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SENATE BILL 40

**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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