

Pedal into the Future

Elliot Wiley

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PEDAL INTO THE FUTURE

Elliot Wiley*

INTRODUCTION

Congress severely weakened the Electric Bicycle Incentive Kickstart for the Environment Act (E-Bike Act) when the bill was absorbed into the Build Back Better Bill. Electricity is the future, yet Congress has defanged a bill that could create significant progress in making bicycling a more accessible option for commuters.

BREAK DOWN OF H.R. 1019

The original E-bike bill, H.R. 1019, amends the Internal Revenue Code of 1986 by adding § 36(c) Electric Bicycles after § 36(b).¹ This section grants an allowance of credit against the e-bike buyer's personal income tax credit.² The credit is for thirty percent of the cost of the e-bike and up to \$1,500, with an \$8,000 limit on the total cost of the bicycle.³ This would cover 30% of a \$5,000 e-bike. Since e-bikes range from \$600 to \$8,000, this bill would help cover the cost of the majority of e-bikes on the market.⁴ The credit allowance is limited to one per tax return, or two in the case of a joint return.⁵ There are some limits to the type of bicycle purchased.⁶ A "qualified electric bicycle means a two-wheeled vehicle," with propelling pedals, saddle or seat, and 750 watts or less electric motor capable of propelling the vehicle.⁷ The e-bike must be purchased for the use of the taxpayer, not to be for lease or resale, and the vehicle was purchased in the USA.⁸ Finally, the e-bike must fall within one of three classes of e-bikes.⁹ A class one e-bike has an electric motor that only provides assistance with the riders peddling and does not exceed 20 mph.¹⁰ A class two e-bike means a bicycle equipped with a large motor that can propel the vehicle without any additional assistance but does not exceed 20 mph.¹¹ A class three e-bike is the same as a class one except that it does not exceed 28 mph.¹²

STRENGTHS OF THE BILL

The original E-bike Act had many strengths. Not only was it good for biking commuters, but it would have also opened up the opportunity to many other people, such as those with disabilities, who do not have the ability or time to commute via a traditional bicycle.¹³ E-bikes are incredibly expensive, making them difficult for the average consumer to obtain.¹⁴ Decreasing the cost by even 30% would give many more people access to purchasing an e-bike.

E-bikes give people many benefits of a car without the massive additional costs included, such as car insurance and gas. The most expensive e-bike allowed under this bill is not even half the price of the cheapest new car available.¹⁵ It is also easier

and cheaper to park an e-bike, compared to parking a car. Even the advantage of trunk space does not apply anymore. There are many electric cargo bikes that are under \$8,000 which have as large or even larger cargo spaces than cars, and some can safely transport children.¹⁶ These advances in e-bike transport would make it easier for single car households, work commuters, and students to use e-bikes to get around.

Decreasing the overall expense of a new e-bike would also make it easier for those close or below the poverty line to actually obtain transport. Easy access to transport is essential for decreasing the number of people below the national poverty line as "access to just about everything associated with upward mobility and economic progress—jobs, quality food, and goods (at reasonable prices), healthcare, and schooling—relies on the ability to get around in an efficient way, and for an affordable price."¹⁷ Furthermore, offering purchase assistance through a tax credit would also open up the use of e-bikes for rural commuters. Rural commuters are already limited by additional social economic factors and lack of available public transportation, so e-bikes would be a less expensive option that would still allow rural residents to cover the distances needed.¹⁸ By supplying a credit for almost a third of the cost of an e-bike, the government would advance the lives of many people.

This credit would not just benefit the consumers, but the e-bike producers as well. When a similar bill was passed for electric cars, both Tesla and GM benefited from the tax credits and even lobbied Congress to lengthen the credit time limit.¹⁹

FLAWS CAUSED BY H.R. 5376

Congress's decision to incorporate H.R. 1019 with H.R. 5376 is a mistake. This bill started strong but having it absorbed into the Build Back Better bill cuts it off at the knees. Changes made during the incorporation weaken H.R. 1019 and decrease its effectiveness overall.

The biggest change from H.R. 1019 to H.R. 5376, § 36(e) is the choice to halve the credit percentage.²⁰ Originally 30% in H.R. 1019, the percentage of the total bicycle price in H.R. 5376 is only 15%.²¹ This is a massive difference and may not be enough to encourage the average consumer to make such a large purchase as an e-bike or may prevent such a purchase in its entirety. Studies have found that consumers are significantly more likely to make buy products if they believe they are receiving some form of deal.²²

Some further issues with H.R. 5376 are the burdens placed on manufacturer.²³ The first is that the manufacturer must be considered a "qualified manufacturer."²⁴ To be a qualified

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manufacturer, they must enter an agreement with the Secretary, assign an entirely unique vehicle identification number in a manner provided by the Secretary, label each bike with the VIN, make periodic reports to the Secretary “at such time and in such manner as the Secretary may provide”.²⁵ These unnecessary requirements may make it difficult for small e-bike manufacturers to take advantage of the increased demand. It will be easier for large companies to comply with the government’s requirements than smaller, specialized companies.²⁶

The final change is the establishment of December 31, 2031, as the termination date.²⁷ A ten-year limitation can frustrate progress in action against climate change.²⁸ It is much more difficult to cancel a law enacted by Congress than it is to allow a law to run out its time limit. Examine the current issues being faced with the Child Tax Credit.²⁹ The Child Tax Credit is one of the very few methods to reduce child poverty.³⁰ Established in 1997, the Child Tax Credit is struggling to be renewed through the Build Back Better plan.³¹ For such an essential tax credit that benefits so many Americans, its potential cancelation could hurt the lives of people whom the government is meant to protect. Protecting the life of tax credits is incredibly important as there is always a chance that it will not be renewed, which can blind-side taxpayers when planning for the future.

CONCLUSION

The issues with combining the E-Bike Bill at with the Build Back Better Act are not limited to just the changes made. The Build Back Better bill might not pass. Many important bills have

been absorbed into the larger Build Back Better bill which is currently facing contention on the Hill.³² Democrats claimed that they would be able to pass the bill before the new year, a goal at which they were not successful.³³ Senator Manchin’s refusal to include a one-year extension to the Child Tax Credit and even limit spending on climate change has stalled the bill in Congress for the foreseeable future.³⁴ Additional changes may be made to the E-Bike Bill within the Build Back Better Bill before it fully passes through Congress which could further limit the help granted through H.R. 1019. The House of Representatives cut H.R. 1019 off at the knees, not only severely weakening the bill but also risking it never being passed.

To return the power to the E-Bike Bill, Congress must reset the credit percentage back to the original 30% of H.R. 1019. Granting a 15% credit is not enough to sufficiently tempt people to purchase something as expensive as an e-bike. Furthermore, the phaseout based on modified gross income is unnecessary. This bill should encourage all American taxpayers to buy e-bikes to supplement cars. Another change to be made is to reduce the burden on the manufacturer or set up a system that supports smaller e-bike manufacturers. This bill is meant to promote e-bike use, yet it is placing a burden on manufacturers, that may discourage them. The final change is to either extend the termination date or to remove it all together. It is not required for the bill, and once the act is passed, apathy should not cause its death.



ENDNOTES

¹ See E-BIKE Act, H.R. 1019, 117th Cong. § 2(a)-(b) (2022) [hereinafter *H.R. 1019, 117th Cong.*].

² See *id.* § 2(a).

³ See *id.*

⁴ See EBIKESHQ.COM, *Over 450 Electric Bikes Compared! What Does an Ebike Cost?*, <https://ebikeshq.com/cost-of-an-ebike/> [hereinafter *Over 450 Electric Bikes Compared! What Does an Ebike Cost?*].

⁵ See H.R. 1019, 117th Cong., *supra* note 1, § 2(a).

⁶ See *id.*

⁷ See *id.*

⁸ See *id.*

⁹ See *id.*

¹⁰ See *id.*

¹¹ See *id.*

¹² See *id.*

¹³ See Benjamin Preston, *Is an E-Bike Right for You?*, Consumer Reports (Dec. 18, 2020), <https://www.consumerreports.org/electric-bikes/is-an-e-bike-right-for-you-electric-bike-buying-guide-a2136838953/>

¹⁴ See *Over 450 Electric Bikes Compared! What Does an Ebike Cost?*, *supra* note 4.

¹⁵ See Mike Hanley & Jane Ulitskaya, *Here are the 10 Cheapest New Cars You Can Buy Right Now*, CARS.COM (Jan. 23, 2022), <https://www.cars.com/articles/here-are-the-10-cheapest-new-cars-you-can-buy-right-now-421309/>.

¹⁶ See Adrienne So, *The Best Electric Cargo Bikes for Families*, WIRED (Dec. 20, 2021, 8:00 AM), <https://www.wired.com/gallery/best-electric-cargo-bikes/>.

¹⁷ Gillian B. White, *Stranded: How America’s Failing Public Transportation Increases Inequality*, THE ATLANTIC (May 16, 2015), <https://www.theatlantic.com/business/archive/2015/05/stranded-how-americas-failing-public-transportation-increases-inequality/393419/>.

¹⁸ See Paul A. Plazier, Gerd Weitkamp, and Agnes E. Van Den Berg, *Exploring the Adoption of E-Bikes by Different User Groups*, Frontiers (Aug. 27, 2018) <https://www.frontiersin.org/articles/10.3389/fbuil.2018.00047/full>.

¹⁹ See *general*, Nick Carey & Sonam Rai, *Tesla Hits 200,000 Cars, Meaning Lower Tax Credit for Buyers*, REUTERS (July 12, 2018, 9:59 AM), <https://www.reuters.com/article/us-tesla-tax-credit-idUSKBN1K222F>; Eric C. Everts, *Trump Administration Plans to End Electric Car Tax Credits*, GREEN CAR REPORTS (Dec. 4, 2018), https://www.greencarreports.com/news/1120265_trump-administration-plans-to-end-electric-car-tax-credits. *But see* Fred Lambert *Elon Musk Calls for Senate Not to Pass the Build Back Better Act: ‘Tesla Doesn’t Need the \$7,500’*, ELECTREK (Dec. 7, 2021, 3:22 AM), <https://electrek.co/2021/12/07/elon-musk-senate-not-pass-build-back-better-act-tesla-doesnt-need/>.

²⁰ See Build Back Better Act, H.R. 5376, 117th Cong. § 136407(a)(2022) [hereinafter *H.R. 5376, 117th Cong.*].

²¹ See *id.*

²² See *generally* Peter Roesler, et al., *New Study Shows Deals and Promotions Affect Every Part of Shopping Experience*, INC. (Apr. 30, 2018), <https://www.inc.com/peter-roesler/new-study-shows-deals-promotions-affect-every-part-of-shopping-experience.html>.

²³ See *generally id.*

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