

1 Mileage-Based User Fee Proposal

2 Sec. \_\_. 23 V.S.A. chapter 43 is added to read:

3 CHAPTER 43. MILEAGE-BASED USER FEE

4 § 4301. PURPOSE

5 The purpose of this chapter is to impose a mileage-based user fee for battery  
6 electric vehicle pleasure cars to ensure that battery electric vehicles contribute  
7 to the Transportation Fund in an amount that reflects the annual miles traveled  
8 by each vehicle.

9 § 4302. DEFINITIONS

10 As used in this chapter:

11 (1) “Account manager” means a person that the Agency of  
12 Transportation or Department of Motor Vehicles contracts with to administer  
13 and manage the mileage-based user fee.

14 (2) “Annual vehicle miles traveled” means the total number of miles that  
15 a BEV is driven during the mileage reporting period.

16 (3) “BEV” means a battery electric vehicle pleasure car.

17 (4) “Mileage-based user fee” means the fee charged for the annual  
18 vehicle miles traveled by a BEV pursuant to section 4303 of this chapter.

19 (5) “Mileage-based user fee rate” means the per-mile usage fee charged  
20 to the owner or lessee of a BEV pursuant to section 4303 of this chapter.

1           (6) “Mileage reporting period” means:

2                   (A) the time period between annual inspections; or

3                   (B) the time period between the most recent annual inspection and a  
4 terminating event.

5           (7) “Terminating event” means any of the following:

6                   (A) the registering of a BEV that had been registered in Vermont in a  
7 different state;

8                   (B) a change in ownership or lesseeship of a BEV; or

9                   (C) the termination of a BEV’s registration.

10           § 4303. MILEAGE-BASED USER FEE; ASSESSMENT; CALCULATION;  
11                   PAYMENT; EXEMPTIONS

12           (a) Annual mileage-based user fee.

13                   (1) Except as otherwise provided pursuant to subsections (b) and (c) of  
14 this section, the Commissioner shall, for each BEV registered in Vermont,  
15 calculate pursuant to subsection (d) of this section a mileage-based user fee  
16 within 14 days after the conclusion of the BEV’s mileage reporting period.

17                   (2) As soon as practicable after calculating the amount of the mileage-  
18 based user fee due for a BEV, the Commissioner shall mail to the registered  
19 owner or lessee of the BEV a statement of the amount of the mileage-based  
20 user fee assessed pursuant to this section.

1           (3) Not more than 45 days after a mileage-based user fee assessment is  
2           mailed pursuant to subsection (a) of this section, the owner or lessee of the  
3           BEV shall:

4                   (A) remit the full amount of the mileage-based user fee to the  
5           Commissioner; or

6                   (B) enter into an agreement with the Commissioner to pay the  
7           amount of the mileage-based user fee in quarterly or monthly installments.

8           (b) Pay-as-you-go option.

9                   (1) The Commissioner may, in the Commissioner’s sole discretion,  
10           establish a pay-as-you-go mileage-based user fee program that BEV owners  
11           and lessees may opt into in lieu of paying an annual mileage-based user fee  
12           pursuant to subsection (a) of this section.

13                   (2) Owners and lessees that opt into the pay-as-you-go mileage-based  
14           user fee program shall report the mileage shown on the odometer of the owner  
15           or lessee’s BEV at times and in a manner required by the Commissioner.

16                   (3) As soon as practicable after receiving the report, the Commissioner  
17           shall calculate pursuant to subsection (d) of this section the applicable mileage-  
18           based user fee due for the BEV and mail to the registered owner or lessee of  
19           the BEV a statement of the amount of the mileage-based user fee assessed.

20                   (4) The owner or lessee of the BEV shall remit the full amount due to  
21           the Commissioner within not more than 30 days after the assessment is mailed.

1           (5)(A) At the conclusion of each mileage reporting period for a BEV  
2           enrolled in the pay-as-you-go mileage-based user fee program, the  
3           Commissioner shall determine if the actual miles traveled by the BEV during  
4           the mileage reporting period were greater than or less than the miles reported  
5           by the owner or lessee during that period.

6           (B) If the actual mileage was less than the amount reported, the  
7           owner or lessee of the BEV shall receive a credit equal to the difference  
8           between the mileage reported and the actual miles traveled multiplied by the  
9           rate established pursuant to subsection (e) of this section. The credit shall be  
10           applied to reduce the next amount due from the owner or lessee pursuant to  
11           subdivision (3) of this subsection (b).

12           (C) If the actual mileage was greater, the owner or lessee of the BEV  
13           shall be assessed an amount equal to the difference between actual miles  
14           traveled and the mileage reported multiplied by the rate established pursuant to  
15           subsection (e) of this section. That amount shall be added to the next amount  
16           due from the owner or lessee pursuant to subdivision (3) of this subsection (b).

17           (c) Mileage-based user fee for newly registered vehicles.

18           (1) The owner or lessee of a BEV that is being registered in Vermont for  
19           the first time may elect to opt into the pay-as-you-go mileage-based user fee

1 program established pursuant to subsection (b) of this section, provided the  
2 Commissioner has made the program available to owners and lessees of BEVs.

3 (2)(A) The owner or lessee of a BEV that is being registered in Vermont  
4 for the first time who does not opt into the pay-as-you-go mileage-based user  
5 fee program as provided in subdivision (1) of this subsection (c) shall be  
6 assessed upon registration of the BEV an estimated mileage-based user fee  
7 equal to the rate established pursuant to subsection (e) of this section  
8 multiplied by the average annual vehicle miles traveled by pleasure cars  
9 registered in Vermont.

10 (B) The fee shall be paid as provided pursuant to subdivision (a)(3)  
11 of this section.

12 (C)(i) Upon completion of the first mileage reporting period for the  
13 BEV, the Commissioner shall determine if the actual miles traveled by the  
14 BEV during the mileage reporting period were greater than or less than the  
15 mileage that the fee assessed pursuant to subdivision (A) of this subdivision  
16 (c)(2) was based on.

17 (ii) If the actual mileage was less, the owner or lessee of the BEV  
18 shall receive a credit equal to the difference between the mileage that the fee  
19 assessed pursuant to subdivision (A) of this subdivision (c)(2) was based on  
20 and the actual miles traveled multiplied by the rate established pursuant to  
21 subsection (e) of this section. The credit shall be applied to reduce the amount

1 of the next mileage-based user fee for the BEV that is assessed pursuant to  
2 subsection (a) or (b) of this section.

3 (iii) If the actual mileage was greater, the owner or lessee of the  
4 BEV shall be assessed an amount equal to the difference between actual miles  
5 traveled and the mileage that the fee assessed pursuant to subdivision (A) of  
6 this subdivision (c)(2) was based on multiplied by the rate established pursuant  
7 to subsection (e) of this section. That amount shall be added to the amount of  
8 the next mileage-based user fee assessed for the BEV pursuant to subsection  
9 (a) or (b) of this section.

10 (d) Calculation of the mileage-based user fee. The Commissioner shall  
11 calculate the mileage-based user fee of each BEV by multiplying the miles  
12 traveled by the BEV during the applicable period by the rate established  
13 pursuant to subsection (e) of this section. The number of miles traveled shall  
14 be equal to:

15 (1) for a mileage reporting period, the difference between the mileage  
16 shown on the BEV's odometer at the end of the mileage reporting period and  
17 the mileage shown on the BEV's odometer at the beginning of the mileage  
18 reporting period; and

19 (2) for a report filed by an owner or lessee as part of the pay-as-you-go  
20 mileage-based user fee program pursuant to subsection (b) of this section, the

1 difference between the mileage reported by the owner or lessee and the most  
2 recent prior mileage reported for the BEV.

3 (e) Mileage-based user fee rate. For mileage reporting periods  
4 commencing in calendar year 2027, the mileage-based user fee rate shall be  
5 \$0.014 per mile traveled by a BEV during its mileage reporting period.

6 (f) Exemptions. The mileage-based user fee assessed pursuant to this  
7 section shall not apply to BEVs owned or operated by the Government of the  
8 United States.

9 (g) Fee in addition to other fees and taxes. A mileage-based user fee  
10 assessed pursuant to this section shall be in addition to any other fees and taxes  
11 imposed by this title.

12 (h) Review of amount assessed. A person may, within 15 days after an  
13 assessment is mailed pursuant to subsections (a), (b), and (c) of this section,  
14 appeal the amount of the assessment to the Commissioner. The Commissioner  
15 shall establish procedures for filing and hearing appeals pursuant to this  
16 subsection that are consistent with the provisions of sections 105–107 of this  
17 title. The procedures shall include a process by which an appellant can resolve  
18 the dispute prior to the issuance of a final administrative decision on the  
19 appeal.

20 (i) Refunds. Upon occurrence of a terminating event, the Commissioner  
21 shall issue a refund to the owner or lessee of a BEV for any amounts paid by

1 the owner or lessee that are in excess of the amount due pursuant to this  
2 chapter.

3 § 4304. REPORTS

4 (a) Upon completion of an inspection of a BEV pursuant to section 1222 of  
5 this title, an inspection mechanic shall report the mileage shown on the BEV's  
6 odometer to the Department in the manner required by the Commissioner.

7 (b) Upon the occurrence of a terminating event, the owner or lessee of a  
8 BEV shall report the mileage shown on the BEV's odometer at the time of the  
9 terminating event to the Department in the time and manner required by the  
10 Commissioner.

11 § 4305. FAILURE TO PAY FEE WHEN DUE; INTEREST

12 (a) Any person who fails to pay the mileage-based user fee when due shall  
13 owe, in addition to the mileage-based user fee, interest calculated at one and  
14 one-half percent per month on the amount of the mileage-based user fee that  
15 remains unpaid. The maximum amount of interest that may accrue pursuant to  
16 this subsection shall not exceed 18 percent of the amount of the unpaid fee.

17 (b) The Commissioner may waive some or all of the interest and penalties  
18 required pursuant to subsection (a) of this section if the Commissioner  
19 determines that the delay in payment was due to excusable neglect.

20 § 4306. FAILURE TO FILE REPORT; PENALTY RATE

1        If the Commissioner is unable to determine the annual vehicle miles  
2        traveled for a BEV because a person failed to file a report required by section  
3        4304 of this chapter or failed to have the BEV inspected as required pursuant  
4        to section 1222 of this title [within a reasonable period of time after the report  
5        or inspection is due], the Commissioner shall calculate the mileage-based user  
6        fee for the BEV based on the 98th percentile of the miles traveled by BEVs  
7        registered in Vermont during mileage reporting periods ending in the  
8        preceding calendar year.

9        § 4307. REGISTRATION; SUSPENSION OR REFUSAL

10        (a) Suspension of registration. The Commissioner may suspend or refuse  
11        to renew the registration of a BEV if the Commissioner determines, following  
12        notice and an opportunity for a hearing as provided pursuant to subsection (b)  
13        of this section, that the owner or lessee of the BEV:

14                (1) failed to file a report required pursuant to section 4304 of this  
15        chapter;

16                (2) filed a report containing an intentional misrepresentation,  
17        misstatement, or omission of material information required by this chapter; or

18                (3) is delinquent at the time of renewal in the payment amount due  
19        pursuant to the provisions of this chapter.

20        (b) Notice and opportunity for hearing. The Commissioner shall provide  
21        the owner or lessee of a BEV with not less than 15 days' notice of the intent to

1 suspend or not to renew the registration of the BEV pursuant to the provisions  
2 of this section. The owner or lessee shall be provided with the opportunity for  
3 a hearing and shall be permitted to be represented by counsel at the hearing.

4 § 4308. POWERS OF THE COMMISSIONER

5 (a) General authority. The Commissioner shall have the authority to  
6 administer and enforce the provisions of this chapter.

7 (b) Additional powers. In addition to any powers or authority specifically  
8 granted to the Commissioner pursuant to the provisions of this chapter, the  
9 Commissioner may do the following:

10 (1) Adopt rules pursuant to 3 V.S.A. chapter 25 as the Commissioner  
11 determines necessary to administer and enforce the provisions of this chapter.

12 (2) Prescribe forms appropriate to the purposes of this chapter.

13 (3) Contract with an account manager to administer and manage the  
14 mileage-based user fee.

15 (4) With the approval of the Governor and Secretary, enter into  
16 agreements with other states, the District of Columbia, and Canadian  
17 provinces, providing for the reciprocal enforcement of mileage-based user fee  
18 or tax laws imposed by the jurisdictions entering into such an agreement,  
19 which agreement may empower a duly authorized officer of any contracting  
20 jurisdiction that extends such authority to officers or employees of this State, to

1 sue for the collection of that state’s or province’s mileage-based user fee or  
2 taxes in the courts of this State.

3 (5) Hold hearings, cause depositions to be taken, administer oaths, and  
4 examine under oath any person relating to any matter under this chapter.

5 (6) Compel the attendance of witnesses and order the production of any  
6 relevant books, records, papers, accounts, or other documents of any person the  
7 Commissioner has reason to believe is liable for the payment of a mileage-  
8 based user fee or of any person believed to have information pertinent to any  
9 matter under investigation by the Commissioner at any hearing held under this  
10 chapter. The fees for travel and attendance of witnesses summoned or used by  
11 the Commissioner and fees for officers shall be the same as for witnesses and  
12 officers before a court and shall be paid by the State upon presentation of  
13 proper bills of cost to the Commissioner of Finance and Management, but no  
14 fees or expenses shall be payable to a witness charged with liability for  
15 reporting or paying a mileage-based user fee.

16 (c) Examinations under oath. Any examination under oath conducted by  
17 the Commissioner may, at the Commissioner’s discretion, be reduced to  
18 writing, and intentional false testimony shall be deemed perjury and be  
19 punishable as such.

20 (d) Compulsory process. Upon application of the Commissioner, a  
21 superior judge may compel the attendance of witnesses, the giving of

1 testimony, and the production of any books, records, papers, vouchers,  
2 accounts, or documents before the Commissioner in the same manner, to the  
3 same extent, and subject to the same penalties as if before a Superior Court.

4 **§ 4309. JUDICIAL REVIEW**

5 (a) Notice of appeal. An aggrieved person may appeal any final decision,  
6 order, or finding of the Commissioner under this chapter pursuant to Rule 74  
7 of the Vermont Rules of Civil Procedure. The appeal shall be to the  
8 Washington Superior Court or, in the discretion of the appellant, to the  
9 Superior Court in the county where the appellant resides or has a principal  
10 place of business.

11 (b) Exclusivity of remedy. The appeal provided by this section shall be the  
12 exclusive remedy available to any person for review of a final decision of the  
13 Commissioner under this chapter.

14 Sec. \_\_. 23 V.S.A. § 361 is amended to read:

15 § 361. PLEASURE CARS

16 \* \* \*

17 (c) In addition to the registration fee set forth in subsection (a) of this  
18 section, there shall be an annual ~~EV~~ infrastructure fee for a pleasure car that is  
19 a plug-in hybrid electric vehicle, as defined in subdivision 4(85)(B) of this  
20 title, equal to one-half the amount of the annual fee collected in subsection (a)

1 of this section, or a biennial ~~EV~~ infrastructure fee equal to the annual fee  
2 collected in subsection (a) of this section.

3 (d) The annual and biennial ~~EV~~ infrastructure fees collected in subsection  
4 (c) of this section shall be ~~allocated to~~ deposited in the Transportation Fund ~~for~~  
5 ~~programs administered by the Agency of Commerce and Community~~  
6 ~~Development to increase Vermonters' access to level 1 and 2 electric vehicle~~  
7 ~~supply equipment (EVSE) charging ports at workplaces or multiunit dwellings,~~  
8 ~~or both.~~

9 Sec. \_\_. MILEAGE-BASED USER FEE; TRANSITION

10 BEV pleasure cars that are registered in Vermont on December 31, 2026,  
11 shall transition to the mileage-based user fee established pursuant to 23 V.S.A.  
12 chapter 43 as follows:

13 (1) The initial mileage reporting period for each BEV shall commence  
14 on its first annual inspection occurring on or after January 1, 2027.

15 (2) The BEV shall receive a credit equal to \$89.00 [prorated credit based  
16 on the number of months in the reporting period that are covered by the most  
17 recent annual infrastructure fee paid by the owner or lessee pursuant to 23  
18 V.S.A. § 361] towards the amount of the mileage-based user fee due pursuant  
19 to 23 V.S.A. § 4303 for the initial mileage reporting period.

- 1       Sec. \_\_. EFFECTIVE DATES
- 2           Secs. \_\_\_\_ (mileage-based user fee), \_\_\_\_ (infrastructure fee for PHEVs), and \_\_\_\_
- 3           (transition to mileage-based user fee) shall take effect on January 1, 2027.