

SENATE BILL NO. 384—SENATOR SETTELMAYER

MARCH 26, 2021

Referred to Committee on Revenue and
Economic Development

SUMMARY—Imposes a tax on electricity used to charge an electric vehicle. (BDR 32-598)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[omitted material]** is material to be omitted.

AN ACT relating to taxation; providing for the imposition, collection, administration and enforcement of a tax on electric fuel distributed by an electric utility to an electric vehicle charging station at a public or private parking space for the purpose of charging an electric vehicle to be used on the public highways of this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes taxes on the sale or use of motor vehicle fuel and certain special fuels used to propel motor vehicles. This bill imposes a tax on the distribution of electric fuel, which is defined in **section 5** of this bill as electric energy delivered or placed into the battery or other energy storage device of an electric vehicle to be used to power the electric vehicle. **Section 20** of this bill imposes the tax at the rate of 0.07 cents per kilowatt hour on the distribution of electric fuel distributed by an electric utility to an electric vehicle charging station at a public or private parking space for the purpose of charging an electric vehicle to be used on the public highways of this State. **Section 21** of this bill exempts from the electric fuel tax electric fuel distributed to: (1) the United States Government or an instrumentality thereof; (2) a state, county, municipality, district or other political subdivision; or (3) certain persons who use the electric fuel to propel a motor vehicle used for public transportation. **Section 22** of this bill provides for the collection of the electric fuel tax by the electric utility distributing the electric fuel and authorizes an electric fuel dealer operating an electric vehicle charging station to elect to pay to the electric utility the tax on electric fuel sold by the dealer rather than collect it from the customers of the dealer. **Section 23** of this bill requires each electric utility that distributes electric fuel to a customer at an electric vehicle charging station at the customer's residence to provide on the billing statement provided to the customer a separate statement of the amount of the electric fuel tax



imposed. **Section 24** of this bill provides for the remittance of the electric fuel tax to the Department of Motor Vehicles on a monthly basis, and authorizes an electric utility to retain 2 percent of the tax collected to cover the costs of collection. **Section 25** of this bill provides for the allocation of the money collected from the electric fuel tax in the same proportion that the tax would be allocated if the tax were taxes on motor vehicle fuel. **Sections 15-19 and 26-29** of this bill provide for the administration and enforcement of the electric fuel tax by the Department of Motor Vehicles.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 32 of NRS is hereby amended by creating a new chapter to consist of the provisions set forth as sections 2 to 29, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 14, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Department” means the Department of Motor Vehicles.*

Sec. 4. *“Distribute,” “distributed” or “distribution” means the receipt, delivery or placing of electric fuel into the battery or other energy storage device of an electric vehicle at a location in this State.*

Sec. 5. *“Electric fuel” means electric energy delivered or placed into the battery or other energy storage device of an electric vehicle to be used to power the electric vehicle.*

Sec. 6. *“Electric fuel dealer” means a person who owns or leases an electric vehicle charging station that delivers or places electric fuel, upon which the electric fuel tax has not previously been paid, into the battery or other energy storage device of an electric vehicle in this State at a location other than a residence.*

Sec. 7. *“Electric fuel tax” means the tax imposed by section 20 of this act.*

Sec. 8. *“Electric utility” means any public utility or successor in interest that is in the business of providing electric service to customers in this State.*

Sec. 9. *“Electric vehicle” means a motor vehicle that is able to be powered by an electric motor drawing current from rechargeable storage batteries, fuel cells or other portable sources of electrical current. The term includes, without limitation, a hybrid vehicle and a plug-in hybrid electric vehicle.*

Sec. 10. *“Electric vehicle charging station” or “charging station” means any facility or equipment, including, without limitation, any meters or submeters, that is used to deliver or place*



1 *electric fuel into a battery or other energy storage device of an*
2 *electric vehicle.*

3 **Sec. 11.** *“Motor vehicle” means and includes every self-*
4 *propelled motor vehicle, including tractors, operated on a surface*
5 *highway.*

6 **Sec. 12.** *“Plug-in hybrid electric vehicle” means a motor*
7 *vehicle which is equipped with an internal combustion engine that*
8 *runs on conventional or alternative fuel and an electric motor*
9 *powered by high-capacity batteries or other energy storage device*
10 *that can be charged by plugging the batteries or energy storage*
11 *device into an electrical outlet or charging station.*

12 **Sec. 13.** *“Public or private parking space” means any*
13 *location where a motor vehicle may park at any public or private*
14 *location, including, without limitation, parking spaces at single-*
15 *family or multifamily dwellings.*

16 **Sec. 14.** *“Residence” means the place where a person*
17 *resides, either permanently or temporarily.*

18 **Sec. 15.** *The provisions of chapter 360A of NRS relating to*
19 *the payment, collection, administration and enforcement of taxes,*
20 *including, without limitation, any provisions relating to the*
21 *imposition of penalties and interest, shall be deemed to apply to*
22 *the payment, collection, administration and enforcement of the*
23 *electric fuel tax to the extent that those provisions do not conflict*
24 *with this chapter.*

25 **Sec. 16.** *The Department is charged with the administration*
26 *and enforcement of this chapter and may adopt regulations to*
27 *carry out the provisions of this chapter.*

28 **Sec. 17. 1.** *Funds for the administration of the provisions*
29 *of this chapter shall be provided by direct legislative appropriation*
30 *from the State Highway Fund, upon presentation of budgets in the*
31 *manner required by law.*

32 **2.** *All costs of administration of this chapter shall be paid*
33 *from the legislative appropriation made from the State Highway*
34 *Fund on claims presented by the Department, approved by the*
35 *State Board of Examiners and allowed and paid as other claims*
36 *against the State are allowed and paid.*

37 **Sec. 18. 1.** *Every electric utility shall maintain and keep*
38 *within the State for a period of 4 years a true record of electric*
39 *fuel distributed as the Department may require.*

40 **2.** *Such records are subject to inspection by the Department*
41 *or its authorized agents at all times during business hours.*

42 **Sec. 19.** *To verify the accuracy of any return filed by an*
43 *electric utility or, if no return is filed, to determine the amount*
44 *required to be paid, the Department, or any person authorized in*



writing by the Department, may examine the books, papers and records of any person who may be liable for the electric fuel tax.

Sec. 20. An electric fuel tax is hereby imposed at the rate of 0.07 cents per kilowatt hour on electric fuel distributed by an electric utility to an electric vehicle charging station at a public or private parking space for the purpose of charging an electric vehicle to be used on the public highways of this State.

Sec. 21. 1. A distribution made to the United States Government or any instrumentality thereof is exempt from the electric fuel tax.

2. A distribution made to any state, county, municipality, district or other political subdivision thereof is exempt from the electric fuel tax.

3. A distribution made to any person to be used to propel an electric vehicle which is dedicated for exclusive use as part of a system which:

(a) Operates electric vehicles for public transportation in an urban area;

(b) Transports persons who pay the established fare; and

(c) Uses public money to operate the system or acquire new equipment,

↳ is exempt from the electric fuel tax.

Sec. 22. 1. Except as otherwise provided in subsection 2:

(a) Each electric utility that distributes electric fuel shall:

(1) For each electric vehicle charging station at a private parking space located at a residence, collect the electric fuel tax from the owner or user of the electric vehicle at the time the electric fuel is distributed to the owner or user at the residence.

(2) For each electric vehicle charging station at a public parking space, collect the electric fuel tax from the owner or user of the electric vehicle at the time the electric fuel is distributed to the owner or user at the public parking space.

(b) An electric fuel dealer that provides electric vehicle charging stations for use by customers of the electric fuel dealer may elect not to collect the electric fuel tax. If an electric fuel dealer makes the election authorized by this paragraph, the electric fuel dealer shall pay to the electric utility any tax that is required to be paid pursuant to section 20 of this act.

2. An electric utility shall not collect the electric fuel tax from a purchaser who is exempt from the tax on electric fuel pursuant to section 21 of this act, and an electric fuel dealer who makes the election authorized by paragraph (b) of subsection 1 is not required to pay to the electric utility any such tax for electric fuel distributed to a purchaser who is exempt from the tax pursuant to section 21 of this act.



1 **Sec. 23.** *Each electric utility that distributes electric fuel to a*
2 *customer at an electric vehicle charging station at the residence of*
3 *the customer shall provide on the billing statement provided to the*
4 *customer a separate statement of the amount of electric fuel tax*
5 *imposed on the customer.*

6 **Sec. 24.** 1. *The electric fuel tax is due to the Department on*
7 *or before the last day of the first month following the month to*
8 *which it relates. Not later than the due date of the electric fuel tax,*
9 *an electric utility shall file with the Department a return on a form*
10 *prescribed by the Department and remit any tax due for that*
11 *month.*

12 2. *If the due date falls on a Saturday, Sunday or legal*
13 *holiday, the next business day is the final due date.*

14 3. *Payment shall be deemed received on the date shown by*
15 *the cancellation mark stamped by the United States Postal Service*
16 *or the postal service of any other country upon an envelope*
17 *containing payment properly addressed to the Department.*

18 4. *The Department shall deliver the taxes to the State*
19 *Treasurer, who shall provide a receipt for the payment of the tax*
20 *to the person who made the payment.*

21 5. *Except as otherwise provided in subsection 6, from the tax*
22 *collected, the electric utility may retain an amount equal to 2*
23 *percent of the amount of the tax collected to cover the costs of*
24 *collection of the tax and of compliance with this chapter.*

25 6. *An electric utility that fails to submit a tax return when due*
26 *pursuant to this chapter or fails to pay the tax when due pursuant*
27 *to this chapter is not entitled to retain any of the amount*
28 *authorized pursuant to subsection 5 for any month for which a tax*
29 *return is not filed when due or a payment is not made when due.*

30 7. *If the Department determines that an electric utility that*
31 *collects the tax imposed by section 20 of this act, has failed to*
32 *submit a tax return when due pursuant to this chapter or failed to*
33 *pay the tax when due pursuant to this chapter, the Department*
34 *may order the electric utility to hold the amount of all taxes*
35 *collected pursuant to this chapter in a separate account in trust for*
36 *the State. The electric utility shall comply with the order*
37 *immediately upon receiving notification of the order from the*
38 *Department.*

39 **Sec. 25.** *The money collected from the electric fuel tax must*
40 *be allocated monthly by the Department in the proportion that the*
41 *money collected from electric fuel tax would be allocated if the*
42 *money collected were taxes imposed pursuant to chapter 365 of*
43 *NRS.*

44 **Sec. 26.** 1. *If illegally or through error the Department*
45 *collects or receives any electric fuel tax, penalty or interest*



1 *imposed pursuant to this chapter, the tax, penalty or interest must*
2 *be refunded to the person who paid the tax, penalty or interest. A*
3 *written application for a refund, including, without limitation, a*
4 *request for a refund that is submitted on an amended tax return,*
5 *stating the specific grounds therefor, must be made within 12*
6 *months after the date of payment, whether or not the tax, penalty*
7 *or interest was paid voluntarily or under protest.*

8 2. *Refunds must be made to a successor, assignee, estate or*
9 *heir of the person if written application is made within the time*
10 *limit.*

11 3. *Any amount determined to be refundable by the*
12 *Department must be refunded or credited to any amounts then due*
13 *from an electric utility.*

14 4. *All amounts refunded pursuant to the provisions of this*
15 *chapter must be paid from the State Highway Fund on claims*
16 *presented by the Department, approved by the State Board of*
17 *Examiners and allowed and paid as other claims against the State*
18 *are allowed and paid.*

19 5. *To establish the validity of any claim for a refund, the*
20 *Department may, upon demand, examine the books and records of*
21 *the claimant. The failure of the claimant to accede to such a*
22 *demand constitutes a waiver of all rights to the refund claimed on*
23 *account of the transactions questioned.*

24 **Sec. 27. 1.** *No injunction, writ of mandate or other legal or*
25 *equitable process may issue in any suit, action or proceeding in*
26 *any court against this State or any officer thereof to prevent or*
27 *enjoin the collection pursuant to this chapter of any electric fuel*
28 *tax or other amount required to be collected.*

29 2. *After payment of any such electric fuel tax or other*
30 *amount under protest, verified and setting forth the grounds of*
31 *objection to the legality thereof, filed with the Department at the*
32 *time of payment of the tax or other amount protested, the electric*
33 *utility making the payment may bring an action against the State*
34 *Treasurer in the District Court in and for Carson City for the*
35 *recovery of the amount so paid under protest.*

36 **Sec. 28. 1.** *No action authorized by subsection 2 of section*
37 *27 of this act may be instituted more than 90 days after payment*
38 *under protest has been made. Failure to bring suit within the 90*
39 *days shall constitute a waiver of any and all demands against the*
40 *State on account of alleged overpayments.*

41 2. *No grounds of illegality shall be considered by the court*
42 *other than those set forth in the protest filed at the time of such*
43 *payment.*

44 **Sec. 29. 1.** *If judgment is rendered for the plaintiff, the*
45 *amount of the judgment shall first be credited on any tax or other*



1 *amount due from the plaintiff under this chapter, and the balance*
2 *of the judgment shall be refunded to the plaintiff.*

3 2. *In any judgment, interest shall be allowed at the rate of 6*
4 *percent per annum upon the amount found to have been collected*
5 *illegally from the date of payment of such amount to the date of*
6 *allowance of credit on account of such judgment or to a date*
7 *preceding the date of the refund warrant by not more than 30*
8 *days, such date to be determined by the Department.*

9 **Sec. 30.** Notwithstanding the provisions of NRS 218D.430 and
10 218D.435, a committee, other than the Assembly Standing
11 Committee on Ways and Means and the Senate Standing Committee
12 on Finance, may vote on this act before the expiration of the period
13 prescribed for the return of a fiscal note in NRS 218D.475. This
14 section applies retroactively from and after March 22, 2021.

15 **Sec. 31.** 1. This section and section 30 of this act become
16 effective upon passage and approval.

17 2. Sections 1 to 29, inclusive, of this act become effective:

18 (a) Upon passage and approval for the purpose of adopting
19 regulations and performing other preparatory administrative tasks;
20 and

21 (b) On January 1, 2022, for all other purposes.

