

1 Mileage Based User Fee Trigger Proposal

2

3 Sec. \_\_. 23 V.S.A. chapter 43 is amended to read:

4 CHAPTER 43. MILEAGE BASED USER FEE

5 § 4301. PURPOSE

6 The purpose of this chapter is to impose a mileage-based user fee for ~~battery~~  
7 ~~electric vehicle pleasure cars that is approximately equivalent to the average~~  
8 ~~amount collected by the State in fuel tax revenue from the use of a non-plug-in~~  
9 ~~electric vehicle pleasure cars registered in Vermont and the combined amount~~  
10 ~~of the electric vehicle infrastructure fee and fuel tax revenue collected by the~~  
11 ~~State for the use of a plug-in hybrid electric vehicle pleasure car~~ motor vehicles  
12 registered for highway use pursuant to the provisions of chapter 7 of this title.

13 § 4302. DEFINITIONS

14 As used in this chapter:

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

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

20 (3) “~~BEV~~” means a ~~battery electric vehicle pleasure car~~. [Repealed.]

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

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

7 (6) “Mileage reporting period” means the time between annual  
8 inspections or the time between the most recent annual inspection and a  
9 terminating event.

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

11 (A) the registering of a ~~BEV~~ motor vehicle that had been registered  
12 in Vermont in a different state;

13 (B) a change in ownership or lesseeship of a ~~BEV~~ motor vehicle; or

14 (C) the termination of a ~~BEV~~'s motor vehicle's registration for  
15 highway use.

16 § 4303. MILEAGE-BASED USER FEE; ASSESSMENT; CALCULATION;  
17 PAYMENT; EXEMPTIONS

18 (a) Assessment of mileage-based user fee.

19 (1) The Commissioner shall, for each ~~BEV~~ motor vehicle registered in  
20 Vermont for highway use, calculate pursuant to subsection (c) of this section a

1 mileage-based user fee within 14 days after the conclusion of the ~~BEV's~~ motor  
2 vehicle's mileage reporting period.

3 (2) As soon as practicable after calculating the amount of the mileage-  
4 based user fee due for a ~~BEV~~ motor vehicle, the Commissioner shall mail to  
5 the registered owner or lessee of the ~~BEV~~ motor vehicle a statement of the  
6 amount of the mileage-based user fee assessed pursuant to this section.

7 (3) The mileage-based user fee assessed pursuant to this section shall be  
8 in addition to any other fees and taxes imposed by this title.

9 (b) Payment of mileage-based user fee.

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

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

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

17 (c) Calculation of the mileage-based user fee. For mileage reporting  
18 periods commencing in calendar year 2027, the Commissioner shall calculate  
19 the mileage-based user fee at the rate of \$0.014 per mile traveled by each ~~BEV~~  
20 motor vehicle during its mileage reporting period. The number of miles  
21 traveled shall be equal to the difference between the mileage shown on the

1 ~~BEV's~~ motor vehicle's odometer at the end of the mileage reporting period and  
2 the mileage shown on the ~~BEV's~~ motor vehicle's odometer at the beginning of  
3 the mileage reporting period.

4 (d) Annual adjustment of mileage-based user fee rate. Beginning on  
5 January 1, 2028, and on each succeeding January 1, the mileage-based user fee  
6 rate shall be increased by the percentage change in the National Highway  
7 Construction Cost Index, or successor index, for the year ending on September  
8 30 of the preceding calendar year. If the percentage change in the National  
9 Highway Construction Cost Index, or successor index, is zero or negative, the  
10 rate per mile shall remain the same as in the preceding year.

11 (e) Exemptions. [PLACEHOLDER]

12 § 4304. REPORTS

13 (a) Upon completion of an inspection of a ~~BEV~~ motor vehicle pursuant to  
14 section 1222 of this title, an inspection mechanic shall report the mileage  
15 shown on the ~~BEV's~~ motor vehicle's odometer to the Department in the  
16 manner required by the Commissioner.

17 (b) Upon the occurrence of a terminating event, the owner or lessee of a  
18 ~~BEV~~ motor vehicle shall report the mileage shown on the ~~BEV's~~ motor  
19 vehicle's odometer at the time of the terminating event to the Department in  
20 the manner required by the Commissioner.

1 § 4305. FAILURE TO FILE REPORT OR PAY FEE WHEN DUE;

2 PENALTY

3 (a) Late fee. Any person who fails to file a report as required by this  
4 chapter shall be assessed an administrative penalty of \$10.00.

5 (b) Interest; penalty.

6 (1) Any person who fails to pay the mileage-based user fee when due  
7 shall owe, in addition to the mileage-based user fee, interest calculated at one  
8 and one-half percent per month on the amount of the mileage-based user fee  
9 that remains unpaid.

10 (2) For amounts that remain unpaid for more than 30 days, a penalty  
11 equal to five percent of the outstanding mileage-based user fee due shall be  
12 assessed for each month until the mileage-based user fee has been paid in full.  
13 The penalty imposed pursuant to this subdivision shall not exceed 25 percent  
14 of the amount of the mileage-based user fee for the ~~BEV~~ motor vehicle that  
15 was assessed pursuant to subsection 4303(a) of this chapter.

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

19 § 4306. FAILURE TO FILE REPORT; PENALTY RATE

20 If the Commissioner is unable to determine the annual vehicle miles  
21 traveled for a ~~BEV~~ motor vehicle because a person failed to file a report

1 required by section 4304 of this chapter, the Commissioner shall calculate the  
2 mileage-based user fee for the ~~BEV~~ motor vehicle based on the 98th percentile  
3 of the miles traveled by ~~BEVs~~ motor vehicles registered in Vermont during  
4 mileage reporting periods ending in the preceding calendar year.

5 § 4307. REGISTRATION; SUSPENSION OR REFUSAL

6 (a) Suspension of registration. The Commissioner may suspend or refuse  
7 to renew the registration of a ~~BEV~~ motor vehicle if the Commissioner  
8 determines, following notice and an opportunity for a hearing as provided  
9 pursuant to subsection (b) of this section, that the owner or lessee of the ~~BEV~~  
10 motor vehicle:

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

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

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

17 (b) Notice and opportunity for hearing. The Commissioner shall provide  
18 the owner or lessee of a ~~BEV~~ motor vehicle with not less than 15 days' notice  
19 of the intent to suspend or not to renew the registration of the ~~BEV~~ motor  
20 vehicle pursuant to the provisions of this section. The owner or lessee shall be

1 provided with the opportunity for a hearing and shall be permitted to be  
2 represented by counsel at the hearing.

3 § 4308. RECORDS; INSPECTION

4 (a) Records; retention. Each owner or lessee of a ~~BEV~~ motor vehicle shall  
5 keep and retain for a period of not less than three years any records required by  
6 the Commissioner that are reasonably necessary to substantiate the reports  
7 required pursuant to section 4304 of this chapter.

8 (b) Audits.

9 (1) The Commissioner or the Commissioner's agents may examine the  
10 records of an owner or lessee upon not less than four days' notice to verify the  
11 truth and accuracy of any statement or report made pursuant to the provisions  
12 of this chapter or to determine if the mileage-based user fee imposed pursuant  
13 to this chapter has been paid.

14 (2) If the records of a nonresident owner or lessee are not available for  
15 examination in this State, the Commissioner may request that the nonresident  
16 owner or lessee provide to the Commissioner the records that the  
17 Commissioner reasonably requires. If the owner or lessee is unable or  
18 unwilling to comply with the request, the Commissioner may charge the owner  
19 or lessee a reasonable per diem fee and expenses for the Commissioner's agent  
20 to examine the records out-of-state, which shall be payable within 30 days after  
21 the mailing of a bill by the Commissioner.

1 § 4309. POWERS OF THE COMMISSIONER

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

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

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

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

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

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

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

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

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

16           (d) Compulsory process. Upon application of the Commissioner, a  
17 superior judge may compel the attendance of witnesses, the giving of  
18 testimony, and the production of any books, records, papers, vouchers,  
19 accounts, or documents before the Commissioner in the same manner, to the  
20 same extent, and subject to the same penalties as if before a Superior Court.

1 § 4310. PROCEEDINGS TO RECOVER UNPAID AMOUNTS

2 (a) Civil enforcement actions. Whenever any person fails to pay the  
3 mileage-based user fee, penalty, or interest due under this chapter, the Attorney  
4 General shall, upon the request of the Commissioner, enforce the payment on  
5 behalf of the State in any court of the State or of any other state of the United  
6 States or of any province of Canada.

7 (b) Liens. The remedy for the collection of taxes provided by 32 V.S.A.  
8 § 9811(b) shall be available to the Commissioner as an additional or alternate  
9 remedy for collection of amounts due under this chapter. The Commissioner  
10 may issue a warrant directed to a law enforcement officer who may exercise  
11 throughout the State the same powers granted to a sheriff in the sheriff's  
12 county.

13 (c) Private collection agencies. The Commissioner is authorized to  
14 contract with private collection agencies for collection of amounts due  
15 pursuant to the provisions of this chapter on persons who have failed to pay  
16 after reasonable notification of the amount due. The Commissioner may agree  
17 to pay collection agencies a fixed rate for services rendered or a percentage of  
18 the amount actually collected by the agencies and remitted to the State.  
19 Notwithstanding 32 V.S.A. § 502, the Commissioner may charge against the  
20 collections an agreed-upon fixed rate or percentage of collections.

1 § 4311. JUDICIAL REVIEW

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

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

11 [CONTINGENT EFFECTIVE DATE OPTION 1]

12 Sec. \_\_. EFFECTIVE DATE

13 (a) Sec. \_\_ of this bill shall take effect on the earlier of:

14 (1) January 1, 2033; or

15 (2) the next January 1 following the occurrence of any of the following:

16 (A) the revenues collected pursuant to 23 V.S.A. chapter 28 (gasoline  
17 tax) for a fiscal year are 2.5 percent or more below the revenues collected  
18 pursuant to that chapter in the preceding fiscal year;

19 (B) an official State revenue estimate adopted by the Emergency  
20 Board pursuant to 32 V.S.A. § 305a projects that the revenues that will be  
21 generated pursuant to 23 V.S.A. chapter 28 in a fiscal year will be 2.5 percent

1 or more below the revenues forecasted to be collected pursuant to that chapter  
2 in the preceding fiscal year;

3 (C) the total amount of revenues collected pursuant to 23 V.S.A.  
4 chapter 28 during a fiscal year is 2.5 percent or more below the amount of  
5 revenues projected to be collected in that fiscal year in the official State  
6 revenue estimate adopted pursuant to 32 V.S.A. § 305a in January of that fiscal  
7 year;

8 (D) the revenues collected pursuant to 32 V.S.A. chapter 219 (motor  
9 vehicle purchase and use tax) for a fiscal year are 2.5 percent or more below  
10 the revenues collected pursuant to that chapter in the preceding fiscal year;

11 (E) an official State revenue estimate adopted by the Emergency  
12 Board pursuant to 32 V.S.A. § 305a projects that the revenues that will be  
13 generated pursuant to 32 V.S.A. chapter 219 in a fiscal year will be 2.5 percent  
14 or more below the revenues forecasted to be collected pursuant to that chapter  
15 in the preceding fiscal year; or

16 (F) the total amount of revenues collected pursuant to 32 V.S.A.  
17 chapter 219 during a fiscal year is 2.5 percent or more below the amount of  
18 revenues projected to be collected in that fiscal year in the official State  
19 revenue estimate adopted pursuant to 32 V.S.A. § 305a in January of that fiscal  
20 year.

1 [CONTINGENT EFFECTIVE DATE OPTION 2]

2 Sec. \_\_. EFFECTIVE DATE

3 (a) Sec. \_\_ of this bill shall take effect on the earlier of:

4 (1) January 1, 2033; or

5 (2) the next January 1 following the occurrence of any of the following:

6 (A) the total amount of Transportation Fund revenues for a fiscal  
7 year are 2.5 percent or more below the Fund’s revenues in the preceding fiscal  
8 year;

9 (B) an official State revenue estimate adopted by the Emergency  
10 Board pursuant to 32 V.S.A. § 305a projects that the total amount of  
11 Transportation Fund revenues in a fiscal year will be 2.5 percent or more  
12 below the forecasted amount of the Fund’s revenues in the preceding fiscal  
13 year; or

14 (C) the total amount of Transportation Fund revenues during a fiscal  
15 year is 2.5 percent or more below the forecasted amount of Fund revenues for  
16 that fiscal year in the official State revenue estimate adopted pursuant to 32  
17 V.S.A. § 305a in January of that fiscal year.