

## BILL SUMMARY

1<sup>st</sup> Session of the 58<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB 2234</b>
<b>Version:</b>	<b>Committee Substitute</b>
<b>Request Number:</b>	<b>7780</b>
<b>Author:</b>	<b>Hilbert</b>
<b>Date:</b>	<b>3/1/2021</b>
<b>Impact:</b>	<b>Please see previous summary of this measure</b>

### Research Analysis

The committee substitute for HB 2234 creates the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021, which seeks to provide revenue for general government expenditures.

Beginning January 1, 2023, the measure imposes a tax of 3 cents per kilowatt hour on the electric current used to charge electric or hybrid vehicles. The tax shall solely be applied to the electricity transferred. The electric current shall not be subjected to a sales tax. Further, the 3 cent tax shall not be applicable to electric vehicles charged at a private residence.

Any tax revenue collected shall be apportioned to the DRIVE Revolving Fund created in this act. The measure requires charging station owners to remit the tax monthly, using forms prescribed by the Tax Commission. Legacy chargers, and public charging stations that have never charged a fee for their use, are exempt from remitting the tax until 2041. The Tax Commission may terminate a charging station owner's operator license if the owner fails to remit the tax as required.

The Oklahoma Corporation Commission may inspect the premises and equipment of the charging station, and may require periodic third-party testing, calibration, and inspection reports. The Commission may set fees necessary to carry out these duties, and may also assess a penalty of not more than \$500 per day to charging station operators that fail to comply with these requirements.

Charging stations constructed after November 1, 2021 shall use a metering system that is capable of imposing the cost for the charging service. The metering system shall include a system that allows for an audit of the electricity supplied. The Oklahoma Tax Commission may inspect the premises and equipment of any charging station in order to enforce compliance.

The measure creates an income tax credit in the amount that shall not exceed the total amount in registration fees paid by the electric or hybrid vehicle owner.

In addition to standard vehicle registration fees, the measure requires the tax commission to establish an additional registration fee for electric vehicles that is based on vehicle weight. At first, the revenue will go to the DRIVE Revolving Fund. After July 1, 2027, 85% of the revenues from this fee shall be apportioned to the DRIVE Revolving Fund, and 15% will be apportioned to various counties of the state.

Lastly, the measure allows each motor license agent to retain \$3.56 for each electric vehicle registered. Agents may also retain \$3.25% of the vehicle excise tax collected.

Prepared By: Emily Wendler

## **Fiscal Analysis**

Review by the Tax Commission:

### **Revenue Impact**

#### **Electric Car Charging Tax**

The records of the OTC do not contain information regarding the meter status of the charging stations currently in the state, and is therefore unable to determine if these stations would qualify as “legacy stations” which are exempt from tax collection and reporting requirements until November 1, 2041. Additionally, the amount of electricity presently sold by public charging stations in Oklahoma is unknown. Consequently, the revenue impact associated with the imposition of the electric car charging tax is unknown.

#### **Income Tax Credit**

For reasons previously stated the number of tax year 2022 income tax returns affected and the tax amounts offset is not presently quantifiable. The impact to income tax revenue for FY-23 is unknown.

#### **Registration Fee Impact**

OTC lacks the software needed to identify electric and hybrid vehicles by weight or classification number. In addition, it is unknown if the software necessary to identify these vehicles will allow the OTC to calculate the necessary annual registration requirements, resulting in an unknown increase in motor vehicle registration fees for apportionment to the DRIVE Fund.

#### **Sales Tax Impact**

Currently, sales of electricity used in the charging of an electric vehicle is subject to state and local sales tax. Electric and hybrid vehicles charged from home are exempt from state sales taxes, but are subject to local sales taxes. The amount of electricity sold by public charging stations in Oklahoma is not readily available, resulting in an unknown decrease in state sales tax revenue for FY-22 and FY-23.

#### **Administrative Costs and Concerns**

In order to make the necessary tax collection and system modifications additional administrative costs associated with developer time (3 – 4 months) for the new electric vehicle charging tax and 1.5 to 3 months for the motor vehicle additional registration fees are estimated in the combined estimate of \$253,000. Additional annual costs associated with software to identify these vehicles by weight or classification are anticipated.

Concerns regarding the proposal

While all charging stations, including those exempted from tax collection until November 1, 2041, are required to register with the Commission by January 31, 2023 – the OTC may still have an issue identifying which charging stations should be collecting tax without a list of stations that meet proper metering requirements.

Additionally. The measure sets an additional registration fee for electric and hybrid vehicles based on the weight or classification of the vehicle. OTC is not currently aware of any software or other resource which would identify these vehicles by weight or classification for the purpose of imposing the additional registration fee. If the author is aware of such a resource or can identify another state which imposes a registration fee based on weight, OTC would investigate the information.

As to imposing the additional registration fee on these vehicles, OTC does not currently possess, but is aware of, available software which would allow a vehicle identification number decode to identify these vehicles by power train type. Acquisition of the software will result in additional administrative costs.

Prepared By: Mark Tygret

### **Other Considerations**

None.