

**LFC Requester:**

**Jennifer Faubion**

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**      X      **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date Prepared:**    January 19, 2024

**Bill No:**    HB140

**Sponsor:**    Dayan Hochman-Vigil

**Agency Name and Code Number:**    305 – New Mexico  
Department of Justice

**Short Title:**    Clean Car Income Tax  
Credit

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis: HB140 proposes (1) adding two new sections to the Income Tax Act and (2) adding two new sections to the Corporate Income and Franchise Tax Act, all to provide tax credits to taxpayers for purchase or minimum three-year lease of either electric vehicles, plug-in hybrid vehicles, fuel cell vehicles, or purchase and installation of an electric vehicle charging unit or fuel cell charging unit. This bill’s effective date is January 1, 2024, and applies to taxable years beginning on or after January 1, 2024. This bill contains a delayed repeal provision, repealing effective January 1, 2031.

Under Section 1 of HB140, a non-dependent taxpayer who purchases or enters into a minimum three-year lease of an electric vehicle, plug-in hybrid electric vehicle, or fuel cell vehicle (as defined in this new section). The available tax credit amounts vary for the type of vehicle purchased, and in what condition the vehicle was purchased. The table below details the years applicable, the type of vehicle, and the available tax credit in this section.

**January 1, 2024 – January 1, 2027**

Vehicle Type	Tax Credit
New Electric Vehicle	\$3,000.00
New Plug-in Hybrid Electric Vehicle or Fuel Cell Vehicle	\$2,000.00
Previously Owned Electric Vehicle	\$1,500.00
Previously Owned Plug-in Hybrid Electric Vehicle or Fuel Cell Vehicle	\$1,000.00

**January 1, 2027 – January 1, 2028**

Vehicle Type	Tax Credit
New Electric Vehicle	\$2,200.00
New Plug-in Hybrid Electric Vehicle or Fuel Cell Vehicle	\$1,480.00
Previously Owned Electric Vehicle	\$1,100.00
Previously Owned Plug-in Hybrid Electric Vehicle or Fuel Cell Vehicle	\$740.00

**January 1, 2028 - January 1, 2029**

<b>Vehicle Type</b>	<b>Tax Credit</b>
New Electric Vehicle	\$1,470.00
New Plug-in Hybrid Electric Vehicle or Fuel Cell Vehicle	\$980.00
Previously Owned Electric Vehicle	\$735.00
Previously Owned Plug-in Hybrid Electric Vehicle or Fuel Cell Vehicle	\$490.00

**January 1, 2029 – January 1, 2031 (delayed repeal)**

<b>Vehicle Type</b>	<b>Tax Credit</b>
New Electric Vehicle	\$970.00
New Plug-in Hybrid Electric Vehicle or Fuel Cell Vehicle	\$640.00
Previously Owned Electric Vehicle	\$480.00
Previously Owned Plug-in Hybrid Electric Vehicle or Fuel Cell Vehicle	\$320.00

To certify eligibility of this tax credit under HB140, a taxpayer must apply to the Energy, Minerals, and Natural Resource Department (“EMNRD”) using forms prescribed by that department. These forms, however, shall contain some required information, such as proof of vehicle purchase or lease and the dealer from which the vehicle was purchased or leased. Upon completion of forms and meeting the requirements of this bill, the department shall issue a dated certificate of eligibility. This certificate may be sold, exchanged, or otherwise transferred to another taxpayer with notification to EMNRD.

HB140 does contemplate some limits on the right to claim a tax credit. Notably, married individuals filing separate returns may each claim only one-half of the tax credit that would have been claimed in a joint return. Further, a partnership or limited liability company may only claim an amount that does not exceed the allowable credit in a given year.

Under Section 2 of HB 140, prior to January 1, 2030, a taxpayer may claim a tax credit for the purchase and installation of an electric vehicle charging unit or fuel cell charging unit. For a direct current fast charger or fuel cell charging unit, a taxpayer may claim a tax credit of \$25,000.00 or the cost of purchase and installation of such unit, whichever is less. For all other charging units, a taxpayer may claim a tax credit of \$400.00 or the cost of purchase and installation, whichever is less.

Like Section 1, a taxpayer must apply for certification of eligibility through EMNRD, including receipt for purchase, data sheets for electric vehicle charging units, technical specifications for fuel dispensing units and fuel storage systems for a fuel cell charging unit, and any other information EMNRD requires for evaluation of eligibility for the credit. The same limitations under Section 1 for total claimed credit applies in Section 2 as well. Additionally, a taxpayer who claims the 2021 sustainable building tax credit for the expenses of purchasing or installing an electric vehicle charging unit or fuel cell charging unit shall not be eligible to claim this tax credit.

Under Section 3 of HB 140, corporations subject to the imposition and levy of taxes through the Corporate Income and Franchise Tax Act may claim tax credits pursuant to the same provisions of Section 1, relating to the purchase or three-year minimum lease of electric vehicles or fuel cell vehicles. Similarly, under Section 4 of HB 140, corporations subject to

the imposition and levy of taxes through the Corporate Income and Franchise Tax Act may claim tax credits pursuant to same provision of Section 2, relating to the purchase and installation of electric vehicle charging unit or fuel cell charging unit.

### **FISCAL IMPLICATIONS**

None to this office.

### **SIGNIFICANT ISSUES**

None.

### **PERFORMANCE IMPLICATIONS**

None.

### **ADMINISTRATIVE IMPLICATIONS**

None.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 140 appears to duplicate or conflict with SB 8. Both bills concern establishing tax credits for electric cars but have significant differences pertaining to each. For example, SB 8 contains a provision relating to a registration fee, while HB 140 does not mention such a provision whatsoever. Somewhat relatedly, HB 140 contains a provision for a corporation to obtain a tax credit, while SB 8 does not amend that portion of law.

HB 140 shares some relationship with several other bills this session, notably HB 73 “Energy Storage System Income Tax Credit” HB 92 “Geothermal Electricity Generation Tax Credits,” and SB 58, “Geothermal Electricity Tax Credit,” in that these bills all contemplate a grant of tax credits for electric energy efficiency purposes. SB8 also topically is similar to HB 75 “Electric School Buses” in that it concerns promoting the acquisition and use of electric vehicles.

HB140 is tangentially related to SM 2 and HB 76 which are both targeted towards repealing the new Advanced Clean Cars II regulations requiring manufacturers to provide a certain percentage of EVs in New Mexico. If SM 2 and HB 76 pass, there would be fewer EV options on the market in New Mexico and could limit consumers who want to take advantage of the credits in HB140.

### **TECHNICAL ISSUES**

None

### **OTHER SUBSTANTIVE ISSUES**

None

### **ALTERNATIVES**

N/A

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

**AMENDMENTS**

N/A