



Transportation  
Investment  
Advocacy Center

American Road & Transportation Builders Association

# **ELECTRIC VEHICLE EXCISE TAX MODEL LANGUAGE**

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MAY 2022

## EXECUTIVE SUMMARY

The 2021 Infrastructure Investment and Jobs Act (IIJA) includes a record \$7.5 billion over five years<sup>i</sup> to expand the nation's electric vehicle charging infrastructure. The goal is a more than tenfold increase in charging stations along highway corridors, from 47,000<sup>ii</sup> to 500,000<sup>iii</sup>. Simultaneously, state transportation officials are addressing the challenge of ensuring electric vehicle drivers contribute to the construction and maintenance of the transportation infrastructure they use.

Currently, 30 states have adopted registration fees for residents who drive electric vehicles. However, these fees don't collect revenue from out-of-state drivers who utilize the state's roads and bridges.

As states begin to expand their electric vehicle charging infrastructure many are considering levying a per-kilowatt hour excise tax on the use of electricity at public electric vehicle charging stations. Since 2019, Oklahoma, Iowa, Minnesota, Kansas, Mississippi, and Nevada have proposed legislation aimed at capturing taxes from electric vehicles at the charging station.

Pennsylvania (1997), Iowa (2019), Oklahoma (2021), and Kentucky (2022) have enacted this tax at the time of publication.

This Transportation Investment Advocacy Center™ (TIAC) report outlines model language legislation levying a per-kilowatt hour excise tax on electric power provided by a charging station operator or owner. It presents information that transportation advocates can share with state lawmakers for the consideration of enacting similar charging station tax legislation.

Some parts of the model legislation language are highlighted and underlined. They are variables—effective dates, tax rates, and penalties for non-compliance—that can be filled-in with state-specific information.

Following model language, a Q&A section provides more insights concerning the implementation of an electric power excise tax, methods of collection, and how revenues would be used.

An addendum provides information on the six proposals put forth by the aforementioned states.

Established in 2014 by the American Road & Transportation Builders Association (ARTBA), the TIAC is a first-of-its kind, dynamic education program and internet-based information resource designed to help private citizens, legislators, organizations, and businesses successfully grow transportation investment at the state and local levels through the legislative and ballot initiative processes.

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<sup>i</sup> "President Biden, U.S. Department of Transportation Releases Toolkit to Help Rural Communities Build Out Electric Vehicle Charging Infrastructure", U.S. Department of Transportation. <https://www.transportation.gov/briefing-room/president-biden-us-department-transportation-releases-toolkit-help-rural-communities>.

<sup>ii</sup> "Alternative Fueling Station Locator", U.S. Department of Energy (Alternative Fuels Data Center). Retrieved April 29, 2022, from [https://afdc.energy.gov/stations/#/find/nearest?country=US&fuel=ELEC&ev\\_levels=all](https://afdc.energy.gov/stations/#/find/nearest?country=US&fuel=ELEC&ev_levels=all).

<sup>iii</sup> "FACT SHEET: The Biden-Harris Electric Vehicle Charging Action Plan", The White House. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/13/fact-sheet-the-biden-harris-electric-vehicle-charging-action-plan/>.

# ELECTRIC VEHICLE EXCISE TAX MODEL LANGUAGE

## SECTION 1 – DEFINITIONS

For the purposes of this act:

1. “*Electric vehicle charging station*” is defined as any place accessible to the public, where there is equipment through which electricity is transferred to the power system of a registered electric passenger or commercial vehicle.
2. “*Electric vehicle power dealer*” is defined as any person or entity that owns and operates a charging station in the state.
3. “*Electric vehicle*” is defined as a vehicle that runs either partially or fully on electric power. This includes:
  - a. “*Battery electric vehicle*”—a vehicle that operates on an electric motor from electric power stored in a battery, as opposed to an internal combustion engine.
  - b. “*Plug-in hybrid electric vehicle*”—a vehicle that can operate from battery-stored electric power, as well as on motor fuel through an internal combustion engine.
4. “*Electric vehicle owner*” is defined as any person(s) listed as the owner of an electric vehicle, per state vehicle registration.
5. “*Electric power*” is defined as electric energy delivered into the battery—or other power storage device—of an electric vehicle for the purposes of operating the vehicle.
6. “*Residential charging station*” is defined as an electric vehicle charging station that resides in a private residence, intended for private use.

## SECTION 2 – EXCISE TAX ON ELECTRIC VEHICLE POWER

1. On and after **MM, DD, YYYY**, an excise tax with a base rate of **XX** cent(s) per kilowatt hour is hereby imposed on electric power provided by an electric vehicle power dealer in the state.
2. The rate shall be adjusted annually as set forth in section (5) of this bill.

## SECTION 3 – ALTERNATIVE TAX OPTION

1. In lieu of the excise tax outlined in section (2), an electric vehicle power dealer may instead choose to collect and remit an imposed tax of **XX** dollars and **XX** cent(s) per use of an electric vehicle charging station.
2. Any electric vehicle power dealer that chooses to remit the tax imposed in this section, shall not be required to remit the tax imposed in section (2) of this bill.
3. The electric vehicle power dealer shall notify the Department of Revenue, within **XX** days of the start of the fiscal year, which tax they choose to remit.
  - a. The electric vehicle power dealer will be required to remit that tax for the entirety of that fiscal year.

**SECTION 4 – COLLECTION OF TAX**

1. The tax shall be administered and collected by the Department of Revenue.
  - a. The imposed taxes outlined in sections (2) and (3) of this bill on electric power will be paid to the State Comptroller within the Department of Revenue.
  - b. The Department of Revenue shall then transfer the remitted tax directly to the (insert name of state transportation fund), to be used solely for transportation purposes.
2. The electric vehicle power dealer is solely responsible for payment of the imposed taxes outlined in section (2) and (3) of this bill.
  - a. Any tax shall be added to the existing fee charged by the electric vehicle power dealer; or
  - b. If there is no existing fee imposed at an electric vehicle charging station, the electric vehicle power dealer will be responsible for payment the tax.
3. The electric vehicle power dealer shall provide a report to the Department of Revenue, on the XX day of each month. The report will include total kilowatt hours delivered, and the amount of tax collected.
  - a. Payment of the tax will be due with the report.
  - b. The Department of Revenue will provide all necessary forms required to complete the report and payment of the outlined taxes in section (2) and (3) of this bill.
  - c. Any electric vehicle power dealer who fails to submit monthly documentation and/or payment of the excise tax, will be subject to penalties under law.

**SECTION 5 – INDEXING OF EXCISE TAX RATE (OPTIONAL)**

1. On and after MM, DD, YY, and on MM, DD of each fiscal year, the taxes imposed in sections (2) and (3) of this bill shall be adjusted annually by:
  - a. Option 1: the percentage change in the National Highway Construction Cost Index (NHCCI) as calculated by the Federal Highway Administration (FHWA); or
  - b. Option 2: the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) as calculated by the U.S. Bureau of Labor Statistics (BLS); or
  - c. Option 3: the percentage change in average wholesale price of electricity, as collected by the U.S. Energy Information Administration (EIA).
  - d. Option 4: on a cent-per-gallon state gas tax equivalent, the basis of which is statutorily set at Btu.
2. The adjustment shall not increase or decrease by more than XX percent.
3. Any adjustment shall not fall below the base rate outlined in section (2).
4. The Department of Revenue shall notify all electric vehicle power dealer's XX days in advance of any adjustment in the excise tax rate.

**SECTION 6 – EXEMPTIONS AND REFUND (OPTIONAL)**

1. The taxes outlined in sections (2) and (3) of this bill shall not apply to electric power obtained from a residential charging station.
2. The excise taxes outlined in sections (2) and (3) of this bill shall not apply to public transportation road vehicles, such as school buses, metro buses, ambulances, garbage trucks.
3. Any electric vehicle owner with an electric vehicle registered in the state may apply for refund of any remitted tax, up to the amount of their annual registration fees according to (STATUTE).
  - a. Any electric vehicle owner seeking a refund must file an official claim with the Department of Revenue, stating the amount of tax paid in the applicable fiscal year.
  - b. An electric vehicle owner may only file one refund claim per year, per electric vehicle.
  - c. Every electric vehicle must maintain and keep record for X years, to substantiate such claims.
  - d. The Department of Revenue will issue all refunds within X days of an accurate and complete claim.

## Appendix A: Questions and Answers

**Q: Where would revenues from an electric fuel excise be distributed?**

**A:** All the recent state proposals send revenues either directly to their state transportation, or equivalent. For example, the measure enacted by the Oklahoma legislature in 2021 (see table in appendix B) requires 85 percent of revenue from the tax to be directed to their ROADS fund (for maintenance and repair of state highway and bridges), and the remaining 15 percent to the County Highway Bridge Program. The model language above outlines that revenues go directly into a state transportation fund, so that the tax drivers pay is used directly for the transportation infrastructure they utilize.

**Q: Does the tax on electric power need to be indexed for inflation?**

**A:** Kentucky will index their tax to an inflationary measurement (the NHCCI). Additionally, many states have variable-rate motor fuels taxes that automatically adjust with inflation or price changes. States index taxes or fees because the purchasing power of a flat tax rate erodes as inflation gradually increases the cost of construction materials, labor, and general goods and services. The model language report includes four variable-rate options.

**Q: Are there additional methods of excise tax collection, beyond a per kilowatt-hour levy?**

**A:** The proposal from Mississippi charges a per-use tax of \$2.50 each time a driver uses a charging station to power their electric vehicle. The model language includes this type of tax as an alternative option to the 'per kilowatt-hour' model.

**Q: Would a per-kilowatt hour tax collected at public charging stations replace existing electric vehicle registration fees?**

**A:** No. The measures passed in Oklahoma and Iowa included language to implement new electric vehicle registration fees on top of the tax on electric power. The pending proposals in Minnesota and Kansas don't remove or alter the existing electric vehicle registration fees in those states. Additionally, the excise tax ensures that out-of-state drivers also pay for their share of wear and tear on roads.

Appendix B: Recent Electric Fuel Excise Tax Proposals

State	Excise Tax Description	Status
Oklahoma	Beginning Jan. 1, 2024, levys a three-cent tax per kilowatt hour to charge an electric vehicle. The bill also charges registration fees for electric vehicles based on the vehicle’s weight and type and would provide an income tax credit for taxes paid, not to exceed the EV registration fee.	Enacted (2021)
Iowa	Establishes three new road user fees for EVs: registration fee (starting Jan. 1, 2020), hydrogen fuel excise tax (starting Jan. 1, 2020), and a per-kilowatt hour excise tax on electric power (starting July 1, 2023).	Enacted (2019)
Pennsylvania	Alternative fuels used to propel vehicles on highways are subject to the alternative fuels tax. Alternative fuels include any other fuel not otherwise taxable as liquid fuels, including natural gas, propane, alcohols, gasohol, hydrogen and electricity. The rate of the excise tax is computed on a gasoline gallon equivalent basis; the tax applied to each gasoline gallon equivalent. The 2022 excise tax rate on electric power is 1.72 cents per kilowatt-hour.	Enacted (1997)
Kentucky	Beginning Jan. 1, 2023, bill places a \$0.03 per-kilowatt hour excise on EV power distributed in that state. Rate adjusted annually based on changes in NHCCI.	Enacted (2022)
Minnesota	Would levy a tax of 5.1 cents per kilowatt hour on electric fuel at public or private charging stations. The bill also raises the annual registration fee for electric vehicles, and creates a separate fee for plug-in hybrids	Failed (2021)
Kansas	Imposes a road repair tax of \$0.03 per kilowatt-hour on electric power used in electric vehicles at public charging stations.	Failed (2022)
Nevada	Imposes a 7 cent per kilowatt-hour electric fuel tax, to be collected by provider of energy to charging station.	Failed (2021)
Mississippi	Creates a tax of \$2.50 on each vehicle charges at an alternative-fuel charging station.	Failed (2022)