

117TH CONGRESS  
1ST SESSION

# H. R. 4016

To amend the Internal Revenue Code of 1986 to impose a tax on the use of certain electric highway vehicles to fund the Highway Trust Fund.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2021

Mr. SMUCKER introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to impose a tax on the use of certain electric highway vehicles to fund the Highway Trust Fund.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Using Sustainable En-  
5 ergy Resources to Fund Equitable e-Transportation Act”  
6 or as the “USER FEE Act”.

1 **SEC. 2. TAX ON USE OF CERTAIN ELECTRIC HIGHWAY VEHI-**  
 2 **CLES TO FUND THE HIGHWAY TRUST FUND.**

3 (a) IMPOSITION OF TAX.—Chapter 1 of the Internal  
 4 Revenue Code of 1986 is amended by inserting after sub-  
 5 chapter V the following new subchapter:

6 **“Subchapter W—Use of Certain Electric**  
 7 **Highway Vehicles**

8 **“SEC. 1400W-1. USE OF CERTAIN ELECTRIC HIGHWAY VEHI-**  
 9 **CLES.**

10 “(a) IN GENERAL.—In the case of any person who  
 11 uses any specified electric highway vehicle during the tax-  
 12 able year, the tax imposed by this chapter shall be in-  
 13 creased with respect to each such vehicle by the product  
 14 of—

15 “(1) the applicable rate of tax, multiplied by

16 “(2) the applicable mileage.

17 “(b) APPLICABLE RATE OF TAX.—For purposes of  
 18 this section, the term ‘applicable rate of tax’ means—

19 “(1) in the case of any plug-in hybrid vehicle,  
 20 1 cent, and

21 “(2) in the case of any other specified electric  
 22 highway vehicle, 2 cents.

23 “(c) APPLICABLE MILEAGE.—For purposes of this  
 24 section—

25 “(1) IN GENERAL.—Except as provided in para-  
 26 graph (2), the term ‘applicable mileage’ means, with

1       respect to any taxable year beginning in any cal-  
2       endar year, the average number of miles driven by  
3       highway vehicles in the United States during the  
4       second preceding calendar year, as estimated by the  
5       Secretary after consultation with the Secretary of  
6       Transportation.

7               “(2) ELECTION TO USE ACTUAL MILEAGE.—In  
8       the case of a taxpayer which elects the application  
9       of this paragraph with respect to any vehicle for any  
10      taxable year, the applicable mileage with respect to  
11      such vehicle shall be the number of miles driven by  
12      such vehicle during such taxable year if the taxpayer  
13      provides or maintains such documentation as the  
14      Secretary may require.

15              “(d) ELECTRIC VEHICLE DEFINITIONS.—For pur-  
16      poses of this section—

17                      “(1) SPECIFIED ELECTRIC HIGHWAY VEHI-  
18      CLE.—The term ‘specified electric highway vehicle’  
19      means any highway motor vehicle (as defined in sec-  
20      tion 4482(a)) which is propelled to a significant ex-  
21      tent by an electric motor which draws electricity  
22      from a battery which—

23                              “(A) has a capacity of not less than 4 kilo-  
24                              watt hours, and

1           “(B) is capable of being recharged from an  
2           external source of electricity.

3           “(2) PLUG-IN HYBRID VEHICLE.—The term  
4           ‘plug-in hybrid vehicle’ means any specified electric  
5           highway vehicle which includes an internal combus-  
6           tion engine which is capable of recharging the bat-  
7           tery described in paragraph (1).

8           “(e) RULES RELATED TO USE.—

9           “(1) OWNERSHIP TREATED AS USE.—Except as  
10          otherwise provided by the Secretary, the registered  
11          owner of any specified electric highway vehicle shall  
12          be treated for purposes of this section as the user  
13          of such vehicle.

14          “(2) PRORATION.—In the case of any person  
15          who demonstrates to the Secretary in such manner  
16          as the Secretary may provide that such person was  
17          not the registered owner of such vehicle for any por-  
18          tion of the taxable year, the tax determined under  
19          subsection (a) shall bear the same ratio to such tax  
20          (determined without regard to this paragraph) as—

21                  “(A) the portion of such taxable year for  
22                  which such person was the registered owner of  
23                  such vehicle, bears to

24                  “(B) the entire taxable year.

25          “(f) INFLATION ADJUSTMENT.—

1           “(1) IN GENERAL.—In the case of any taxable  
2 year beginning after December 31, 2022, the 1 cent  
3 amount in subsection (b)(1) and the 2 cents amount  
4 in subsection (b)(2) shall each be increased by an  
5 amount equal to—

6                   “(A) such dollar amount, multiplied by

7                   “(B) the cost-of-living adjustment deter-  
8 mined under section 1(f)(3) for the calendar  
9 year in which the taxable year begins, deter-  
10 mined by substituting ‘2021’ for ‘2016’ in sub-  
11 paragraph (A)(ii) thereof.

12           “(2) ROUNDING.—Any increase determined  
13 under paragraph (1) shall be rounded to the nearest  
14 multiple of 0.1 cents.

15           “(g) AUTHORITY TO ENTER INTO INFORMATION AND  
16 REVENUE SHARING AGREEMENTS.—The Secretary may  
17 enter into an agreement with any State under which—

18                   “(1) such State provides the Secretary such in-  
19 formation as is identified in such agreement as in-  
20 formation which the Secretary has determined would  
21 aid in the administration and enforcement of this  
22 section, and

23                   “(2) the Secretary agrees to make payments to  
24 such State of a portion of the revenue collected  
25 under this section.”.

1 (b) CERTAIN INCOME TAX CREDITS NOT ALLOWED  
2 TO OFFSET TAX.—Section 26(b)(2) of such Code is  
3 amended by striking “and” at the end of subparagraph  
4 (X), by striking the period at the end of subparagraph  
5 (Y), and by adding at the end the following new subpara-  
6 graph:

7 “(Z) section 1400W–1 (relating to use of  
8 certain electric highway vehicles).”.

9 (c) TRANSFERS TO HIGHWAY TRUST FUND.—Sec-  
10 tion 9503(b)(1) of such Code is amended by striking  
11 “and” at the end of subparagraph (D), by striking the  
12 period at the end of subparagraph (E) and inserting “,  
13 and”, and by inserting after subparagraph (E) the fol-  
14 lowing new subparagraph:

15 “(F) section 1400W–1 (relating to use of  
16 certain electric highway vehicles), determined  
17 after application of subsection (f)(2) thereof.”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years beginning after  
20 December 31, 2021.

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