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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

William P. Soules

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; INCREASING THE ANNUAL AGGREGATE CAPS; MAKING THE CREDIT PURSUANT TO THE INCOME TAX ACT REFUNDABLE; AMENDING THE DEFINITION OF "GEOTHERMAL GROUND-COUPLED HEAT PUMP" FOR THE CREDITS.

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 INCOME 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] 2024 and who purchases and installs after .226899.2

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1 January 1, ~~[2010]~~ 2024 but before December 31, ~~[2020]~~ 2034 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 income tax credit".
8 The total geothermal ground-coupled heat pump income tax credit
9 allowed to a taxpayer shall not exceed nine thousand dollars
10 (\$9,000). The department shall allow a geothermal ground-
11 coupled heat pump income tax credit only for geothermal ground-
12 coupled heat pumps that are installed by a nationally
13 accredited ground source heat pump installer certified by the
14 energy, minerals and natural resources department.

15 B. ~~[A]~~ That portion of ~~[the]~~ a geothermal ground-
16 coupled heat pump income tax credit that ~~[remains unused in a]~~
17 exceeds a taxpayer's tax liability in the taxable year ~~[may be~~
18 ~~carried 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 income tax credit. The rules shall
2 address technical specifications and requirements relating to
3 safety, building code and standards compliance, minimum system
4 sizes, system applications and lists of eligible components.
5 The energy, minerals and natural resources department may
6 modify the specifications and requirements as necessary to
7 maintain a 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 income tax credits. Applications for the credit shall be
12 considered in the order received by the department.

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

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

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1 credit that would have been allowed on a joint return.

2 G. A taxpayer who claims a 2021 sustainable
3 building tax credit using a geothermal ground-coupled heat pump
4 as a component of qualification for the rating system
5 certification level used in determining eligibility for that
6 credit shall not be eligible to claim a geothermal ground-
7 coupled heat pump income tax credit for the same geothermal
8 ground-coupled heat pump.

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

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

20 ~~[G.]~~ J. As used in this section, "geothermal
21 ground-coupled heat pump" means a [system that uses energy from
22 the ground, water or, ultimately, the sun for distribution of
23 heating, cooling or domestic hot water] heating and
24 refrigerating system that directly or indirectly utilizes
25 available heat below the surface of the earth for distribution

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1 of heating and cooling or domestic hot water and that has
2 either a minimum coefficient of performance of three and four-
3 tenths or an efficiency ratio of sixteen or greater [~~and that~~
4 ~~is installed by an accredited installer certified by the~~
5 ~~international ground source heat pump association]."~~

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

8 "7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP CORPORATE
9 INCOME TAX CREDIT.--

10 A. A taxpayer that files a New Mexico corporate
11 income tax return for a taxable year beginning on or after
12 January 1, [2010] 2024 and that purchases and installs after
13 January 1, [2010] 2024 but before December 31, [2020] 2034 a
14 geothermal ground-coupled heat pump in a property owned by the
15 taxpayer may claim against the taxpayer's corporate income tax
16 liability, and the department may allow, a tax credit of up to
17 thirty percent of the purchase and installation costs of the
18 system. The credit provided in this section may be referred to
19 as the "geothermal ground-coupled heat pump corporate income
20 tax credit". The total geothermal ground-coupled heat pump
21 corporate income tax credit allowed to a taxpayer shall not
22 exceed nine thousand dollars (\$9,000). The department shall
23 allow a geothermal ground-coupled heat pump corporate income
24 tax credit only for geothermal ground-coupled heat pumps that
25 are installed by a nationally accredited ground source heat

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1 pump installer certified by the energy, minerals and natural
2 resources department.

3 B. A portion of the geothermal ground-coupled heat
4 pump corporate income tax credit that remains unused in a
5 taxable year may be carried forward for a maximum of ten
6 consecutive taxable years following the taxable year in which
7 the credit originates until the credit is fully expended.

8 C. [~~Prior to July 1, 2010~~] The energy, minerals and
9 natural resources department shall adopt rules establishing
10 procedures to provide certification of geothermal ground-
11 coupled heat pumps for purposes of obtaining a geothermal
12 ground-coupled heat pump corporate income tax credit. The
13 rules shall address technical specifications and requirements
14 relating to safety, building code and standards compliance,
15 minimum system sizes, system applications and lists of eligible
16 components. The energy, minerals and natural resources
17 department may modify the specifications and requirements as
18 necessary to maintain a high level of system quality and
19 performance.

20 D. The department may allow a maximum annual
21 aggregate of [~~two million dollars (\$2,000,000)~~] sixteen million
22 dollars (\$16,000,000) in geothermal ground-coupled heat pump
23 corporate income tax credits. Applications for the credit
24 shall be considered in the order received by the department.

25 E. A taxpayer that claims a 2021 sustainable

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1 building tax credit using a geothermal ground-coupled heat pump
2 as a component of qualification for the rating system
3 certification level used in determining eligibility for that
4 credit shall not be eligible to claim a geothermal ground-
5 coupled heat pump corporate income tax credit for the same
6 geothermal ground-coupled heat pump.

7 F. A taxpayer allowed a tax credit pursuant to this
8 section shall report the amount of the credit to the department
9 in a manner required by the department.

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

18 ~~[E.] H. As used in this section, "geothermal~~
19 ~~ground-coupled heat pump" means a [reversible refrigerator~~
20 ~~device that provides space heating, space cooling, domestic hot~~
21 ~~water, processed hot water, processed chilled water or any~~
22 ~~other application where hot air, cool air, hot water or chilled~~
23 ~~water is required and that utilizes ground water or water~~
24 ~~circulating through pipes buried in the ground as a condenser~~
25 ~~in the cooling mode and an evaporator in the heating mode]~~

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1 heating and refrigerating system that directly or indirectly
2 utilizes available heat below the surface of the earth for
3 distribution of heating and cooling or domestic hot water and
4 that has either a minimum coefficient of performance of three
5 and four-tenths or an efficiency ratio of sixteen or greater."

6 SECTION 3. APPLICABILITY.--The provisions of this act
7 apply to taxable years beginning on or after January 1, 2024.

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