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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

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.

IN THE HOUSE OF REPRESENTATIVES

Mr. SMUCKER introduced the following bill; which was referred to the Committee on _____

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.