

This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see <https://lpdd.org>

**MODEL LAW FOR STATE INCOME TAX CREDITS FOR PLACING IN SERVICE  
ELECTRIC VEHICLE CHARGING STATIONS**

Effective: \_\_\_\_, 2021

**1. PURPOSE AND INTENT**

- a. To reduce greenhouse gas emissions in the United States by at least 80% from 1990 levels by 2050 will require that 80%-95% of the miles driven be in vehicles powered by lower carbon energy sources like electricity.
- b. The purpose of this act is to accelerate the adoption of electric vehicles by reducing the cost of installing charging station infrastructure for electric vehicles.

**2. DEFINITIONS**

- a. “Corridor Location”: a location for Electric Vehicle Charging Equipment situated on a roadway that is a component of a Critical Travel Corridor, or within three miles of such roadway.
- b. “Critical Travel Corridor”: heavily used public roads in the State, as designated by [*the state tax authority*], upon the advice of the Transportation Commissioner, which may include federal interstate highways, and the subset of state and local roads which collectively form the primary travel corridors within and through the state.
- c. “Electric Vehicle”: a light duty vehicle that is manufactured for use on public roads and is powered by a battery that can be charged from a source of electricity external to the vehicle through an electric plug. Electric vehicles include pure battery electric vehicles and plug-in hybrid vehicles.
- d. “Electric Vehicle Charging Equipment”: equipment that delivers electric power in appropriate form for the on-board battery charging of an Electric Vehicle, which equipment may include switching controls, point-of-sale equipment and functions, network connectivity, a user interface, and all other fittings, devices, assemblies, power outlets, controls or apparatuses installed specifically for the purpose of delivering energy from a local electric utility distribution system’s point of delivery to an Electric Vehicle.

- e. “Level 2 Charger”: a device designed to deliver an electrical charge to an on-board battery of an electric vehicle, which device meets the definition of “AC Level 2” as defined in Standard J-1772 of SAE International.
- f. “Light Duty Vehicle”: any motor vehicle having a gross vehicle weight rating of 8,500 pounds or less.
- g. “Publicly Available Parking Space”: a parking space that has been designated by a property owner or a lessee to be available to and accessible by the public, and may include on-street parking spaces and parking spaces in surface lots or parking garages; provided, however, that “Publicly Available Parking Space” shall not include a space that is part of or associated with a private residence or a parking space that is reserved for the exclusive use of an individual driver or vehicle or for a group of drivers or vehicles, including employees, tenants, visitors, or residents of a common interest development or residents of an adjacent building.
- h. “Qualified Electric Vehicle Charging Equipment”: Electric Vehicle Charging Equipment that: (i) has not previously been placed into service; and (ii) is, at a minimum, a Level 2 Charger.
- i. “Qualified Publicly Available Electric Vehicle Charging Equipment”: Electric Vehicle Charging Equipment that is located at a Publicly Available Parking Space for the purpose of providing Electric Vehicle charging services to the general public that is, at a minimum, a Level 2 Charger.

### 3. TAX CREDITS FOR ELECTRIC CHARGING INFRASTRUCTURE <sup>1</sup>

- a. **Credit Allowed for Qualified Electric Vehicle Charging Equipment** – Subject to Section 5, there shall be allowed as a credit against the tax imposed by [*the state tax code*] for the taxable year an amount up to 20 percent of the taxpayer’s actual capital costs of placing in service Qualified Electric Vehicle Charging Equipment, which include any shipping, installation, commissioning, or any other standard service costs included by the equipment supplier in the purchase of the equipment, and excludes any portion of capital expense costs funded by grants, tax credits or rebates from other entities or governmental agencies.

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<sup>1/</sup> Note to Draft: The tax credit amounts are suggestions. The amounts may need to be adjusted to balance the needs of the state government and the desire to increase the proliferation of electric vehicle charging equipment.

**b. Credit Allowed for Qualified Publicly Available Electric Vehicle Charging Equipment** - Subject to Section 5, there shall be allowed as a credit against the tax imposed by [the state tax code] for the taxable year an amount up to 30 percent of the taxpayer's actual capital costs of placing in service Qualified Publicly Available Electric Vehicle Charging Equipment, which include any shipping, installation, commissioning, or any other standard service costs included by the equipment supplier in the purchase of the equipment, and excludes any portion of capital expense costs funded by grants, tax credits or rebates from other entities or governmental agencies.

**c. Credit Allowed for Qualified Publicly Available Electric Vehicle Charging Equipment at Corridor Locations** - Subject to Section 5, there shall be allowed as a credit against the tax imposed by [the state tax code] for the taxable year an amount up to 35 percent of the taxpayer's actual capital costs of placing in service Qualified Publicly Available Electric Vehicle Charging Equipment at Corridor Locations, which include any shipping, installation, commissioning, or any other standard service costs included by the equipment supplier in the purchase of the equipment, and excludes any portion of capital expense costs funded by grants, tax credits or rebates from other entities or governmental agencies.

#### **4. REGULATIONS**

[The state tax authority] shall prescribe such regulations as necessary to achieve the purposes of this act. In promulgating such regulations, [the tax authority] shall consider measures, including the scaling of allowable tax credits (subject to the limitations set forth in Section 3), which would encourage installation of Qualified Publicly Available Electric Vehicle Charging Equipment that: (a) is capable of providing DC fast charging at Corridor Locations; (b) is available to persons without a membership requirement or payment of a subscription fee; (c) provides payment options that facilitate access by the general public, such as payment *via* a toll-free number or onsite capacity for credit card or debit card payment; (d) conforms to governmental or industry-developed billing, roaming or other interoperability standards; (e) is otherwise co-optimized with multiple electric vehicle charging networks; (f) provides clear pricing information to users; and (g) is capable of tracking the time of use or designed to provide benefits to the electric grid.

#### **5. RECAPTURE RULES**

[The state tax authority] shall, by regulations, provide for recapturing the benefit of any credit allowable under subsections 3(b) or 3(c) with respect to any equipment that ceases

to be Qualified Publicly Available Electric Vehicle Charging Equipment at the location where it was initially installed within [*1 year*] after its initial installation.<sup>2</sup>

## **6. TERMINATION**

This section shall not apply to Electric Vehicle Charging Equipment placed in service after [*December 31, 2030*].

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<sup>2/</sup> Note to Draft: The one-year time period for recapturing the credits is a suggestion. The state may choose to adjust the period based upon administrative or political considerations.