

1 HOUSE BILL 217

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO ELECTRIC MOTOR VEHICLES; CREATING THE ELECTRIC
12 VEHICLE INCOME TAX CREDIT; MAKING THAT CREDIT TRANSFERRABLE AND
13 REFUNDABLE; CREATING THE ELECTRIC VEHICLE CHARGING UNIT INCOME
14 TAX CREDIT; MAKING THAT CREDIT REFUNDABLE; REQUIRING AN
15 ADDITIONAL REGISTRATION FEE FOR ELECTRIC AND PLUG-IN HYBRID
16 ELECTRIC VEHICLES; PROVIDING THAT THE ADDITIONAL REGISTRATION
17 FEES BE DISTRIBUTED TO THE STATE 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 purchases or leases an electric vehicle may
25 claim a credit against the taxpayer's tax liability imposed

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1 pursuant to the Income Tax Act in an amount provided in
2 Subsection C of this section. The tax credit provided by this
3 section may be referred to as the "electric vehicle income tax
4 credit".

5 B. The electric vehicle income tax credit shall be
6 in an amount equal to two thousand five hundred dollars
7 (\$2,500), except that a taxpayer who meets the following
8 requirements shall be allowed a credit in an amount equal to
9 five thousand dollars (\$5,000):

10 (1) a taxpayer who files as a single
11 individual with an adjusted gross income of fifty thousand
12 dollars (\$50,000) or less;

13 (2) a taxpayer who files as a married
14 individual filing a separate return with an adjusted gross
15 income of thirty-seven thousand five hundred dollars (\$37,500)
16 or less; or

17 (3) a taxpayer who files as a head of
18 household or surviving spouse, or taxpayers who file as married
19 individuals filing a joint return, with an adjusted gross
20 income of seventy-five thousand dollars (\$75,000) or less.

21 C. Subject to the limitation in Subsection D of
22 this section, a taxpayer may claim the electric vehicle income
23 tax credit provided in this section for each taxable year that
24 begins on or after January 1, 2020 and prior to January 1,
25 2028, in which the taxpayer:

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- 1 (1) purchases an electric vehicle; or
2 (2) begins a new lease with a term of at least
3 two years for an electric vehicle.

4 D. The aggregate amount of electric vehicle income
5 tax credit claims that may be authorized for payment in any
6 fiscal year is ten million dollars (\$10,000,000). If a
7 taxpayer submits a claim for a tax credit but is unable to
8 receive the tax credit because the claims for the fiscal year
9 exceed the limitation provided in this subsection, the
10 taxpayer's claim shall be placed at the front of a queue of
11 credit claimants for the subsequent fiscal year in the order of
12 the date on which the credit was authorized for payment.
13 Completed applications for the tax credit shall be considered
14 in the order received by the department.

15 E. If the requirements of this section have been
16 complied with, the department shall issue to the taxpayer a
17 document granting an electric vehicle income tax credit. The
18 document shall be numbered for identification and declare the
19 document's date of issuance and the amount of the tax credit
20 allowed. The document may be submitted by the taxpayer with
21 that taxpayer's income tax return or may be sold, exchanged or
22 otherwise transferred to another taxpayer. The parties to such
23 a transaction shall notify the department of the sale, exchange
24 or transfer within ten days of the sale, exchange or transfer.

25 F. That portion of an approved electric vehicle

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

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

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

19 I. A taxpayer shall submit to the department
20 information required by the department with respect to the
21 purchase or lease of an electric vehicle by the taxpayer during
22 the taxable year for which the electric vehicle income tax
23 credit is claimed.

24 J. A taxpayer allowed an electric vehicle income
25 tax credit shall report the amount of the tax credit to the

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1 department on a form and in a manner required by the
2 department.

3 K. The department shall compile an annual report on
4 the electric vehicle income tax credit that shall include the
5 number of taxpayers approved by the department to receive the
6 tax credit, the aggregate amount of tax credits approved and
7 any other information necessary to evaluate the tax credit.
8 The department shall compile and present the annual report to
9 the revenue stabilization and tax policy committee and the
10 legislative finance committee with an analysis of the cost of
11 the tax credit.

12 L. As used in this section:

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

16 (a) has a capacity of not less than six
17 kilowatt-hours;

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

20 (c) is capable of being recharged from
21 an external source of electricity; and

22 (2) "motor vehicle" means a vehicle with four
23 wheels that:

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

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- 1 (b) is made by a manufacturer;
- 2 (c) has a manufacturer suggested retail
3 price of forty-eight thousand dollars (\$48,000) or less, before
4 any taxes are imposed;
- 5 (d) is manufactured primarily for use on
6 public streets, roads or highways;
- 7 (e) has not been modified from the
8 original manufacturer specifications;
- 9 (f) is rated at not less than two
10 thousand two hundred pounds unloaded base weight and not more
11 than eight thousand five hundred pounds unloaded base weight;
12 and
- 13 (g) has a maximum speed capability of at
14 least sixty-five miles per hour."

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

17 "[NEW MATERIAL] ELECTRIC VEHICLE CHARGING UNIT INCOME TAX
18 CREDIT.--

19 A. For taxable years beginning prior to January 1,
20 2028, a taxpayer who is not a dependent of another individual
21 and who purchases and installs an electric vehicle charging
22 unit may claim a credit against the taxpayer's tax liability
23 imposed pursuant to the Income Tax Act. The tax credit
24 provided by this section may be referred to as the "electric
25 vehicle charging unit income tax credit".

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

5 C. The department may allow a maximum annual
6 aggregate of one million dollars (\$1,000,000) in electric
7 vehicle charging unit income tax credits per fiscal year.
8 Completed applications for a tax credit shall be considered in
9 the order received by the department.

10 D. A taxpayer may claim an electric vehicle
11 charging unit income tax credit for the taxable year in which
12 the taxpayer purchases and installs an electric vehicle
13 charging unit. To receive an electric vehicle charging unit
14 income tax credit, a taxpayer shall submit an application to
15 the department on forms and in the manner prescribed by the
16 department; provided that a completed application shall
17 include:

18 (1) a receipt for the purchase of an electric
19 vehicle charging unit; and

20 (2) a copy of the data sheet that specifies
21 the connector type, plug type, voltage and current of the
22 purchased electric vehicle charging unit.

23 E. That portion of an electric vehicle charging
24 unit income tax credit that exceeds a taxpayer's income tax
25 liability in the taxable year in which an electric vehicle

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1 charging unit income tax credit is claimed shall be refunded to
2 the taxpayer.

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

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

18 H. A taxpayer allowed a tax credit pursuant to this
19 section shall report the amount of the tax credit to the
20 department in a manner required by the department.

21 I. The department shall compile an annual report on
22 the electric vehicle charging unit income tax credit that shall
23 include the number of taxpayers approved by the department to
24 receive the tax credit, the aggregate amount of tax credits
25 approved and any other information necessary to evaluate the

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1 effectiveness of the tax credit. The department shall present
2 the annual report to the revenue stabilization and tax policy
3 committee and the legislative finance committee with an
4 analysis of the effectiveness and cost of the tax credit and
5 whether the tax credit is performing the purpose for which it
6 was created.

7 J. As used in this section:

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

11 (a) has a capacity of not less than six
12 kilowatt-hours;

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

15 (c) is capable of being recharged from
16 an external source of electricity;

17 (2) "electric vehicle charging unit" means a
18 wall-mounted or pedestal-style device that:

19 (a) is used to provide electricity to an
20 electric vehicle;

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

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

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1 (d) is installed on residential property
2 located in the state; and

3 (3) "motor vehicle" means a vehicle with four
4 wheels that:

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

7 (b) is made by a manufacturer;

8 (c) has a manufacturer suggested retail
9 price of forty-eight thousand dollars (\$48,000) or less, before
10 any taxes are imposed;

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

13 (e) has not been modified from the
14 original manufacturer specifications;

15 (f) is rated at not less than two
16 thousand two hundred pounds unloaded base weight and not more
17 than eight thousand five hundred pounds unloaded base weight;
18 and

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

21 SECTION 3. A new section of the Motor Vehicle Code is
22 enacted to read:

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

25 A. For registration of vehicles subject to the

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1 registration fees imposed by Sections 66-6-2 and 66-6-4 NMSA
2 1978, there is imposed an additional annual fee of fifty
3 dollars (\$50.00) for which an electric vehicle with a gross
4 vehicle weight of twenty-six thousand pounds or less is
5 registered.

6 B. For registration of vehicles subject to the
7 registration fees imposed by Sections 66-6-2 and 66-6-4 NMSA
8 1978, there is imposed an additional fee of twenty dollars
9 (\$20.00) for which a plug-in hybrid electric vehicle with a
10 gross vehicle weight of twenty-six thousand pounds or less is
11 registered.

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

16 D. As used in this section:

17 (1) "electric vehicle" means a motor vehicle
18 that derives all of the vehicle's power from electricity stored
19 in a battery that:

20 (a) has a capacity of not less than six
21 kilowatt-hours;

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

24 (c) is capable of being recharged from
25 an external source of electricity; and

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

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

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

8 (c) is capable of being recharged from
9 an external source of electricity."

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

12 "66-6-23. DISPOSITION OF FEES.--

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

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

20 (a) an amount equal to six dollars
21 (\$6.00) per driver's license and five dollars (\$5.00) per
22 identification card or motor vehicle or motorboat registration
23 or title transaction performed;

24 (b) for each such agent determined by
25 the secretary pursuant to Section 66-2-16 NMSA 1978 to have

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

11 (c) to each military installation
12 designated as a fee agent pursuant to Section 66-2-14.1 NMSA
13 1978, an amount equal to one dollar fifty cents (\$1.50) in
14 addition to the amount distributed pursuant to Subparagraph (a)
15 of this paragraph for each administrative service fee remitted
16 by the military installation to the department pursuant to
17 Subsection A of Section 66-2-16 NMSA 1978;

18 (2) to each municipality or county, other than
19 a class A county with a population exceeding three hundred
20 thousand or a municipality with a population exceeding three
21 hundred thousand that has been designated as an agent pursuant
22 to Section 66-2-14.1 NMSA 1978, operating a motor vehicle field
23 office, an amount equal to one dollar fifty cents (\$1.50) for
24 each administrative service fee remitted by that county or
25 municipality to the department pursuant to the provisions of

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1 Subsection A of Section 66-2-16 NMSA 1978;

2 (3) to the state road fund:

3 (a) an amount equal to the fees
4 collected pursuant to Sections 66-7-413 and 66-7-413.4 NMSA
5 1978;

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

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

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

16 (e) the amount collected pursuant to
17 Section 3 of this 2020 act;

18 (4) to the local governments road fund, the
19 amount of the fees collected pursuant to Subsection B of
20 Section 66-5-33.1 NMSA 1978 and the remainder of the fees
21 collected pursuant to Subsection A of Section 66-5-408 NMSA
22 1978;

23 (5) to the department:

24 (a) any amounts reimbursed to the
25 department pursuant to Subsection D of Section 66-2-14.1 NMSA

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1 1978;

2 (b) an amount equal to two dollars
3 (\$.00) of each motorcycle registration fee collected pursuant
4 to Section 66-6-1 NMSA 1978;

5 (c) an amount equal to the fees provided
6 for in Subsection D of Section 66-2-7 NMSA 1978, Subsection E
7 of Section 66-2-16 NMSA 1978, Subsections K and L of Section
8 66-3-6 NMSA 1978 other than the administrative fee, Subsection
9 C of Section 66-5-44 NMSA 1978 and Subsection B of Section
10 66-5-408 NMSA 1978;

11 (d) the amounts due to the department
12 for the manufacture and issuance of a special registration
13 plate collected pursuant to the section of law authorizing the
14 issuance of the specialty plate;

15 (e) an amount equal to the registration
16 fees collected pursuant to Section 66-6-6.1 NMSA 1978 for the
17 purposes of enforcing the provisions of the Mandatory Financial
18 Responsibility Act and for creating and maintaining a
19 multilanguage noncommercial driver's license testing program;
20 and after those purposes are met, the balance of the
21 registration fees shall be distributed to the department to
22 defray the costs of operating the [~~motor vehicle~~] division;

23 (f) an amount equal to fifty cents
24 (\$.50) for each administrative fee remitted to the department
25 by a county or municipality operating a motor vehicle field

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1 office pursuant to Subsection A of Section 66-2-16 NMSA 1978;

2 (g) an amount equal to one dollar
3 twenty-five cents (\$1.25) for each administrative fee collected
4 by the department or any of its agents other than a county or
5 municipality operating a motor vehicle field office pursuant to
6 Subsection A of Section 66-2-16 NMSA 1978; and

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

17 (6) to each New Mexico institution of higher
18 education, an amount equal to that part of the fees distributed
19 pursuant to Paragraph (2) of Subsection D of Section 66-3-416
20 NMSA 1978 proportionate to the number of special registration
21 plates issued in the name of the institution to all such
22 special registration plates issued in the name of all
23 institutions;

24 (7) to the armed forces veterans license fund,
25 the amount to be distributed pursuant to Paragraph (2) of

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1 Subsection E of Section 66-3-419 NMSA 1978;

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

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

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

13 (11) to the motorcycle training fund, two
14 dollars (\$.00) of each motorcycle registration fee collected
15 pursuant to Section 66-6-1 NMSA 1978;

16 (12) to the recycling and illegal dumping
17 fund:

18 (a) fifty cents (\$.50) of the tire
19 recycling fee collected pursuant to the provisions of Section
20 66-6-1 NMSA 1978;

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

24 (c) twenty-five cents (\$.25) of each of
25 the tire recycling fees collected pursuant to Sections 66-6-5

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1 and 66-6-8 NMSA 1978;

2 (13) to the highway infrastructure fund:

3 (a) fifty cents (\$.50) of the tire
4 recycling fee collected pursuant to the provisions of Section
5 66-6-1 NMSA 1978;

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

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

12 (14) to each county, an amount equal to fifty
13 percent of the fees collected pursuant to Section 66-6-19 NMSA
14 1978 multiplied by a fraction, the numerator of which is the
15 total mileage of public roads maintained by the county and the
16 denominator of which is the total mileage of public roads
17 maintained by all counties in the state;

18 (15) to the litter control and beautification
19 fund, an amount equal to the fees collected pursuant to Section
20 66-6-6.2 NMSA 1978;

21 (16) to the local government division of the
22 department of finance and administration, an amount equal to
23 the fees collected pursuant to Section 66-3-424.3 NMSA 1978 for
24 distribution to each county to support animal control spaying
25 and neutering programs in an amount proportionate to the number

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1 of residents of that county who have purchased pet care special
2 registration plates pursuant to Section 66-3-424.3 NMSA 1978;
3 and

4 (17) to the Cumbres and Toltec scenic railroad
5 commission, twenty-five dollars (\$25.00) collected pursuant to
6 the Cumbres and Toltec scenic railroad special registration
7 plate.

8 B. The balance, exclusive of unidentified
9 remittances, shall be distributed in accordance with Section
10 66-6-23.1 NMSA 1978.

11 C. If any of the paragraphs, subsections or
12 sections referred to in Subsection A of this section are
13 recompiled or otherwise redesignated without a corresponding
14 change to Subsection A of this section, the reference in
15 Subsection A of this section shall be construed to be the
16 recompiled or redesignated paragraph, subsection or section."

17 SECTION 5. APPLICABILITY.--The provisions of Sections 1
18 and 2 of this act apply to taxable years beginning on or after
19 January 1, 2020.

20 SECTION 6. EFFECTIVE DATE.--The effective date of the
21 provisions of Section 3 of this act is January 1, 2021.