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HOUSE BILL 35

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

INTRODUCED BY

Joanne J. Ferrary and William P. Soules and Tara L. Lujan

AN ACT

RELATING TO TAXATION; EXTENDING THE GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; MAKING THE CREDIT PURSUANT TO THE INCOME TAX ACT REFUNDABLE; AMENDING THE DEFINITION OF "GEOTHERMAL GROUND-COUPLED HEAT PUMP" FOR THE CREDIT PURSUANT TO THE CORPORATE INCOME AND FRANCHISE TAX ACT.

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

SECTION 1. Section 7-2-18.24 NMSA 1978 (being Laws 2009, Chapter 271, Section 1) is amended to read:

"7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return for a taxable year beginning on or after January 1, [2010] 2022 and who purchases and installs after .221629.2

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1 January 1, ~~[2010]~~ 2022 but before December 31, ~~[2020]~~ 2032 a
2 geothermal ground-coupled heat pump in a residence, business or
3 agricultural enterprise in New Mexico owned by that taxpayer
4 may apply for, and the department may allow, a tax credit of up
5 to thirty percent of the purchase and installation costs of the
6 system. The credit provided in this section may be referred to
7 as the "geothermal ground-coupled heat pump tax credit". The
8 total geothermal ground-coupled heat pump tax credit allowed to
9 a taxpayer shall not exceed nine thousand dollars (\$9,000).
10 The department shall allow a geothermal ground-coupled heat
11 pump tax credit only for geothermal ground-coupled heat pumps
12 certified by the energy, minerals and natural resources
13 department.

14 B. ~~[A]~~ That portion of ~~[the]~~ a geothermal ground-
15 coupled heat pump tax credit that ~~[remains unused in a]~~ exceeds
16 a taxpayer's tax liability in the taxable year ~~[may be carried~~
17 ~~forward for a maximum of ten consecutive taxable years~~
18 ~~following the taxable year in which the credit originates until~~
19 ~~the credit is fully expended]~~ in which the credit is claimed
20 shall be refunded to the taxpayer.

21 C. ~~[Prior to July 1, 2010]~~ The energy, minerals and
22 natural resources department shall adopt rules establishing
23 procedures to provide certification of geothermal ground-
24 coupled heat pumps for purposes of obtaining a geothermal
25 ground-coupled heat pump tax credit. The rules shall address

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1 technical specifications and requirements relating to safety,
2 building code and standards compliance, minimum system sizes,
3 system applications and lists of eligible components. The
4 energy, minerals and natural resources department may modify
5 the specifications and requirements as necessary to maintain a
6 high level of system quality and performance.

7 D. The department may allow a maximum annual
8 aggregate of [~~two million dollars (\$2,000,000)~~] sixteen million
9 dollars (\$16,000,000) in geothermal ground-coupled heat pump
10 tax credits. Applications for the credit shall be considered
11 in the order received by the department.

12 E. A taxpayer who otherwise qualifies and claims a
13 geothermal ground-coupled heat pump tax credit with respect to
14 property owned by a partnership or other business association
15 of which the taxpayer is a member may claim a credit only in
16 proportion to that taxpayer's interest in the partnership or
17 association. The total credit claimed in the aggregate by all
18 members of the partnership or association with respect to the
19 property shall not exceed the amount of the credit that could
20 have been claimed by a sole owner of the property.

21 F. [~~A husband and wife~~] Married individuals who
22 file separate returns for a taxable year in which they could
23 have filed a joint return may each claim only one-half of the
24 credit that would have been allowed on a joint return.

25 G. A taxpayer allowed a tax credit pursuant to this

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1 section shall report the amount of the credit to the department
2 in a manner required by the department.

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

11 [~~G.~~] I. As used in this section, "geothermal
12 ground-coupled heat pump" means a system that uses energy from
13 the ground, water or, ultimately, the sun for distribution of
14 heating, cooling or domestic hot water; that has either a
15 minimum coefficient of performance of three and four-tenths or
16 an efficiency ratio of sixteen or greater; and that is
17 installed by an accredited installer certified by the
18 international ground source heat pump association."

19 SECTION 2. Section 7-2A-24 NMSA 1978 (being Laws 2009,
20 Chapter 271, Section 2) is amended to read:

21 "7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
22 CREDIT.--

23 A. A taxpayer that files a New Mexico corporate
24 income tax return for a taxable year beginning on or after
25 January 1, [~~2010~~] 2022 and that purchases and installs after
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1 January 1, ~~[2010]~~ 2022 but before December 31, ~~[2020]~~ 2032 a
2 geothermal ground-coupled heat pump in a property owned by the
3 taxpayer may claim against the taxpayer's corporate income tax
4 liability, and the department may allow, a tax credit of up to
5 thirty percent of the purchase and installation costs of the
6 system. The credit provided in this section may be referred to
7 as the "geothermal ground-coupled heat pump tax credit". The
8 total geothermal ground-coupled heat pump tax credit allowed to
9 a taxpayer shall not exceed nine thousand dollars (\$9,000).
10 The department shall allow a geothermal ground-coupled heat
11 pump tax credit only for geothermal ground-coupled heat pumps
12 certified by the energy, minerals and natural resources
13 department.

14 B. A portion of the geothermal ground-coupled heat
15 pump tax credit that remains unused in a taxable year may be
16 carried forward for a maximum of ten consecutive taxable years
17 following the taxable year in which the credit originates until
18 the credit is fully expended.

19 C. ~~[Prior to July 1, 2010]~~ The energy, minerals and
20 natural resources department shall adopt rules establishing
21 procedures to provide certification of geothermal ground-
22 coupled heat pumps for purposes of obtaining a geothermal
23 ground-coupled heat pump tax credit. The rules shall address
24 technical specifications and requirements relating to safety,
25 building code and standards compliance, minimum system sizes,

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1 system applications and lists of eligible components. The
2 energy, minerals and natural resources department may modify
3 the specifications and requirements as necessary to maintain a
4 high level of system quality and performance.

5 D. The department may allow a maximum annual
6 aggregate of [~~two million dollars (\$2,000,000)~~] sixteen million
7 dollars (\$16,000,000) in geothermal ground-coupled heat pump
8 tax credits. Applications for the credit shall be considered
9 in the order received by the department.

10 E. A taxpayer allowed a tax credit pursuant to this
11 section shall report the amount of the credit to the department
12 in a manner required by the department.

13 F. The department shall compile an annual report on
14 the tax credit provided by this section that shall include the
15 number of taxpayers approved by the department to receive the
16 credit, the aggregate amount of credits approved and any other
17 information necessary to evaluate the credit. The department
18 shall present the report to the revenue stabilization and tax
19 policy committee and the legislative finance committee with an
20 analysis of the cost of the tax credit.

21 [~~E.~~] G. As used in this section, "geothermal
22 ground-coupled heat pump" means a [~~reversible refrigerator~~
23 ~~device~~] refrigeration system that provides space heating, space
24 cooling, domestic hot water, processed hot water, processed
25 chilled water or any other application where hot air, cool air,

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1 hot water or chilled water is required and that utilizes the
2 ground [~~water~~] or water circulating through pipes buried in the
3 ground as a condenser in the cooling mode [~~and~~] or an
4 evaporator in the heating mode."

5 SECTION 3. APPLICABILITY.--The provisions of this act
6 apply to taxable years beginning on or after January 1, 2022.

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