

SENATE TAX, BUSINESS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 21

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

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

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

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

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

A. A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2027, purchases an electric vehicle or enters into a new lease of at least three years for an electric vehicle may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount provided in Subsection B of this section. The tax credit provided by this section may be referred to as the "electric vehicle income tax credit".

B. The electric vehicle income tax credit shall be in an amount equal to SFC → ~~two thousand five hundred dollars (\$2,500), except that a taxpayer who meets the following requirements shall be allowed a credit in an amount equal to four thousand dollars (\$4,000):~~

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

~~(2) a taxpayer who files as a married~~

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~~individual filing a separate return with an adjusted gross income of thirty-seven thousand five hundred dollars (\$37,500) or less for the taxable year prior to the calendar year in which the electric vehicle was purchased or the lease was entered into; or~~

~~(3) a taxpayer who files as a head of household or surviving spouse, or taxpayers who file as married individuals filing a joint return, with an adjusted gross income of seventy-five thousand dollars (\$75,000) or less for the taxable year prior to the calendar year in which the electric vehicle was purchased or the lease was entered into.~~ ←SFC SFC→ **three thousand two hundred fifty dollars (\$3,250).** ←SFC

C. A taxpayer shall apply for certification of eligibility for the electric vehicle income tax credit from the department on forms and in the manner prescribed by the department. Except as provided in Subsection H of this section, only one electric vehicle income tax credit shall be allowed for each electric vehicle purchased or leased. The application shall include proof of purchase or lease, the electric vehicle's registration or application for registration and any additional information that the department may require to determine eligibility for the credit. The department shall issue a dated certificate of eligibility to the taxpayer providing the amount of the electric vehicle income tax credit

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for which the taxpayer is eligible and the taxable year in which the credit may be claimed for an electric vehicle that was purchased or leased.

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

E. Applications for certification of an electric vehicle income tax credit shall be made no later than one calendar year from the date in which the electric vehicle is purchased or the lease is entered into.

F. A certificate of eligibility for an electric vehicle income tax credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

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

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

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

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

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

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

L. As used in this section:

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(1) "electric vehicle" means a new motor vehicle ~~SFC~~→registered or purchased in New Mexico←SFC that derives all or part of the vehicle's power from electricity stored in a battery that:

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

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

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

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

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

(b) is made by a manufacturer;

(c) has a base manufacturer suggested retail price, before options and destination charges, of fifty-five thousand dollars (\$55,000) or less, before any taxes are imposed;

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

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

(f) is rated at not less than two thousand two hundred pounds unloaded base weight and not more than nine thousand seven hundred fifty pounds unloaded base

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weight; and

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

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

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

A. For taxable years beginning prior to January 1, 2027, a taxpayer who is not a dependent of another individual and who purchases and installs an electric vehicle charging unit may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "electric vehicle charging unit income tax credit".

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

C. A taxpayer shall apply for certification of eligibility for the electric vehicle charging unit income tax credit from the department on forms and in the manner prescribed by the department. The aggregate amount of electric vehicle charging unit income tax credits that may be certified as eligible in any calendar year is one million dollars (\$1,000,000). Completed applications shall be considered in the order received. If a taxpayer submits a claim for a tax

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credit but is unable to receive the tax credit because the claims for the fiscal year exceed the limitation provided in this subsection, the taxpayer's claim shall be placed at the front of a queue of credit claimants for the subsequent fiscal year in the order of the date on which the credit was authorized for payment.

D. An application for certification of eligibility shall include a receipt for the purchase of the electric vehicle charging unit, a copy of the data sheet that specifies the connector type, plug type, voltage and current of the electric vehicle charging unit and any additional information that the department may require to determine eligibility for the credit. The department shall issue a dated certificate of eligibility to the taxpayer providing the amount of the electric vehicle charging unit income tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed.

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

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

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the taxpayer.

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

~~SFC→H. A taxpayer may be allocated the right to claim an electric vehicle charging unit income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the tax credit. The total tax credit claimed by all members of the partnership or limited liability company shall not exceed the allowable tax credit pursuant to Subsection B of this section.~~←SFC

SFC→I.←SFC SFC→H.←SFC A taxpayer allowed a tax credit pursuant to this section shall report the amount of the tax credit to the department in a manner required by the department.

SFC→J.←SFC SFC→I.←SFC The department shall compile an annual report on the electric vehicle charging unit income tax credit that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other

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information necessary to evaluate the effectiveness of the tax credit. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

SFC→~~K.~~←SFC SFC→~~J.~~←SFC As used in this section:

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

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

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

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

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

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

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

(c) uses the electric vehicle's control system to ensure that electricity flows at an appropriate voltage and current level; and

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

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

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

A. For registration of vehicles subject to the registration fees imposed by Sections 66-6-2 and 66-6-4 NMSA 1978, there is imposed an additional annual fee of fifty-four dollars (\$54.00) for which an electric vehicle with a gross vehicle weight of twenty-six thousand pounds or less is registered.

B. For registration of vehicles subject to the registration fees imposed by Sections 66-6-2 and 66-6-4 NMSA 1978, there is imposed an additional annual fee of twenty-seven dollars (\$27.00) for which a plug-in hybrid electric vehicle with a gross vehicle weight of twenty-six thousand pounds or less is registered.

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

D. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

(a) an amount equal to six dollars

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(\$6.00) per driver's license and five dollars (\$5.00) per identification card or motor vehicle or motorboat registration or title transaction performed;

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

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

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

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

(3) to the state road fund:

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

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

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

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

(e) an amount equal to seventy-seven percent of the fees collected pursuant to Section 3 of this 2022 act;

(4) to the local governments road fund:

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

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Section 66-5-408 NMSA 1978; and

(b) an amount equal to twenty-three percent of the fees collected pursuant to Section 3 of this 2022 act;

(5) to the department:

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

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

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

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

(e) an amount equal to the registration fees collected pursuant to Section 66-6-6.1 NMSA 1978 for the purposes of enforcing the provisions of the Mandatory Financial Responsibility Act and for creating and maintaining a multilanguage noncommercial driver's license testing program;

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and after those purposes are met, the balance of the registration fees shall be distributed to the department to defray the costs of operating the [~~motor vehicle~~] division;

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

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

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

(6) to each New Mexico institution of higher education, an amount equal to that part of the fees distributed pursuant to Paragraph (2) of Subsection D of Section 66-3-416 NMSA 1978 proportionate to the number of special registration

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plates issued in the name of the institution to all such special registration plates issued in the name of all institutions;

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

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

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

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

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

(12) to the recycling and illegal dumping fund:

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

(b) fifty cents (\$.50) of each of the

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tire recycling fees collected pursuant to the provisions of Sections 66-6-2 and 66-6-4 NMSA 1978; and

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

(13) to the highway infrastructure fund:

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

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

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

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

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

(16) to the local government division of the department of finance and administration, an amount equal to

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the fees collected pursuant to Section 66-3-424.3 NMSA 1978 for distribution to each county to support animal control spaying and neutering programs in an amount proportionate to the number of residents of that county who have purchased pet care special registration plates pursuant to Section 66-3-424.3 NMSA 1978; and

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

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

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

SECTION 5. APPLICABILITY.--The provisions of Sections 1 and 2 of this act apply to taxable years beginning on or after January 1, 2022.

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of Sections 3 and 4 of this act is January 1, 2023.

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