

1 SENATE BILL 45

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 William P. Soules

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10 AN ACT

11 RELATING TO TAXATION; EXTENDING THE GEOTHERMAL GROUND-COUPLED
12 HEAT PUMP TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE
13 CORPORATE INCOME AND FRANCHISE TAX ACT; INCREASING THE ANNUAL
14 AGGREGATE CAPS; MAKING THE CREDIT PURSUANT TO THE INCOME TAX
15 ACT REFUNDABLE; AMENDING THE DEFINITION OF "GEOTHERMAL GROUND-
16 COUPLED HEAT PUMP" FOR THE CREDIT PURSUANT TO THE CORPORATE
17 INCOME AND FRANCHISE TAX ACT.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
23 CREDIT.--

24 A. A taxpayer who files an individual New Mexico
25 income tax return for a taxable year beginning on or after

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1 January 1, ~~[2010]~~ 2023 and who purchases and installs after
2 January 1, ~~[2010]~~ 2023 but before December 31, ~~[2020]~~ 2033 a
3 geothermal ground-coupled heat pump in a residence, business or
4 agricultural enterprise in New Mexico owned by that taxpayer
5 may apply for, and the department may allow, a tax credit of up
6 to thirty percent of the purchase and installation costs of the
7 system. The credit provided in this section may be referred to
8 as the "geothermal ground-coupled heat pump tax credit". The
9 total geothermal ground-coupled heat pump tax credit allowed to
10 a taxpayer shall not exceed nine thousand dollars (\$9,000).
11 The department shall allow a geothermal ground-coupled heat
12 pump tax credit only for geothermal ground-coupled heat pumps
13 certified by the energy, minerals and natural resources
14 department.

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

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

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

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

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

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

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1 G. A taxpayer allowed a tax credit pursuant to this
2 section shall report the amount of the credit to the department
3 in a manner required by the department.

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

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

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

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

24 A. A taxpayer that files a New Mexico corporate
25 income tax return for a taxable year beginning on or after

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1 January 1, ~~[2010]~~ 2023 and that purchases and installs after
2 January 1, ~~[2010]~~ 2023 but before December 31, ~~[2020]~~ 2033 a
3 geothermal ground-coupled heat pump in a property owned by the
4 taxpayer may claim against the taxpayer's corporate income tax
5 liability, and the department may allow, a tax credit of up to
6 thirty percent of the purchase and installation costs of the
7 system. The credit provided in this section may be referred to
8 as the "geothermal ground-coupled heat pump tax credit". The
9 total geothermal ground-coupled heat pump tax credit allowed to
10 a taxpayer shall not exceed nine thousand dollars (\$9,000).
11 The department shall allow a geothermal ground-coupled heat
12 pump tax credit only for geothermal ground-coupled heat pumps
13 certified by the energy, minerals and natural resources
14 department.

15 B. A portion of the geothermal ground-coupled heat
16 pump tax credit that remains unused in a taxable year may be
17 carried 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.

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

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

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

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

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

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

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

6 SECTION 3. APPLICABILITY.--The provisions of this act
7 apply to taxable years beginning on or after January 1, 2023.

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