

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

PREAMENDED

LLS NO. R25-0477.01 Jason Gelender x4330

HJR25-1023

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HOUSE JOINT RESOLUTION 25-1023

101 **CONCERNING AUTHORIZATION AND DIRECTION TO THE COMMITTEE ON**
102 **LEGAL SERVICES TO RETAIN LEGAL COUNSEL TO FILE A LAWSUIT**
103 **ON BEHALF OF THE GENERAL ASSEMBLY IN STATE DISTRICT**
104 **COURT TO DETERMINE THE CONSTITUTIONALITY OF THE**
105 **TAXPAYER'S BILL OF RIGHTS, SECTION 20 OF ARTICLE X OF THE**
106 **STATE CONSTITUTION.**

1 WHEREAS, The "Enabling Act of Colorado" required the territory
2 of Colorado to adopt and maintain a constitution that adopted the
3 constitution of the United States and was "republican in form"; and

4 WHEREAS, Under the Guarantee Clause of section 4 of article IV
5 of the United States constitution, "the United States shall guarantee to
6 every state in this Union a republican form of government"; and

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

1 WHEREAS, The drafters of the United States constitution
2 envisioned the guarantee of a republican form of government entailing a
3 representative democracy in which legislative bodies determine policy by
4 enacting laws through deliberation and compromise; and

5 WHEREAS, Section 20 of article X of the state constitution
6 removed fundamental legislative authority and power in matters of
7 revenue and expenditure from the institutions of representative
8 democracy, namely, the General Assembly and the policy-making bodies
9 at all levels of local government, and instead subjected that authority and
10 power to direct democracy, namely, plebiscite; and

11 WHEREAS, Section 20 of article X of the state constitution has
12 removed necessary and essential powers of its representative institutions
13 and so deprived the state of a republican form of government; and

14 WHEREAS, It is necessary for the General Assembly to determine
15 the scope of and protect both its role as a representative institution and the
16 proper extent of its legislative authority and power in matters of revenue
17 and expenditure; now, therefore,

18 *Be It Resolved by the House of Representatives of the Seventy-fifth*
19 *General Assembly of the State of Colorado, the Senate concurring herein:*

20 (1) That, in the judgment of the General Assembly, it is a matter
21 of extreme importance and critical to protecting the core functions and
22 interests of the General Assembly to determine whether section 20 of
23 article X of the state constitution violates the "Enabling Act of Colorado"
24 and the guarantee of a republican form of government set forth in the
25 Guarantee Clause of section 4 of article IV of the United States
26 constitution by nullifying the authority of the General Assembly to assess
27 taxes and infringing upon the plenary authority of the General Assembly
28 to appropriate money for public purposes; and

29 (2) That the General Assembly authorizes and directs the
30 Committee on Legal Services to engage appropriate legal counsel, which
31 does not include any law firm or attorney that was counsel of record for
32 any plaintiff at any stage of the protracted federal court litigation
33 concerning the constitutionality of section 20 of article X of the state
34 constitution that was originally filed under the case name *Kerr v.*
35 *Hickenlooper* and finally resolved by the Tenth Circuit Court of Appeals

1 en banc decision in *Kerr v. Polis*, 20 F. 4th 686 (10th Cir. 2021) or any
2 paralegal or other legal support staff person who was employed by any
3 such law firm or attorney at any stage of that litigation, to file a lawsuit
4 in the name of the General Assembly in state district court to determine
5 the constitutionality of the Taxpayer's Bill of Rights, section 20 of article
6 X of the state constitution.