AN ACT

RELATING TO TAXATION; ENACTING NEW SECTIONS OF THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE FOR A TAX CREDIT FOR GEOTHERMAL GROUND-COUPLED HEAT PUMPS.

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

Section 1. A new section of the Income Tax Act is enacted to read:

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

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

C. Prior to July 1, 2010, the energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of geothermal ground-coupled heat pumps for purposes of obtaining a geothermal ground-coupled heat pump tax credit. The rules shall address technical specifications and requirements relating to safety, building code and standards compliance, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.

D. The department may allow a maximum annual aggregate of two million dollars ($2,000,000) in geothermal ground-coupled heat pump tax credits. Applications for the credit shall be considered in the order received by the department.

E. A taxpayer who otherwise qualifies and claims a geothermal ground-coupled heat pump tax credit with respect to property owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in

proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the property shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

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

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

Section 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDIT.--

A. A taxpayer that files a New Mexico corporate income tax return for a taxable year beginning on or after January 1, 2010 and that purchases and installs after January 1, 2010 but before December 31, 2020 a geothermal ground-coupled heat pump in a property owned by the taxpayer may

claim against the taxpayer's corporate income tax liability, and the department may allow, a tax credit of up to thirty percent of the purchase and installation costs of the system. The credit provided in this section may be referred to as the "geothermal ground-coupled heat pump tax credit". The total geothermal ground-coupled heat pump tax credit allowed to a taxpayer shall not exceed nine thousand dollars ($9,000). The department shall allow a geothermal ground-coupled heat pump tax credit only for geothermal ground-coupled heat pumps certified by the energy, minerals and natural resources department.

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

C. Prior to July 1, 2010, the energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of geothermal ground-coupled heat pumps for purposes of obtaining a geothermal ground-coupled heat pump tax credit. The rules shall address technical specifications and requirements relating to safety, building code and standards compliance, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources department may modify

the specifications and requirements as necessary to maintain a high level of system quality and performance.

D. The department may allow a maximum annual aggregate of two million dollars ($2,000,000) in geothermal ground-coupled heat pump tax credits. Applications for the credit shall be considered in the order received by the department.

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