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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/19

SPONSOR Ortiz y Pino/Tallman LAST UPDATED _____ HB _____

SHORT TITLE Motor Vehicle Manufacturers As Dealers SB 243

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Moderate positive impact	Moderate positive impact	Moderate positive impact	Moderate positive impact	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)
See "Fiscal Implications" below.

RELATES TO: Senate Bill 140
DUPLICATES: House Bill 294

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Attorney General (NMAG) – comments on identical House Bill 294
Economic Development Department (EDD) – comments on identical House Bill 294

SUMMARY

Synopsis of Bill

Senate Bill 243 adds several sentences to Section 57-16-5, Subsection V 1978 NMSA to allow all-electric cars to be sold directly to the public, which is otherwise prohibited as an unlawful practice. The list of unlawful practices by automobile manufacturers is long; sub-section V currently states

[It is lawful for a manufacturer, distributor or representative to:] be licensed as a dealer or perform warranty or other service or own an interest, directly or indirectly, in a person licensed as a dealer or performing warranty or other service; provided that a manufacturer or distributor may own a person licensed as a dealer for a reasonable time in order to dispose of an interest acquired as a secured party or as part of a dealer development program.

Senate Bill 243 would make this provision inoperative with the following conditions:

1. Has no franchise dealers in New Mexico
2. Sells and services only those motor vehicles that it manufactures, and
3. Sells only electric vehicles powered by batteries or fuel cells.

This bill adds a definition of “line-make” to Subsection P of the statute, a term that is used both in that subsection and also used in Section V.

In addition, in a change unrelated to the electric vehicle changes noted above, Senate Bill 243 alters the language in Subsection Z in a move to clarify that language.

FISCAL IMPLICATIONS

According to the website evcompare.io, 87 models of wholly electric cars are available in the United States. Forty-three of those are manufactured in the United States, 30 by Tesla, which does not maintain franchises; rather it sells directly to consumers. Prices of new electric vehicles range from \$23,900 to \$300,000 according to EVCompare. Taking the midpoint of that range, approximately \$160,000, and applying the New Mexico Motor Vehicle Excise Tax of 3 percent, each sale of a \$160,000 car would generate \$4,800 in tax revenue for the state which might, in the absence of Senate Bill 140, Senate Bill 243, or House Bill 294, be lost to a state where the car could be purchased.

SIGNIFICANT ISSUES

EDD notes that passage of identical House Bill 294 (or this identical Senate Bill 243 or somewhat different Senate Bill 140) “could generate an increase in the number of electric vehicles purchased in the state, which could have both positive and negative economic impacts to the automotive industry.

It is likely that substituting all-electric vehicles for gas-powered vehicles would have a positive effect on the environment. The federal Environmental Protection Agency calculates that the average gas-powered car emits some 4.6 metric tons of carbon dioxide per year. The quantity of carbon dioxide produced in the generation of the electricity used to charge and power an electric car is lower, although difficult to calculate.

RELATES TO Senate Bill 140, which is very similar in most respects, modifying the same part of Section 57-16-5 NMSA 1978, with much the same apparent intent. Senate Bill 243 adds a definition of “line-make” to Subsection P of the statute, which applies both in that subsection and in subsection V, which is modified in slightly different language in the two bills. Unlike Senate Bill 140, Senate Bill 243 has neither an emergency clause nor does it limit the number of qualified manufacturer outlets in New Mexico to the three in Senate Bill 140.

DUPLICATES House Bill 294.

TECHNICAL ISSUES

NMAG notes with respect to identical House Bill 294 that “The Bill’s proposal to add a definition of ‘line-make’ (as seen on page 10, lines 16-19) would be more clear if added to Section 57-16-3 rather than Section 57-16-5. While the language does provide that the definition

applies to “this section,” this may lead to ambiguity as far as whether the definition applies to all of the subsections of Section 57-16-5 or merely the subsection P in which it appears. The phrase ‘line make’ also appears in Section 57-16-8, meaning that Article 16 could have two identical phrases interpreted differently based on the Bill’s proposed location for the definition. By adding it to Section 57-16-3, which by its terms provides definitions for all of Article 16, there would be no ambiguity.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

As noted by EDD, failure to enact one of the three bills (HB 294, SB 140, or SB 243) would continue the current situation, which makes it impossible to purchase and difficult to service some electric vehicles in New Mexico, and New Mexico would forego the excise tax on those vehicles New Mexico residents would pay in another state that cannot currently be bought within New Mexico.

LAC/al/sb