FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Tallman	**ORIGINAL DATE**	1/23/23
SHORT TITLE	Electric Vehicle & Charging Unit Tax Credit	**BILL NUMBER**	Senate Bill 22
		ANALYST	Torres

REVENUE* **(dollars in thousands)**

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
	($8,140.0)	($8,415.0)	($8,470.0)	($8,610.0)	Nonrecurring	General Fund – Electric Vehicle Income Tax Credit
	($750)	($775)	($780)	($795)	Nonrecurring	General Fund – Electric Vehicle Charging Unit Income Tax Credit
	$850.0	$1,050.0	$1,250.0	$1,450.0	Nonrecurring	State Road Fund – Electric Vehicle Fees
	$255.0	$315.0	$375.0	$430.0	Nonrecurring	Transportation Project Fund – Electric Vehicle Fees

Parenthesis ( ) indicate revenue decreases
*Amounts reflect most recent version of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	$253.7	$80.0	$333.70	$667.4	Recurring	TRD - Operating Budget

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Relates to SB 21 of the 2022 Regular Session

Sources of Information
LFC Files

<u>Responses Received From</u>
New Mexico Attorney General (NMAG)
Taxation and Revenue Department (TRD)
Department of Transportation (NMDOT)

SUMMARY

Synopsis of Senate Bill 22

Senate bill 22 creates two new refundable personal income tax credits for a five-year period beginning in tax year 2023 through tax year 2027. First, SB22 creates the refundable electric vehicle income tax credit of $3,250 for each electric vehicle purchase and second, creates an electric vehicle charging unit income tax credit of up to $300 to cover the cost of purchasing and installing an electric vehicle charging unit. SB22 caps electric vehicle credits at $10 million a year and caps charging unit credits at $1 million a year, for a total credit cap in any year of $11 million.

SB22 also creates an additional annual registration fee of $120 for purely electric vehicles and $60 for plug-in hybrid electric vehicles. The newly created fees are distributed in an amount equal to 77 percent of total collections to the state road fund and 23 percent of total collections to the transportation project fund. This fee is imposed whether the vehicle owner claims an electric vehicle income tax credit or not.

Electric vehicles eligible for the electric vehicle income tax credit are only those with a before-tax manufacturer suggested retail price of $55 thousand or less.

Taxpayers shall submit information required by TRD to claim credit for the purchase of an electric vehicle or for a lease of at least three years. TRD will consider applications for the tax credit in the order received. If the tax credit cap of $10 million is reached, additional applications for certification shall not be approved in that calendar year and instead shall be placed at the front of the queue for the subsequent year. The portion of the electric vehicle income tax credit that exceeds the taxpayer's tax liability is refundable to the taxpayer.

Like the electric vehicle credit, the electric vehicle unit tax credit will be paid in the order received by the department and claims will be paid by TRD on a first come, first-paid basis until the cap is reached. Unlike the Electric Vehicle Income Tax Credit, the Vehicle Charging Unit Income Tax Credit is available through certain business entities, specifically partnerships and limited liability companies.

This bill requires the Taxation and Revenue Department compile an annual report with specified data and any additional information needed to evaluate the tax credit. This annual report is to be presented to the Revenue Stabilization and Tax Policy Committee and the Legislative Finance Committee with an analysis of the cost of the credit.

The applicability of both tax credits begins in tax year 2023. The effective date of new fees and the distribution of those fees is January 1, 2024.

FISCAL IMPLICATIONS

This analysis does not account for the possibility that those who will register an electric vehicle or renew a registration for an electric vehicle in calendar year 2022 might register the vehicle for a two-year term in order to avoid the new additional registration fee that will take effect on January 1, 2023.

The table below reports the number of BEVs and PHEVs registered in New Mexico and estimates for the following years from the Department of Transportation.

Table: Number of light electric and plug-in hybrid electric vehicles registered in New Mexico as of June 30, 2022

FISCAL YEAR	BEV	PHEV	HEV
2022*	4,382	3,086	33,072
2023	5,421	3,558	35,249
2024	6,970	4,513	39,631
2025	8,609	5,463	43,916
2026	10,295	6,383	47,993
2027	12,047	7,281	51,944

***Values are stock of non-commercial vehicles weighing no more than 26,000 lbs., registered in New Mexico as of June 30, 2022. The numbers were derived from the Motor Vehicle Division (MVD) data extract of all vehicles registered in New Mexico. The Vehicle Identification Number (VIN) information of the registered vehicles in the MVD data extract was decoded using the National Highway Traffic Safety Administration (NHTSA) Product Information Catalog Vehicle Listing (vPIC) Application Programming Interface (API) to accurately classify the registered vehicles according to their electrification level.

The fiscal impact of the credits is uncertain especially farther into the future but cannot exceed the caps of $10 million and $1 million annually, respectively. As shown, neither credit is expected to reach its limitation during the forecast period. Note that the credits sunset at the end of 2027 and are therefore considered non-recurring. The fees do not have a sunset provision. It must be noted that the impact of the additional registration fees on the state road fund and the local governments road fund does not account for any decrease in gasoline tax revenue that might occur because of substitution away from a gasoline powered vehicle towards an electric vehicle.

SIGNIFICANT ISSUES

These income tax credits are intended to incentivize the purchase or lease of electric vehicles and electric vehicle charging units. SB22 defines an electric vehicle to include both vehicles that run exclusively on a battery (also called battery electric vehicles or BEVs) and those that derive part of their power from electricity stored in a battery, which is capable of being recharged from an external source of electricity (also called plug-in hybrid electric vehicles or PHEVs).

In previous bills, NMDOT summarized policy embedded in the bill provisions: "With the passage of this bill, owners of PHEVs and BEVs will contribute to the construction, maintenance and improvement of public roads and highways, in the same way as gasoline vehicle owners do via fuel taxes."

TRD comments on policy issues regarding the provisions of this bill.

> "[TRD] also notes that a principle of good tax policy is simplicity; adding tax incentives such as the proposed credit increases complexity in the tax code, both for taxpayers and for [TRD] using the tax code to incentivize certain economic and social behaviors results in economic distortion; good tax policy seeks to avoid economic distortion to the extent possible, and therefore would recommend limited use of tax incentives."
> "The credit has a defined end date to purchase an electric vehicle and thus a sunset date. Tax & Rev supports sunset dates for policymakers to review the impact of tax expenditures before extending them."

On last year's SB21, EMNRD was concerned with climate change mitigation and pollution control, stating: "Not enacting this bill would be a missed opportunity to accelerate the adoption of electric vehicles for low- and moderate- income residents in New Mexico by providing an income tax incentive." To avoid confusion, LFC staff have updated the EMNRD comments to refer to SB22.

EMNRD also submitted the following pertinent information regarding SB21: "SB21 would enact a tax credit to further encourage the purchase or lease of electric vehicles. EMNRD's Climate and Clean Fuels program promotes alternative fuel vehicle usage in the state (through equality and equity) and to reduce transportation emissions. The credit in SB21 will greatly increase lower income purchasers' ability to buy electric vehicles and help more New Mexicans take advantage of the benefits of electric vehicles. It is important for leased vehicles to be eligible for the tax credits because:

- Drivers may want a shorter commitment due to the rapid pace of technology improvement and the possibility of better electric vehicle options arriving on the market soon;
- Drivers may be more comfortable with a lease if they are unfamiliar with electric vehicles and want to experience their benefits first-hand before making a long-term purchase decision; and
- Leasing costs are still significant for electric vehicles. Leasing cost estimates incorporate manufacture incentives if available.

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 credit and other information to determine whether its meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

TRD comments on administrative and compliance issues concerning the provisions of this bill:

> As drafted, it is estimated that implementation will cost $126,000 in contractual services for the Information Technology Division (ITD) of Tax & Rev and $35,545 in staff workload costs. The changes will require approximately 1,240 hours or about eight months of work. This includes changes to the business credit application web request on Taxpayer Access Point and GenTax, the tax system of record, to implement a new credit beginning tax year 2023. This also includes updates to existing reports and creating new reports. Impacts to the Motor Vehicle Division (MVD) tapestry system will entail 640 hours, or four months, with staff workload costs of $35,545 for ITD resources and include development, testing and implementation.
>
> Tax & Rev's Administrative Services Division (ASD) will be required to test credit sourcing and perform other systems testing. It is anticipated this work will take approximately 40 hours split between 2.0 Full-Time Equivalent (FTE) of a pay band 70 and a pay band 80. With the creation of a new fee in the MVD Tapestry system, ASD will need to test and implement new distributions and reports.
>
> Tax & Rev will need to update forms, instructions and publications. Since this is a new credit, staff training will be required for department employees who will be processing

the applications for the credit and employees who review personal income tax returns. Finally, public outreach may be needed to educate taxpayers on this new credit.

Implementing this credit will require Tax & Rev's Revenue Processing Division to hire an FTE to certify and manage the credit as credit inventories will increase. The added credit certification, application review, and return process will lead to increased workload and processing time for these returns. The recurring budget estimate is based on a Tax Examiner-II, pay band 65, position.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This issue of electronic vehicle tax credits has been the subject of interest in previous years with the table listing electric vehicle and hybrid electric vehicle tax credit, registration fee and charging station tax credit bills over that time.

HB-185 (2019)
HB-217 (2020)
HB-313 (2020)
HB-612 (2019)
SB-2 (2020)
SB-20 (2020)
SB-101 (2020)
SB-333 (2019)
SB-58 (2021)

The New Mexico Attorney General notes: "Relates to Senate Bill 30. Both SB22 and SB30 define "electric vehicle" and "plug-in hybrid electric vehicle" similarly but with slight differences. SB22 would make a change to the tax code, while SB30 would require the state to purchase electric vehicles. The different definitions are in separate sections of the law and are defined similarly, so they would not create a conflict of law.

Conflicts with Senate Bill 38. Section 3 of SB22 and Section 68 of SB38 are nearly identical and refer to the registration fee described above. However, the bills propose different amounts to be charged for registration fees. For example, SB22 would charge a registration fee of $120 while SB38 would charge a fee of $650."

TECHNICAL ISSUES

TRD notes the following:

The cap on the credit is on the amount of credits that may be claimed for a particular fiscal year; however, it may be easier to administer a cap on the amount of credits certified in a particular year. Keeping track of how many claims come in during any tax year is very difficult due to the way returns are processed and tracked. Tax & Rev suggests that the language should be the same as for the charging station cap, which states that, "the aggregate amount of electric vehicle income tax credits that may be certified as eligible in any calendar year is ten million dollars ($10,000,000)."

[Section 1]: The cap for the claims for the electric vehicle income tax credit is by fiscal year, but certificate of eligibility is marked with a tax year that the return can be claimed. The cap should align with the calendar year or tax year.

[Section 2]: The cap for the charging station is already set as a calendar year cap so the two caps should be aligned by calendar year. In addition, there is another mismatch within Section 2. Section 2, Subsection C states calendar year for the cap on line 23, page 6, but then indicates claims for the fiscal year on page 7, lines 2, 4 and 5. Also, the construction of the claims going to the front of the line for the next fiscal year if the cap is met would be difficult to administer. Since this claim occurs on an income tax return, Tax & Rev would need to hold off on the processing of those credits on the return but post the rest of the return or hold the whole return until the next fiscal year. This is not feasible.

[Section 5]: The applicability date of Sections 1 and 2 of this legislation is January 1, 2023 but the electric vehicle cap is on a fiscal year which creates another misalignment.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Owners of PHEVs and BEVs will continue to not contribute to the construction, maintenance, and improvement of public roads and highways, in the same way as gasoline vehicle owners do via fuel taxes.

Does the bill meet the Legislative Finance Committee tax policy principles?

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

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	Met?	Comments
Vetted	✓	This bill has been previously introduced on numerous occasions and debated.
Targeted		Although the purpose is clear, such purpose is not associated with long-term goals or measurable targets.
Clearly stated purpose	✗	
Long-term goals	✗	
Measurable targets	✗	
Transparent	✓	TRD is required to report.
Accountable		
Public analysis	✗	
Expiration date	✓	
Effective		
Fulfills stated purpose	?	
Passes "but for" test	?	
Efficient	✗	
Key: ✓ Met ✗ Not Met ? Unclear		

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