F I S C A L   I M P A C T   R E P O R T

SPONSOR Cisneros/Gonzales **ORIGINAL DATE** 1/28/15 **LAST UPDATED** 2/24/15 **HB**

SHORT TITLE Electric Vehicle Income Tax Credit **SB** 9/aSCORC

ANALYST Dorbecker/Graeser

REVENUE (dollars in thousands)

Appropriation					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
			($1,030.0)	($1,300.0)	Recurring	General Fund (Section 1)
			($110.0)	($120.0)	Recurring	General Fund (Sections 2 and 3)
			($1,140.0)	($1,420.0)	Recurring	**Total General Fund**
		$9.0	$21.0	$26.0	Recurring	State Road Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			$12.5	$12.5	Recurring	MVD Operating
Total			$46.5	$46.5	Nonrecurring	TRD Operating

Parenthesis ( ) indicate expenditure decreases

Duplicates HB 40

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Transportation (DOT)
Office of the State Auditor (OSA)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to Senate Bill 9 extends the sunset date for the credits from January 1, 2021 to January 1, 2023 and adds language to ensure the purchase or lease of a qualifying electric vehicle is made by a New Mexico resident and by a dealer in the state. The amendment also increases the amount of the annual registration fee for an electric vehicle from $30.00 to $50.00 and moves the effective date of the registration fee from January 1, 2016 to January 1, 2017. Finally, the amendment moves the applicability date of the bill for taxable years beginning on or after January 1, 2014 to January 1, 2017.

Synopsis of Original Bill

Senate Bill 9 creates two new sections of the Income Tax Act for the electric vehicle income tax credit and the electric vehicle charging unit income tax credit, and a new section of the Corporate Income and Franchise Tax Act for the electric vehicle charging unit corporate income tax credit. The electric vehicle income tax credit amount is $2,500 per vehicle or 30 percent of the cost of the vehicle, whichever is less. A taxpayer may claim the tax credit for each taxable year in which the taxpayer purchases or leases a qualified electric vehicle with a maximum annual aggregate tax credit claim of $2 million.

The electric vehicle charging unit income tax credit would be $3,000 or thirty percent of the cost to purchase and install a charging unit, whichever is less. If the charging station powered primarily by solar power, the income tax credit will not exceed $5,000 or thirty percent of the cost of purchase and installation, whichever is less. The electric vehicle charging unit corporate income tax credit would be $3,000 or thirty percent of the cost to purchase and install an electric vehicle charging unit, whichever is less. The bill provides a maximum annual aggregate of $1 million for these three tax credits together.

The bill also imposes an additional annual registration fee of $30 dollars for the purchase or lease of a new plug-in electric vehicle. The proceeds of this additional registration fee will be distributed to the state road fund. This fee is imposed whether the vehicle owner is allowed an electric vehicle income tax credit or not.

The bill provides that the tax credit would be applicable to taxable years beginning on or after January 1, 2014. The bill provides an effective date of the $30 registration fee of January 1, 2016.

FISCAL IMPLICATIONS

LFC staff considered analyses provided by TRD and DOT staff. The bill's fiscal impact used historical data for registered electric and plug-in vehicles in the state between tax year 2012 and tax year 2014. During this period, there was an average of 200 "qualifying vehicles" as described by the bill that were leased or owned by New Mexico taxpayers. According to TRD, it is estimated the number of registrations of qualifying electric vehicles will grow between 15 and 25 percent per year.

TRD notes, with gasoline prices decreasing and improved fuel efficiency of conventional vehicles, non-electric vehicle purchases are on the rise. Using a national study of electric vehicles purchased in each state and New Mexico historical growth, TRD estimates the credit will help boost electric vehicles ownership by about 20 percent per year. In that, TRD assumes the credits coupled with federal incentives, could earn an individual up to $7,500[1] in income tax credits.

Currently, there are about 15 charging stations for plug-in electric vehicles in the state. TRD assumes there will be at least two new charging stations every year due to increasing demand, as electric vehicle adoption increases. This was multiplied by the maximum credit amount of $3,000 for electric and $5,000 for solar. The cost in FY16 assumes those who install charging units in tax year 2014 will claim the credit in tax year 2015.

TRD used the projected number of qualifying electric vehicles multiplied by the proposed registration fee of $50 to estimate the impact on the state road fund. The impact in FY16 includes half of a full-year estimate.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

The credit should help with increasing the number of electric vehicles on the road in the State of New Mexico. The added fee for registration of an electric vehicle may, however, offset to some extent the potential increase created by the tax credit provided.

TRD notes the bill does not define "manufacturer." Other tax statutes, like Section 7-9J-2 NMSA 1978, that define alternative energy vehicles requires that the manufacturer be an original equipment manufacturer. Also, the bill provides that the available credits are applicable to tax year 2014. Assuming the bill passes, the bill will not become effective until after the deadline for filing 2014 tax returns.

The bill requires taxpayers applying for the electric vehicle income tax credit, the electric vehicle charging unit income tax credit, and the electric vehicle charging unit corporate income tax credit to provide information to TRD including a receipt of lease or purchase of the vehicle, a receipt of purchase of a charging station, copy of data sheet specifying connector type, plug type, voltage, and current of the purchased electric vehicle charging unit, and a final and approved

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[1] TRD notes the federal program offers up to $5,000 in credits for leasing or owning an "electric vehicle." It is unclear if the definition of "electric vehicle" would qualify under the bill's criteria. The cost in FY16 assumes those who purchase vehicles in tax year 2014 will claim the credit in tax year 2015.

electrical inspection document issued by the construction industries division of the regulation and licensing department or other state-authorized construction-permitting governmental entity.

The bill includes reporting requirements. TRD is required to periodically audit records of the electric vehicle income tax credit, the electric vehicle charging unit income tax credit, and the electric vehicle charging unit corporate income tax credit. TRD must compile a comprehensive report beginning in 2019 and every five years thereafter. This report that includes the number of taxpayers approved to receive the tax credit and the aggregate amount of tax credit approved and an analysis of the effectiveness and cost of the tax credit and of whether the tax credit is performing the purpose for which it was created.

The $50 additional registration fee may be simply a nuisance where the cost of collecting the fee exceeds the potential benefit the road fund. This provision was added as an amendment to last year's HB 136. The purpose of the fee may be to address the loss of gasoline tax revenues to the road fund created by vehicles that use minimal amounts of gasoline.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

TRD reports a high impact from the bill. Because the provisions of this act apply to tax years beginning on or after January 1, 2014, the income tax forms and instructions, plus back-end systems and online applications would have to be changed. TRD notes, changing the forms would affect personal and all corporate income tax forms and instructions as recent changes of the personal income tax forms are well underway. Adding the new credit at this late date will affect the Departments' staff and may delay opening electronic filing for the 2014 tax year.

TRD makes the recommendations below in order to manage the electric vehicle income tax credit:

- Forms and procedures would need to be developed. For ease of administration, TRD would want to include an application process for these credits prior to allowing the taxpayer to claim the credits;

- Pre-approval of the credit will eliminate delays in processing refunds which could cost TRD interest on late refunds. Manual review of the application will be needed, requiring a ¼ of an FTE at a recurring cost of $12,500;

- TRD employees and taxpayers would need to be provided technical training on what is a qualified electric vehicle and electric vehicle charging unit. Regulations will need to be drafted for the rules and procedures; and

- Two applications and two claim forms will need to be developed. The forms, instructions and modifications to the income tax forms and publications can be performed with existing resources as part of the annual revision of the tax forms and publications.

TECHNICAL ISSUES

Because the effective dates of the provisions of the bill that create the credit and establish a cap are not stated, LFC staff assumed June 19, 2015 to be the effectives dates for both. The tax credit for an electric vehicle, purchased in calendar year 2015, would be claimed on an income tax return for the 2015 tax year, filed before April 15, 2016. It is unclear why the applicability Section of the bill is for the 2014 tax year.

TRD notes on page 2, paragraph D, the bill limits the vehicle credit to $2 million per fiscal year but page 6 and 10, paragraph D, indicates "per year". The bill does not clarify whether it is calendar or fiscal year.

LFC staff notes that the references in section 2 (D) and section 3(D) are the same. The cap is jointly $1 million for credits under both the personal income tax and the corporate income tax. It might be more administrable to have separate caps for PIT and CIT. In general, corporations file income tax returns up to six months after most taxpayers file a PIT-1. In most years, individuals will receive credits and corporations will not.

A plain reading of the bill indicates that once the caps are exceeded, taxpayers not awarded a tax credit simply lose the credit, since there is no provision in the bill for rolling the credit to the next year with higher priority. This rollover provision procedure seems to be usual with many similar capped tax credits.

Section H provides for an application to TRD for this credit. Section I, however, seems somewhat redundant, since it requires a taxpayer to report to the department when a tax credit has been allowed. These two sections may require two separate steps. At the time the electric vehicle is registered and titled, MVD may issue a tax credit qualification document.
This document must be attached to the annual income tax return which is the mechanism for claiming the value of the credit either as a credit against income tax liabilities or as a refund of taxes paid. The confusion may be that TRD runs both the Motor Vehicle Division and the Revenue Processing (Operations) Division. The initial application and determination of when to cut off approvals at the cap amounts is a responsibility of the MVD. The Operations Division, in processing the annual income tax return, will treat the certificate of eligibility from MVD as a prepayment of taxes owed. If this two-step procedure is not the sponsor's intent, then the bill should be amended.

OTHER SUBSTANTIVE ISSUES

TRD notes releasing information from taxpayer returns to parties not specifically authorized in Section 7-1-8 NMSA 1978 may be considered to be a violation of the Taxpayer's Bill of Rights. Per Section 7-1-4.2 NMSA 1978 the New Mexico Taxpayer Bill of Rights includes: "the right to have the taxpayer's tax information kept confidential unless otherwise specified by law, in accordance with Section 7-1-8 NMSA 1978."

Another issue identified by TRD is the bill is not limited to New Mexico residents and businesses but requires the electric vehicle charging unit have a final approved electrical inspection document issued by the Construction Industries Division or other state-authorized construction permitting governmental entity. It is unknown how this would work if the charging unit is not located in New Mexico.

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

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