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HOUSE BILL 35

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

INTRODUCED BY

Joanne J. Ferrary

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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underscored material = new  
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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.