITY, tractors, trucks, or other farm implements or
10 machinery when being used for agricultural purposes on farms or ranches,
11 state-licensed agricultural applicator aircraft used solely and exclusively
12 for agricultural applications using only private landing facilities to the
13 extent of fifty percent of taxes payable pursuant to section 39-27-102 (1)
14 (a) (IV), motor boats, or aircraft operated by scheduled air carriers or
15 commuter airline operators or who purchases or uses any gasoline for
16 cleaning or dyeing or for any other commercial use, except highway use,
17 shall be entitled to a refund by the controller, upon voucher certified by
18 the department of revenue of the amount of such tax paid by him upon
19 complying with the applicable conditions and provisions of this section;
20 except that such person shall not be entitled to a refund on purchases of
21 gasoline in quantities less than twenty gallons.

22 (3.5) (a) AS USED IN THIS SECTION, "QUALIFIED TOLL AUTHORITY"
23 OR "AUTHORITY" MEANS A PUBLIC HIGHWAY AUTHORITY OR A
24 PUBLIC-PRIVATE ENTITY THAT COLLECTS A TOLL FOR THE PRIVILEGE OF
25 TRAVELING ON A PUBLIC HIGHWAY.

26 (b) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
27 CONTRARY, ANY PERSON WHO PURCHASES GASOLINE TO OPERATE A MOTOR

1 VEHICLE ON A PUBLIC HIGHWAY AND PAYS A TOLL TO A QUALIFIED TOLL
2 AUTHORITY FOR THE PRIVILEGE OF TRAVELING ON THAT PUBLIC HIGHWAY
3 FOR THE CALENDAR YEAR COMMENCING JANUARY 1, 2001, AND EACH
4 CALENDAR YEAR THEREAFTER, SHALL BE ENTITLED TO A REFUND OF THE
5 GASOLINE TAX FROM THAT QUALIFIED TOLL AUTHORITY PURSUANT TO
6 PARAGRAPH (d) OF THIS SUBSECTION (3.5).

7 (c) ON OR BEFORE FEBRUARY 15, 2002, AND FEBRUARY 15 OF
8 EACH YEAR THEREAFTER, A QUALIFIED TOLL AUTHORITY SHALL REPORT TO
9 THE DEPARTMENT OF REVENUE THE TOTAL DOCUMENTED VEHICLE MILES
10 DRIVEN ON THE PUBLIC HIGHWAY CONSTRUCTED, MAINTAINED, OR
11 SUPERVISED BY THE QUALIFIED TOLL AUTHORITY DURING THE PRECEDING
12 CALENDAR YEAR. THE DEPARTMENT SHALL UTILIZE THE TOTAL
13 DOCUMENTED VEHICLE MILES IN THE REPORT TO CALCULATE AND PAY TO
14 THE QUALIFIED TOLL AUTHORITY AN AMOUNT EQUAL TO THE TOTAL
15 AMOUNT OF TAXES ON GASOLINE COLLECTED DURING SUCH CALENDAR
16 YEAR THAT ARE ATTRIBUTABLE TO THE TOTAL DOCUMENTED VEHICLE
17 MILES PROVIDED IN SUCH REPORT. SUCH CALCULATION SHALL BE BASED
18 ON EACH VEHICLE TRAVELING TWENTY MILES FOR EACH GALLON OF
19 GASOLINE PURCHASED.

20 (d) ON OR BEFORE APRIL 15, 2002, AND APRIL 15 OF EACH YEAR
21 THEREAFTER, THE QUALIFIED TOLL AUTHORITY SHALL PAY FROM THE
22 AMOUNT TRANSFERRED TO THE AUTHORITY PURSUANT TO PARAGRAPH (c)
23 OF THIS SUBSECTION (3.5) A REFUND OF TAXES PAID ON GASOLINE TO ANY
24 PERSON WHO PAID DOCUMENTED TOLLS TO THE AUTHORITY DURING THE
25 PRECEDING CALENDAR YEAR. SUCH REFUND SHALL BE IN PROPORTION TO
26 SUCH PERSON'S RESPECTIVE VEHICLE TOLL CLASSIFICATION AND MILES
27 DRIVEN. THE AUTHORITY MAY RETAIN AN AMOUNT NOT EXCEEDING TEN

1 PERCENT OF THE TOTAL AMOUNT OF TAXES ON GASOLINE REFUNDED FOR
2 THE ADMINISTRATIVE AND COMPLIANCE COSTS OF THE AUTHORITY. THE
3 AUTHORITY SHALL ACCOUNT FOR ALL SUCH COSTS IN THE REPORT
4 PROVIDED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (3.5).

5 **SECTION 3.** 39-27-103.5 (1) (a), Colorado Revised Statutes, is
6 amended, and the said 39-27-103.5 is further amended BY THE
7 ADDITION OF A NEW SUBSECTION, to read:

8 **39-27-103.5. Refunds of the tax paid on special fuel.**

9 (1) (a) Any person who purchased special fuel and paid the tax thereon
10 to the vendor at the time of such purchase, WHO PURCHASED SPECIAL FUEL
11 FOR THE PURPOSE OF OPERATING A MOTOR VEHICLE ON A PUBLIC HIGHWAY
12 THAT IS MAINTAINED BY A QUALIFIED TOLL AUTHORITY, who used the
13 diesel engine fuel, kerosene, liquefied petroleum gases, and natural gas for
14 purposes other than the operation of a motor vehicle upon the highways
15 of this state, or who is otherwise entitled to a refund under the provisions
16 of this part 1 or of federal law shall be entitled to a refund by the
17 controller upon vouchers certified by the department of revenue for the
18 amount of tax paid on such fuel; except that such person shall not be
19 entitled to a refund on purchases of special fuel in quantities of less than
20 twenty gallons. When a person purchases and uses special fuel, a refund
21 may be claimed for all tax paid on special fuel used for purposes other
22 than the operation of a motor vehicle upon the highways of this state. The
23 executive director of the department of revenue shall calculate the amount
24 of the refund allowed by this paragraph (a) for such special fuel use in
25 accordance with industry-specific percentages of off road special fuel use
26 that can be justified by studies done by industries that use special fuel off
27 roads and studies done by other states for refunds of tax imposed on

1 special fuel used off roads. The executive director shall set such
2 percentages by rule promulgated in accordance with article 4 of title 24,
3 C.R.S.

4 (3) (a) AS USED IN THIS SECTION, "QUALIFIED TOLL AUTHORITY" OR
5 "AUTHORITY" MEANS A PUBLIC HIGHWAY AUTHORITY OR PUBLIC-PRIVATE
6 ENTITY THAT COLLECTS A TOLL FOR THE PRIVILEGE OF TRAVELING ON A
7 PUBLIC HIGHWAY.

8 (b) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
9 CONTRARY, ANY PERSON WHO PURCHASES SPECIAL FUEL TO OPERATE A
10 MOTOR VEHICLE ON A PUBLIC HIGHWAY AND PAYS A TOLL TO A QUALIFIED
11 TOLL AUTHORITY FOR THE PRIVILEGE OF TRAVELING ON THAT PUBLIC
12 HIGHWAY FOR THE CALENDAR YEAR COMMENCING JANUARY 1, 2001, AND
13 EACH CALENDAR YEAR THEREAFTER, SHALL BE ENTITLED TO A REFUND OF
14 THE SPECIAL FUEL TAX FROM THAT QUALIFIED TOLL AUTHORITY PURSUANT
15 TO PARAGRAPH (d) OF THIS SUBSECTION (3).

16 (c) ON OR BEFORE FEBRUARY 15, 2002, AND FEBRUARY 15 OF
17 EACH YEAR THEREAFTER, A QUALIFIED TOLL AUTHORITY SHALL REPORT TO
18 THE DEPARTMENT OF REVENUE THE TOTAL DOCUMENTED VEHICLE MILES
19 DRIVEN ON THE PUBLIC HIGHWAY CONSTRUCTED, MAINTAINED, OR
20 SUPERVISED BY THE QUALIFIED TOLL AUTHORITY DURING THE PRECEDING
21 CALENDAR YEAR. THE DEPARTMENT SHALL UTILIZE THE TOTAL
22 DOCUMENTED VEHICLE MILES IN THE REPORT TO CALCULATE AND PAY TO
23 THE QUALIFIED TOLL AUTHORITY AN AMOUNT EQUAL TO THE TOTAL
24 AMOUNT OF TAXES ON SPECIAL FUEL COLLECTED DURING SUCH CALENDAR
25 YEAR THAT ARE ATTRIBUTABLE TO THE TOTAL DOCUMENTED VEHICLE
26 MILES PROVIDED IN SUCH REPORT. SUCH CALCULATION SHALL BE BASED
27 ON EACH VEHICLE TRAVELING TWENTY MILES FOR EACH GALLON OF

1 SPECIAL FUEL PURCHASED.

2 (d) ON OR BEFORE APRIL 15, 2002, AND APRIL 15 OF EACH YEAR
3 THEREAFTER, THE QUALIFIED TOLL AUTHORITY SHALL PAY FROM THE
4 AMOUNT TRANSFERRED TO THE AUTHORITY PURSUANT TO PARAGRAPH (c)
5 OF THIS SUBSECTION (3) A REFUND OF TAXES PAID ON SPECIAL FUEL TO ANY
6 PERSON WHO PAID DOCUMENTED TOLLS TO THE AUTHORITY DURING THE
7 PRECEDING CALENDAR YEAR. SUCH REFUND SHALL BE IN PROPORTION TO
8 SUCH PERSON'S RESPECTIVE VEHICLE TOLL CLASSIFICATION AND MILES
9 DRIVEN. THE AUTHORITY MAY RETAIN AN AMOUNT NOT EXCEEDING TEN
10 PERCENT OF THE TOTAL AMOUNT OF TAXES ON SPECIAL FUEL REFUNDED
11 FOR THE ADMINISTRATIVE AND COMPLIANCE COSTS OF THE AUTHORITY.
12 THE AUTHORITY SHALL ACCOUNT FOR ALL SUCH COSTS IN THE REPORT
13 PROVIDED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (3).

14 **SECTION 4. Effective date.** This act shall take effect at 12:01
15 a.m. on the day following the expiration of the ninety-day period after
16 final adjournment of the general assembly that is allowed for submitting
17 a referendum petition pursuant to article V, section 1 (3) of the state
18 constitution; except that, if a referendum petition is filed against this act
19 or an item, section, or part of this act within such period, then the act,
20 item, section, or part, if approved by the people, shall take effect on the
21 date of the official declaration of the vote thereon by proclamation of the
22 governor.