

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 2

3 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

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10 AN ACT

11 RELATING TO ELECTRIC MOTOR VEHICLES; CREATING THE ELECTRIC
12 VEHICLE INCOME TAX CREDIT; CREATING THE ELECTRIC VEHICLE
13 CHARGING UNIT INCOME TAX CREDIT; REQUIRING AN ADDITIONAL
14 REGISTRATION FEE FOR ELECTRIC AND PLUG-IN HYBRID ELECTRIC
15 VEHICLES; PROVIDING THAT THE ADDITIONAL REGISTRATION FEES BE
16 DISTRIBUTED TO THE STATE ROAD FUND AND THE LOCAL GOVERNMENTS
17 ROAD FUND.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. A new section of the Income Tax Act is enacted
21 to read:

22 "[NEW MATERIAL] ELECTRIC VEHICLE INCOME TAX CREDIT.--

23 A. A taxpayer who is not a dependent of another
24 individual and who, beginning on the effective date of this
25 section and prior to January 1, 2025, purchases an electric

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1 vehicle or enters into a new lease of at least three years for
2 an electric vehicle, may claim a credit against the taxpayer's
3 tax liability imposed pursuant to the Income Tax Act in an
4 amount provided in Subsection B of this section. The tax
5 credit provided by this section may be referred to as the
6 "electric vehicle income tax credit".

7 B. Except as provided in Subsection C of this
8 section, the electric vehicle income tax credit shall be in an
9 amount equal to two thousand five hundred dollars (\$2,500),
10 except that a taxpayer who meets the following requirements
11 shall be allowed a credit in an amount equal to five thousand
12 dollars (\$5,000):

13 (1) a taxpayer who files as a single
14 individual with an adjusted gross income of fifty thousand
15 dollars (\$50,000) or less for the taxable year prior to the
16 calendar year in which the electric vehicle was purchased or
17 the lease was entered into;

18 (2) a taxpayer who files as a married
19 individual filing a separate return with an adjusted gross
20 income of thirty-seven thousand five hundred dollars (\$37,500)
21 or less for the taxable year prior to the calendar year in
22 which the electric vehicle was purchased or the lease was
23 entered into; or

24 (3) a taxpayer who files as a head of
25 household or surviving spouse, or taxpayers who file as married

1 individuals filing a joint return, with an adjusted gross
2 income of seventy-five thousand dollars (\$75,000) or less for
3 the taxable year prior to the calendar year in which the
4 electric vehicle was purchased or the lease was entered into.

5 C. The amount of credit for a claim for an electric
6 vehicle income tax credit by a taxpayer for the lease of an
7 electric vehicle shall be in the following percentages of the
8 amount provided in Subsection B of this section:

9 (1) thirty-three percent if the claim is made
10 within the first calendar year from the end of the calendar
11 year in which the lease is entered into;

12 (2) sixty-seven percent if the claim is made
13 within the second calendar year from the end of the calendar
14 year in which the lease is entered into; or

15 (3) one hundred percent if the claim is made
16 within the third calendar year from the end of the calendar
17 year in which the lease is entered into.

18 D. A taxpayer shall apply for certification of
19 eligibility for the electric vehicle income tax credit from the
20 department on forms and in the manner prescribed by the
21 department. Except as provided in Subsection G of this
22 section, only one claim for an electric vehicle income tax
23 credit shall be allowed for each electric vehicle purchased or
24 leased. The aggregate amount of electric vehicle income tax
25 credits that may be certified as eligible in any calendar year

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1 is ten million dollars (\$10,000,000). Completed applications
2 shall be considered in the order received. Applications for
3 certification received after this limitation has been met in a
4 calendar year shall not be approved. The application shall
5 include proof of the electric vehicle's registration, or the
6 contract for any lease if the taxpayer is leasing the electric
7 vehicle, the taxpayer's return for the taxable year prior to
8 the calendar year in which the electric vehicle was purchased
9 or the lease was entered into and any additional information
10 that the department may require to determine eligibility for
11 the credit. The department shall issue a dated certificate of
12 eligibility to the taxpayer providing the amount of the
13 electric vehicle income tax credit for which the taxpayer is
14 eligible and the taxable year in which the credit may be
15 claimed.

16 E. Applications for certification of an electric
17 vehicle income tax credit shall be made no later than:

18 (1) one calendar year from the date in which
19 the purchase is made if the taxpayer purchases an electric
20 vehicle; or

21 (2) three calendar years from the date in
22 which the lease is entered into if the taxpayer leases an
23 electric vehicle.

24 F. That portion of an approved electric vehicle
25 income tax credit claimed by a taxpayer that exceeds the

1 taxpayer's income tax liability in the taxable year in which an
2 electric vehicle income tax credit is claimed shall be refunded
3 to the taxpayer.

4 G. Married individuals filing separate returns for
5 a taxable year for which they could have filed a joint return
6 may each claim only one-half of the electric vehicle income tax
7 credit that would have been claimed on a joint return.

8 H. A taxpayer shall submit to the department
9 information required by the department with respect to the
10 purchase or lease of an electric vehicle by the taxpayer during
11 the taxable year for which the electric vehicle income tax
12 credit is claimed.

13 I. A taxpayer allowed an electric vehicle income
14 tax credit shall report the amount of the tax credit to the
15 department on a form and in a manner required by the
16 department.

17 J. The department shall compile an annual report on
18 the electric vehicle income tax credit that shall include the
19 number of taxpayers approved by the department to receive the
20 tax credit, the aggregate amount of tax credits approved and
21 any other information necessary to evaluate the tax credit.
22 The department shall compile and present the annual report to
23 the revenue stabilization and tax policy committee and the
24 legislative finance committee with an analysis of the cost of
25 the tax credit.

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1 K. As used in this section:

2 (1) "electric vehicle" means a new motor
3 vehicle that derives all or part of the vehicle's power from
4 electricity stored in a battery that:

5 (a) has a capacity of not less than six
6 kilowatt-hours;

7 (b) is capable of powering the vehicle
8 for a range of at least fifteen miles; and

9 (c) is capable of being recharged from
10 an external source of electricity; and

11 (2) "motor vehicle" means a vehicle with four
12 wheels that:

13 (a) is required under the Motor Vehicle
14 Code to be registered in this state;

15 (b) is made by a manufacturer;

16 (c) has a base manufacturer suggested
17 retail price, before options and destination charges, of
18 forty-eight thousand dollars (\$48,000) or less, before any
19 taxes are imposed;

20 (d) is manufactured primarily for use on
21 public streets, roads or highways;

22 (e) has not been modified from the
23 original manufacturer specifications;

24 (f) is rated at not less than two
25 thousand two hundred pounds unloaded base weight and not more

1 than eight thousand five hundred pounds unloaded base weight;
 2 and

3 (g) has a maximum speed capability of at
 4 least sixty-five miles per hour."

5 SECTION 2. A new section of the Income Tax Act is enacted
 6 to read:

7 "[NEW MATERIAL] ELECTRIC VEHICLE CHARGING UNIT INCOME TAX
 8 CREDIT.--

9 A. For taxable years beginning prior to January 1,
 10 2025, a taxpayer who is not a dependent of another individual
 11 and who purchases and installs an electric vehicle charging
 12 unit may claim a credit against the taxpayer's tax liability
 13 imposed pursuant to the Income Tax Act. The tax credit
 14 provided by this section may be referred to as the "electric
 15 vehicle charging unit income tax credit".

16 B. The electric vehicle charging unit income tax
 17 credit shall not exceed three hundred dollars (\$300) or the
 18 cost to purchase and install an electric vehicle charging unit,
 19 whichever is less.

20 C. A taxpayer shall apply for certification of
 21 eligibility for the electric vehicle charging unit income tax
 22 credit from the department on forms and in the manner
 23 prescribed by the department. The aggregate amount of electric
 24 vehicle charging unit income tax credits that may be certified
 25 as eligible in any calendar year is one million dollars

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1 (\$1,000,000). Completed applications shall be considered in
2 the order received. Applications for certification received
3 after this limitation has been met in a calendar year shall not
4 be approved. The application shall include a receipt for the
5 purchase of the electric vehicle charging unit, a copy of the
6 data sheet that specifies the connector type, plug type,
7 voltage and current of the electric vehicle charging unit and
8 any additional information that the department may require to
9 determine eligibility for the credit. The department shall
10 issue a dated certificate of eligibility to the taxpayer
11 providing the amount of the electric vehicle charging unit
12 income tax credit for which the taxpayer is eligible and the
13 taxable year in which the credit may be claimed.

14 D. Applications for certification of an electric
15 vehicle charging unit income tax credit shall be made no later
16 than one calendar year from the date in which the electric
17 vehicle charging unit for which the credit is claimed is
18 purchased and installed.

19 E. That portion of an electric vehicle charging
20 unit income tax credit that exceeds a taxpayer's income tax
21 liability in the taxable year in which an electric vehicle
22 charging unit income tax credit is claimed shall be refunded to
23 the taxpayer.

24 F. Married individuals filing separate returns for
25 a taxable year for which they could have filed a joint return

1 may each claim only one-half of the electric vehicle charging
2 unit income tax credit that would have been claimed on a joint
3 return.

4 G. A taxpayer may be allocated the right to claim
5 an electric vehicle charging unit income tax credit in
6 proportion to the taxpayer's ownership interest if the taxpayer
7 owns an interest in a business entity that is taxed for federal
8 income tax purposes as a partnership or limited liability
9 company and that business entity has met all of the
10 requirements to be eligible for the tax credit. The total tax
11 credit claimed by all members of the partnership or limited
12 liability company shall not exceed the allowable tax credit
13 pursuant to Subsection B of this section.

14 H. A taxpayer allowed a tax credit pursuant to this
15 section shall report the amount of the tax credit to the
16 department in a manner required by the department.

17 I. The department shall compile an annual report on
18 the electric vehicle charging unit income tax credit that shall
19 include the number of taxpayers approved by the department to
20 receive the tax credit, the aggregate amount of tax credits
21 approved and any other information necessary to evaluate the
22 effectiveness of the tax credit. The department shall present
23 the annual report to the revenue stabilization and tax policy
24 committee and the legislative finance committee with an
25 analysis of the effectiveness and cost of the tax credit and

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1 whether the tax credit is performing the purpose for which it
2 was created.

3 J. As used in this section:

4 (1) "electric vehicle" means a motor vehicle
5 subject to the registration fee pursuant to Section 66-6-2 or
6 66-6-4 NMSA 1978 that derives all or part of the vehicle's
7 power from electricity stored in a battery that:

8 (a) has a capacity of not less than six
9 kilowatt-hours;

10 (b) is capable of powering the vehicle
11 for a range of at least fifteen miles; and

12 (c) is capable of being recharged from
13 an external source of electricity; and

14 (2) "electric vehicle charging unit" means a
15 device that:

16 (a) is used to provide electricity to an
17 electric vehicle;

18 (b) is designed to create a connection
19 between an electricity source and the electric vehicle;

20 (c) communicates with the electric
21 vehicle's control system to ensure that electricity flows at an
22 appropriate voltage and current level; and

23 (d) is installed on residential property
24 located in the state."

25 SECTION 3. A new section of the Motor Vehicle Code is

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1 enacted to read:

2 "[NEW MATERIAL] ADDITIONAL REGISTRATION FEE--ELECTRIC AND
3 PLUG-IN HYBRID ELECTRIC VEHICLES.--

4 A. For registration of vehicles subject to the
5 registration fees imposed by Sections 66-6-2 and 66-6-4 NMSA
6 1978, there is imposed an additional annual fee of one hundred
7 dollars (\$100) for which an electric vehicle with a gross
8 vehicle weight of twenty-six thousand pounds or less is
9 registered.

10 B. For registration of vehicles subject to the
11 registration fees imposed by Sections 66-6-2 and 66-6-4 NMSA
12 1978, there is imposed an additional annual fee of fifty
13 dollars (\$50.00) for which a plug-in hybrid electric vehicle
14 with a gross vehicle weight of twenty-six thousand pounds or
15 less is registered.

16 C. All fees collected pursuant to this section
17 shall be paid to the state treasurer to the credit of the motor
18 vehicle suspense fund with distribution in accordance with
19 Section 66-6-23 NMSA 1978.

20 D. As used in this section:

21 (1) "electric vehicle" means a motor vehicle
22 that derives all of the vehicle's power from electricity stored
23 in a battery that:

24 (a) has a capacity of not less than six
25 kilowatt-hours;

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1 (b) is capable of powering the vehicle
2 for a range of at least fifteen miles; and

3 (c) is capable of being recharged from
4 an external source of electricity; and

5 (2) "plug-in hybrid electric vehicle" means a
6 motor vehicle that derives part of the vehicle's power from
7 electricity stored in a battery that:

8 (a) has a capacity of not less than six
9 kilowatt-hours;

10 (b) is capable of powering the vehicle
11 for a range of at least fifteen miles; and

12 (c) is capable of being recharged from
13 an external source of electricity."

14 SECTION 4. Section 66-6-23 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 358, as amended) is amended to read:

16 "66-6-23. DISPOSITION OF FEES.--

17 A. After the necessary disbursements for refunds
18 and other purposes have been made, the money remaining in the
19 motor vehicle suspense fund, except for remittances received
20 within the previous two months that are unidentified as to
21 source or disposition, shall be distributed as follows:

22 (1) to each municipality, county or fee agent
23 operating a motor vehicle field office:

24 (a) an amount equal to six dollars
25 (\$6.00) per driver's license and five dollars (\$5.00) per

1 identification card or motor vehicle or motorboat registration
2 or title transaction performed;

3 (b) for each such agent determined by
4 the secretary pursuant to Section 66-2-16 NMSA 1978 to have
5 performed ten thousand or more transactions in the preceding
6 fiscal year, other than a class A county with a population
7 exceeding three hundred thousand or a municipality with a
8 population exceeding three hundred thousand that has been
9 designated as an agent pursuant to Section 66-2-14.1 NMSA 1978,
10 an amount equal to one dollar (\$1.00) in addition to the amount
11 distributed pursuant to Subparagraph (a) of this paragraph for
12 each driver's license, identification card, motor vehicle
13 registration, motorboat registration or title transaction
14 performed; and

15 (c) to each military installation
16 designated as a fee agent pursuant to Section 66-2-14.1 NMSA
17 1978, an amount equal to one dollar fifty cents (\$1.50) in
18 addition to the amount distributed pursuant to Subparagraph (a)
19 of this paragraph for each administrative service fee remitted
20 by the military installation to the department pursuant to
21 Subsection A of Section 66-2-16 NMSA 1978;

22 (2) to each municipality or county, other than
23 a class A county with a population exceeding three hundred
24 thousand or a municipality with a population exceeding three
25 hundred thousand that has been designated as an agent pursuant

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1 to Section 66-2-14.1 NMSA 1978, operating a motor vehicle field
2 office, an amount equal to one dollar fifty cents (\$1.50) for
3 each administrative service fee remitted by that county or
4 municipality to the department pursuant to the provisions of
5 Subsection A of Section 66-2-16 NMSA 1978;

6 (3) to the state road fund:

7 (a) an amount equal to the fees
8 collected pursuant to Sections 66-7-413 and 66-7-413.4 NMSA
9 1978;

10 (b) an amount equal to the fee collected
11 pursuant to Section 66-3-417 NMSA 1978;

12 (c) the remainder of each driver's
13 license fee collected by the department employees from an
14 applicant to whom a license is granted after deducting from the
15 driver's license fee the amount of the distribution authorized
16 in Paragraph (1) of this subsection with respect to that
17 collected driver's license fee; ~~and~~

18 (d) an amount equal to fifty percent of
19 the fees collected pursuant to Section 66-6-19 NMSA 1978; and

20 (e) an amount equal to seventy-seven
21 percent of the fees collected pursuant to Section 3 of this
22 2020 act;

23 (4) to the local governments road fund:

24 (a) the amount of the fees collected
25 pursuant to Subsection B of Section 66-5-33.1 NMSA 1978 and the

1 remainder of the fees collected pursuant to Subsection A of
2 Section 66-5-408 NMSA 1978; and

3 (b) an amount equal to twenty-three
4 percent of the fees collected pursuant to Section 3 of this
5 2020 act;

6 (5) to the department:

7 (a) any amounts reimbursed to the
8 department pursuant to Subsection D of Section 66-2-14.1 NMSA
9 1978;

10 (b) an amount equal to two dollars
11 (\$2.00) of each motorcycle registration fee collected pursuant
12 to Section 66-6-1 NMSA 1978;

13 (c) an amount equal to the fees provided
14 for in Subsection D of Section 66-2-7 NMSA 1978, Subsection E
15 of Section 66-2-16 NMSA 1978, Subsections K and L of Section
16 66-3-6 NMSA 1978 other than the administrative fee, Subsection
17 C of Section 66-5-44 NMSA 1978 and Subsection B of Section
18 66-5-408 NMSA 1978;

19 (d) the amounts due to the department
20 for the manufacture and issuance of a special registration
21 plate collected pursuant to the section of law authorizing the
22 issuance of the specialty plate;

23 (e) an amount equal to the registration
24 fees collected pursuant to Section 66-6-6.1 NMSA 1978 for the
25 purposes of enforcing the provisions of the Mandatory Financial

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1 Responsibility Act and for creating and maintaining a
2 multilanguage noncommercial driver's license testing program;
3 and after those purposes are met, the balance of the
4 registration fees shall be distributed to the department to
5 defray the costs of operating the [~~motor vehicle~~] division;

6 (f) an amount equal to fifty cents
7 (\$.50) for each administrative fee remitted to the department
8 by a county or municipality operating a motor vehicle field
9 office pursuant to Subsection A of Section 66-2-16 NMSA 1978;

10 (g) an amount equal to one dollar
11 twenty-five cents (\$.25) for each administrative fee collected
12 by the department or any of its agents other than a county or
13 municipality operating a motor vehicle field office pursuant to
14 Subsection A of Section 66-2-16 NMSA 1978; and

15 (h) an amount equal to the royalties or
16 other consideration paid by commercial users of databases of
17 motor vehicle-related records of the department pursuant to
18 Subsection C of Section 14-3-15.1 NMSA 1978 for the purpose of
19 defraying the costs of maintaining databases of motor vehicle-
20 related records of the department; and after that purpose is
21 met, the balance of the royalties and other consideration shall
22 be distributed to the department to defray the costs of
23 operating the [~~motor vehicle~~] division or for use pursuant to
24 Subsection F of Section 66-6-13 NMSA 1978;

25 (6) to each New Mexico institution of higher

1 education, an amount equal to that part of the fees distributed
2 pursuant to Paragraph (2) of Subsection D of Section 66-3-416
3 NMSA 1978 proportionate to the number of special registration
4 plates issued in the name of the institution to all such
5 special registration plates issued in the name of all
6 institutions;

7 (7) to the armed forces veterans license fund,
8 the amount to be distributed pursuant to Paragraph (2) of
9 Subsection E of Section 66-3-419 NMSA 1978;

10 (8) to the children's trust fund, the amount
11 to be distributed pursuant to Paragraph (2) of Subsection D of
12 Section 66-3-420 NMSA 1978;

13 (9) to the department of transportation, an
14 amount equal to the fees collected pursuant to Section 66-5-35
15 NMSA 1978;

16 (10) to the state equalization guarantee
17 distribution made annually pursuant to the general
18 appropriation act, an amount equal to one hundred percent of
19 the driver safety fee collected pursuant to Subsection D of
20 Section 66-5-44 NMSA 1978;

21 (11) to the motorcycle training fund, two
22 dollars (\$2.00) of each motorcycle registration fee collected
23 pursuant to Section 66-6-1 NMSA 1978;

24 (12) to the recycling and illegal dumping
25 fund:

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1 (a) fifty cents (\$.50) of the tire
2 recycling fee collected pursuant to the provisions of Section
3 66-6-1 NMSA 1978;

4 (b) fifty cents (\$.50) of each of the
5 tire recycling fees collected pursuant to the provisions of
6 Sections 66-6-2 and 66-6-4 NMSA 1978; and

7 (c) twenty-five cents (\$.25) of each of
8 the tire recycling fees collected pursuant to Sections 66-6-5
9 and 66-6-8 NMSA 1978;

10 (13) to the highway infrastructure fund:

11 (a) fifty cents (\$.50) of the tire
12 recycling fee collected pursuant to the provisions of Section
13 66-6-1 NMSA 1978;

14 (b) one dollar (\$1.00) of each of the
15 tire recycling fees collected pursuant to the provisions of
16 Sections 66-6-2 and 66-6-4 NMSA 1978; and

17 (c) twenty-five cents (\$.25) of each of
18 the tire recycling fees collected pursuant to Sections 66-6-5
19 and 66-6-8 NMSA 1978;

20 (14) to each county, an amount equal to fifty
21 percent of the fees collected pursuant to Section 66-6-19 NMSA
22 1978 multiplied by a fraction, the numerator of which is the
23 total mileage of public roads maintained by the county and the
24 denominator of which is the total mileage of public roads
25 maintained by all counties in the state;

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1 (15) to the litter control and beautification
2 fund, an amount equal to the fees collected pursuant to Section
3 66-6-6.2 NMSA 1978;

4 (16) to the local government division of the
5 department of finance and administration, an amount equal to
6 the fees collected pursuant to Section 66-3-424.3 NMSA 1978 for
7 distribution to each county to support animal control spaying
8 and neutering programs in an amount proportionate to the number
9 of residents of that county who have purchased pet care special
10 registration plates pursuant to Section 66-3-424.3 NMSA 1978;
11 and

12 (17) to the Cumbres and Toltec scenic railroad
13 commission, twenty-five dollars (\$25.00) collected pursuant to
14 the Cumbres and Toltec scenic railroad special registration
15 plate.

16 B. The balance, exclusive of unidentified
17 remittances, shall be distributed in accordance with Section
18 66-6-23.1 NMSA 1978.

19 C. If any of the paragraphs, subsections or
20 sections referred to in Subsection A of this section are
21 recompiled or otherwise redesignated without a corresponding
22 change to Subsection A of this section, the reference in
23 Subsection A of this section shall be construed to be the
24 recompiled or redesignated paragraph, subsection or section."

25 SECTION 5. APPLICABILITY.--The provisions of Sections 1

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1 and 2 of this act apply to taxable years beginning on or after
2 January 1, 2020.

3 SECTION 6. EFFECTIVE DATE.--The effective date of the
4 provisions of Sections 3 and 4 of this act is January 1, 2021.