

HOUSE BILL No. 2004

By Representatives Rhiley, Garber, Seiwert and Waggoner

1-3

1 AN ACT concerning taxation; relating to electric vehicles; establishing the
2 EV energy equity road repair tax act and providing for a road repair tax
3 on the distribution of electricity from public charging stations.
4

5 WHEREAS, Battery-powered electric vehicles are expected to account
6 for 20% of global light-vehicle sales in 2025 and 59% of sales in 2035;
7 and

8 WHEREAS, Just over 50% of passenger cars sold in the United States
9 will be electric vehicles by 2030, according to a report from Bloomberg
10 NEF; and

11 WHEREAS, About 45% of new car sales could be electric by 2035,
12 according to IHS Markit; and

13 WHEREAS, Gasoline-powered vehicles in 2020 had an average fuel
14 economy of 25 miles per gallon; and

15 WHEREAS, Based on the average fuel economy of gasoline-powered
16 vehicles, the \$.24 per gallon state motor fuel tax on gasoline would
17 generate \$.96 per 100 miles for road repairs; and

18 WHEREAS, Electric vehicles in 2020 consumed an average of 32
19 kilowatt-hour of electricity per 100 miles covered; and

20 WHEREAS, It would take \$.03 per kilowatt-hour to generate \$.96 per
21 100 miles to have an equitable road repair tax.

22 Now, therefore:

23 *Be it enacted by the Legislature of the State of Kansas:*

24 Section 1. (a) This section shall be known and may be cited as the
25 EVEERRT (EV energy equity road repair tax) act.

26 (b) As used in this section:

27 (1) "Electric vehicle" means any vehicle that is an:

28 (A) All-electric vehicle; or

29 (B) electric hybrid or plug-in electric hybrid vehicle.

30 (2) "Kilowatt-hour" means a unit of energy equal to one kilowatt of
31 power sustained for one hour or 3,600 kilojoules.

32 (3) "Public charging station" means any device or infrastructure that
33 supplies electricity to the public for the charging of an electric vehicle.

34 "Public charging station" does not include such a device or infrastructure
35 located at a primary residence.

36 (4) "Road repair tax" means the tax on energy used in electric vehicle

1 operations on state highways and is intended to fund road construction and
2 repair as would otherwise be provided for in the motor fuel tax law
3 pursuant to K.S.A. 79-3402, and amendments thereto.

4 (c) There is hereby imposed a road repair tax on electricity distributed
5 at a public charging station location. The tax shall be imposed regardless
6 of whether the public charging station charges for the electricity or
7 provides the electricity for free. The road repair tax shall be equal to \$0.03
8 per kilowatt-hour, or portion thereof, of electricity provided to an electric
9 vehicle at a public charging station. The owner of the public charging
10 station shall collect and remit the road repair tax imposed pursuant to this
11 section to the director of taxation. The owner of the public charging station
12 shall be entitled to charge and collect an amount equal to the road repair
13 tax as part of the selling price.

14 (d) The director of taxation shall remit all taxes collected under this
15 section to the state treasurer in accordance with the provisions of K.S.A.
16 75-4215, and amendments thereto. Upon receipt of each such remittance,
17 the state treasurer shall deposit the entire amount in the state treasury to
18 the credit of the state highway fund.

19 (e) The provisions of K.S.A. 79-3464d, and amendments thereto,
20 concerning the liability for the owner for the collection or payment of the
21 motor vehicle or special fuel taxes are hereby adopted for the purpose
22 relating to liability for the collection or payment of the road repair tax, to
23 the extent practicable.

24 (f) The secretary of revenue shall adopt rules and regulations
25 establishing the criteria and procedures for the licensing of public charging
26 stations and reporting by such public charging stations of the energy
27 provided.

28 (g) (1) It shall be unlawful for any owner of a public charging station
29 to:

30 (A) Fail, neglect or refuse to render the road repair tax to the director
31 of taxation at the director's office, within the time required by the director,
32 under rules and regulations adopted by the director;

33 (B) fail, neglect or refuse to pay the director any tax, taxes, interest or
34 penalties for which such person is liable;

35 (C) fail, neglect or refuse to keep and maintain for a period of three
36 years, or fail to make fully and freely accessible during business hours to
37 the director, the director's deputy or agent, all books, papers and records
38 required by this act to be kept and maintained and so made accessible;

39 (D) aid and abet in violations described in subparagraphs (A) through
40 (C); or

41 (E) falsify, forge or willfully conceal from the director or director's
42 agent any books, papers and records required by this act.

43 (2) (A) Except as provided in paragraph (2)(B), violation of

1 paragraph (1) is an unclassified misdemeanor punishable by a fine of not
2 less than \$5,000 nor more than \$50,000, imprisonment in the county jail
3 for not less than 30 days nor more than one year, or both such fine and
4 imprisonment.

5 (B) Violation of paragraph (1) involving failure, neglect or refusal to
6 render the road repair tax to the director of taxation is an unclassified
7 misdemeanor punishable by a fine of \$25 per kilowatt-hour of energy that
8 such tax is found to not have been remitted to the department of revenue
9 pursuant to this section, imprisonment in the county jail for not less than
10 30 days nor more than one year, or both such fine and imprisonment.

11 Sec. 2. This act shall take effect and be in force from and after its
12 publication in the statute book.

January 26, 2023

The Honorable Shannon Francis, Chairperson
House Committee on Transportation
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Francis:

SUBJECT: Fiscal Note for HB 2004 by Representative Rhiley, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2004 is respectfully submitted to your committee.

HB 2004 would establish the EV Energy Equity Road Repair Tax Act, which would impose a road repair tax equal to \$0.03 per kilowatt-hour of electricity provided to an electric vehicle at a public charging station. The road repair tax would be imposed regardless of whether the public charging station charges for the electricity or provides the electricity for free. The owner of the public charging station would remit the tax to the Director of Taxation to be credited to the State Highway Fund. The public charging station owner would also be entitled to charge and collect an amount equal to the road repair tax as part of the selling price. The Secretary of Revenue would be required to adopt rules and regulations establishing the criteria and procedures for the licensing of public charging stations of the energy provided. The bill would make it unlawful for the owner of a public charging station to:

1. Fail, neglect, or refuse to render the road repair tax to the Director of Taxation at the Department of Revenue, within the time required by the Director, and under rules and regulations adopted by the Director;
2. Fail, neglect, or refuse to pay the Director any tax, interest, or penalties for which the person would be liable;
3. Fail, neglect, or refuse to keep and maintain for three years, or fail to make fully and free accessible during business hours to the Department of Revenue all books, papers, and records required by the Act to be kept, maintained, and made accessible;

4. Assisting or allowing a person to violate any provision of the Act; or
5. Falsify, forge, or willfully conceal from the Department of Revenue any books, papers, and records required by this Act.

A violation of the bill's provision involving failure, neglect, or refusal to render the road repair tax to the Director would be an unclassified misdemeanor and any person convicted would be punished by a fine of \$25 per kilowatt-hour of energy that the tax is found to not have been remitted to the Department of Revenue, imprisonment in the county jail for not less than 30 days or more than one year, or by both fine and imprisonment. Any other violation could also result in a fine of \$5,000 up to \$50,000, or imprisonment in the county jail for not less than 30 days or more than one year, or by both fine and imprisonment.

The Department of Revenue estimates that HB 2004 would increase State Highway Fund revenues by \$148,008 in FY 2024, \$179,158 in FY 2025, and \$210,308 in FY 2026. To formulate the estimates of the road repair tax, the Department notes beginning in calendar year 2023, the state had 10,572 electric vehicles. The Department also notes using data from the National Household Travel Survey, economist Lucas Davis of the University of California, Berkley, specified that electric vehicles are driven less frequently than gasoline vehicles at an average of around 7,000 miles annually. Further, the Department indicates according to the Kelly Blue Book, that as a rule of thumb, it is three to four miles per kilowatt-hour. The Department estimates assume that all of the vehicles travel an average of 7,000 miles each year, use public charging stations for 20.0 percent of their charging, and use one kilowatt-hour for every three miles and would be taxed at a rate of \$0.03 for each kilowatt-hour.

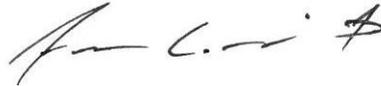
The Department of Revenue indicates that it would require a total \$640,595 from the State General Fund in FY 2024 to implement the bill and to modify the automated tax system. The bill would require the Department to hire an additional 2.00 new FTE positions to answer questions from taxpayers. The Department estimates that ongoing expenses for salaries and wages for both positions and overhead expenses would total \$167,175 from the State General Fund in FY 2024. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Kansas Department of Transportation (KDOT) indicates that the bill would increase State Highway Fund revenues, as noted above. KDOT notes that if the bill is enacted there would be no fiscal effect to its operating expenditures or staffing. Any fiscal effect associated with HB 2004 is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties states enactment of the bill could increase revenues for local roads provided that the income is apportioned consistent with the current gasoline tax. The Association further states that if the revenue is not apportioned consistent with the current gasoline tax, as more vehicles become electric, local road revenues would continue to decrease.

The League of Kansas Municipalities states the bill's enactment would have a fiscal effect on cities because funds would be directly allocated to the State Highway Fund.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Brendan Yorkey, Department of Transportation
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties

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LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Transportation
From: Office of Revisor of Statutes
Date: January 31, 2023
Subject: Bill Brief – HB 2004

HB 2004 enacts the EV energy equity road repair tax act.

The bill would impose a road repair tax on electricity distributed at a public charging station to charge an electric vehicle. “Public charging station” is defined as any device or infrastructure that supplies electricity to the public to charge an electric vehicle but does not include devices or infrastructures located at a primary residence. “Road repair tax” is also defined in the bill as a tax on energy used in electric vehicle operations on state highways and is intended to fund road construction and repairs similar to the motor vehicle fuel tax law.

The road repair tax imposed under the bill is \$0.03 per kilowatt-hour, or portion thereof, of electricity provided to an electric vehicle at a public charging station. The road repair tax is to be collected even if the public charging station provides electricity for free. The owner of the public charging station is directed to collect and remit the road repair tax to the Director of Taxation. The entire amount of road repair taxes collected and remitted to the Director of Taxation will be deposited in the state highway fund. The Secretary of Revenue is authorized to adopt rules and regulations establishing the criteria and procedures for the licensing of public charging stations and to establish reporting requirements.

The bill creates a crime on the owner of a public charging station for any of the following offenses:

- 1) Failing, neglecting or refusing to render the road repair tax within the time required according to rules and regulations
- 2) failing, neglecting or refusing to pay the Director any road repair taxes liable to such owner

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- 3) failing, neglecting or refusing to keep and maintain proper records for a period of three years;
- 4) aiding and abetting any of the previous three offenses; and
- 5) falsifying, forging or willfully concealing from the director any records or books required by the act.

Violation of any of these offenses would result in an unclassified misdemeanor and the owner of a public charging station would be punishable by fines of not less than \$5,000 nor more than \$50,000 or imprisonment in jail from 30 days up to one year or both. However, violations for failing, neglecting or refusing to render the road repair tax to the Director would also be an unclassified misdemeanor but would be punishable by a fine of \$25 per kilowatt hour of energy of taxes not remitted to the Director and jail for not less than 30 days nor more than one year or both.