

**OKLAHOMA TAX COMMISSION**

**REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT  
FIRST REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE**

**DATE OF IMPACT STATEMENT:** March 28, 2021

**BILL NUMBER:** HB 2234 **STATUS AND DATE OF BILL:** Engrossed 03/11/2021

**AUTHORS:** House Hilbert & Roberts (Dustin) et al. Senate Taylor and Rader

**TAX TYPE (S):** Electric Car Charging Tax, Income, & Motor Vehicle **SUBJECT:** Other

**PROPOSAL:** New & Amendatory

The measure creates the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021. [See attached for detailed description]

**EFFECTIVE DATE:** November 1, 2021

**REVENUE IMPACT:**

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 22: [See Attached]

FY 23: [See Attached]

**ADMINISTRATIVE IMPACT:**

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 22: [See Attached]

Mar. 29, 2021  
DATE

Rick Miller  
DIVISION DIRECTOR

msm

3/29/2021  
DATE

Huan Gong  
HUAN GONG, ECONOMIST

3/29/21  
DATE

[Signature]  
FOR THE COMMISSION

*The estimated revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.*

## **ATTACHMENT TO REVENUE IMPACT – HB 2234 [Engrossed] Prepared 03/28/2021**

Sections 1 creates the “Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021”.

Section 2 provides definitions for charging station, charging station operator, electric vehicle, public charging station and legacy chargers.

Section 3 provides that pursuant to the requirement of Section 19 of Article X of the Oklahoma Constitution, the purposes of the tax imposed pursuant to the provision of the Act is to provide revenue for general government expenditures.

Section 4 levies a tax at the rate of \$0.03 per kilowatt hour or its equivalent as determined by the Oklahoma Tax Commission, on the electric current used to charge or recharge the battery or batteries of an electric vehicle. The tax shall be levied beginning January 1, 2024. Fees or charges associated with the payment method for the charging service are excluded from the levy.

Sections 5-6 require charging station operators to make a full and conspicuous disclosure at the site of the station and on their website, maintained by or on behalf of the operator, or on a mobile software application for use on a cell phone, tablet or similar handheld device of the rate at which the owner or operator charges for electric power transferred to an electric vehicle. The tax imposed pursuant to Section 4 is to be reported and remitted monthly by the operator/owner to the OTC no later than the twentieth day of the month following the month during which the electric charging for an electric vehicle occurred. It also requires the charging station operator to separately state on any invoice or bill provided to the customer the tax imposed pursuant to Section 4. Further, a charging station owner or operator is not prohibited from imposing a fee or charge in addition to the kilowatt hour/other equivalent unit of measurement for the transfer of electric power to an electric vehicle. Additionally, legacy chargers and public charging stations that have never charged a fee for their use are exempted from the levy until November 1, 2041.

Section 7 provides that the tax revenues imposed pursuant to Section 4 shall be apportioned to the Driving on Road Infrastructure with Vehicles of Electricity Revolving Fund.

Section 8 requires all charging stations in operation prior to November 1, 2021 to register with the OTC no later than January 31, 2024. The OTC shall provide or make available updated registration information to the Oklahoma Corporation Commission. Charging stations that begin operations on or after November 1, 2021 are to be registered with the OTC no later than fifteen (15) days after the date of first business operations at the station site or by January 31, 2024 whichever is later.

Any public charging station for an electric vehicle constructed or which begin operations for the first time on or after November 1, 2021 must use a metering system that is capable of imposing the cost for the charging service using a unit per kilowatt hour or comparable measurement determined by the OTC such as time elapsed while charging and the charging capacity of the charging station. The metering must also include a system by which an audit of the electricity supplied through the system can be performed to determine the amount of electricity transferred to a customer and the cost charged by the charging station owner or operator for each unit of electricity transferred.

The OTC shall have the authority to inspect the premises and equipment of any charging station owner or operator to enforce compliance. Should operators fail to remit the tax the OTC must begin proceedings to terminate the charging station owner or operator license to do business.

Section 9 grants the Oklahoma Corporation Commission the authority to require the inspection of the premises and equipment of any charging station owner or operator to enforce compliance.

Section 10 provides for an income tax credit for taxable years beginning after December 31, 2023 in the amount of the electric vehicle charging costs. The amount of the credit shall not exceed the total amount of registration fees for electric vehicles paid by the person(s) during the taxable year for which the credit is claimed and shall not be used to reduce the tax liability to less than zero (0), but may be carried over, in order, to each of the five (5) succeeding taxable years.

Section 11 imposes and sets an additional registration fee for electric vehicles based on the weight of the vehicle. An additional registration fee for a plug-in hybrid vehicle is set by vehicle Class 1-8. Until July 1, 2027, the revenues derived from the additional registration fees shall be apportioned to the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Revolving Fund. Beginning July 1, 2027, the revenues derived from these fees are to be apportioned 85% to the Driving on Road Infrastructure with Vehicles of Electricity (Drive) Revolving Fund and 15% to the various counties of the state.

Section 12 creates the Driving on Road Infrastructure with Vehicles of Electricity (Drive) Revolving Fund.

Section 13 addresses motor license retention agent fees regarding the new registration fees. Agents will be allowed to retain \$3.56 for each electric vehicle registered pursuant to the provisions of this measure and such amount shall be in addition to any other amount otherwise authorized by this section to be retained with respect to a vehicle. In addition, each motor license agent shall be entitled to retain 3.25% of the vehicle excise tax collected pursuant to Section 2103 of Title 68, but such amount shall not be in addition to any other amount otherwise authorized by this section to be retained with respect to a vehicle.

Section 14 amends Section 1355 of Title 68 by exempting the sales of electricity at charging stations when sold by a charging station owner or operator for purposes of charging an electric vehicle and charging tax is collected and remitted to the OTC

## **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. However, with an effective date of January 1, 2024 for the levy, the measure will have no impact for FY 22 or FY 23.

### **Income Tax Credit**

For reasons previously stated, the number of tax year 2024 income tax returns affected and the tax amounts offset is not quantifiable at this time. Therefore the impact to income tax revenues for FY 25 is unknown.

### **Registration Fee Impact**

The OTC lacks the software that is needed to identify electric and plug-in 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.

However, based upon information obtained from an outside source, as of 2/25/2021, there are 1,636 class 1 battery electric vehicles, 594 class 2 battery electric vehicles a total of 1,868 class one plug-in hybrid electric vehicles (PHEV’s), and 123 class 2 PHEV’s. Application of the registration fees of

\$110 & \$158 for class 1 and 2 electric vehicles and \$82 & \$118 per class 1 and 2 PHEV, results in an estimated increase of \$441,502 in motor vehicle revenues. The measure proposes an effective date of November 1, 2021. Assuming similar vehicle registrations occur in FY 22 and FY 23, results in an estimated increase of \$294,335 in motor vehicle revenues to be apportioned to the (Drive) Fund for FY 22, and an estimated \$441,502 increase in motor vehicle revenues to be apportioned to the (Drive) Fund for FY 23.

### **Sales Tax Impact**

Currently, the sales of electricity used in the charging of an electric 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 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 revenues. However with an effective date of January 1, 2024 being set for the levy for electricity sold at charging stations, the measure will have no impact on state sales tax revenues for FY 22 & 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 [1.5-3 months] for the motor vehicle additional electric/hybrid vehicle registration fee are estimated in the combined amount of \$253,000. Additional annual costs associated with software to identify these vehicles by weight or classification are also 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 Tax Commission (OTC”) by January 31, 2024, the OTC may still have an issue identifying which charging stations should be collecting tax without a list of stations that meet the 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. The Tax Commission is not currently aware of any software or other resource which would identify these vehicles by weight or vehicle classification for purposes of imposing the additional registration fee. If the author is aware of such a resource or knows of other states which impose a registration fee based on weight, the OTC would investigate this information upon disclosure.

As to imposing the additional registration fee on these vehicles, the 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 tran type. Acquisition of the software will result in additional administrative costs to the Tax Commission.