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HOUSE BILL 291

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

INTRODUCED BY

Yanira Gurrola and Kathleen Cates and Susan K. Herrera

AN ACT

RELATING TO WATER; ALLOWING COUNTIES AND MUNICIPALITIES TO REQUIRE WATER HARVESTING, RECYCLING AND REUSE; CREATING THE WATER HARVESTING INCOME TAX CREDIT; CREATING STANDARDS FOR THE DESIGN, CONSTRUCTION, INSTALLATION AND INSPECTION OF RAINWATER AND STORM WATER CATCHMENT SYSTEMS; REQUIRING PERMITTING; PROVIDING MATCHING FUNDS FOR RAINWATER AND STORM WATER CATCHMENT SYSTEMS IN PUBLIC BUILDINGS AND FACILITIES.

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

SECTION 1. A new section of Chapter 3 NMSA 1978 is enacted to read:

"[NEW MATERIAL] WATER RESOURCES--COUNTY OR MUNICIPAL REQUIREMENTS.--

A. For the purpose of preserving and protecting water resources and to provide an assured water supply for the

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1 community, a county or municipality may adopt an ordinance to  
2 require:

- 3 (1) water harvesting and storage; or
- 4 (2) water recycling and reuse.

5 B. The state engineer shall promulgate rules  
6 necessary to carry out the provisions of this section.

7 C. Agricultural water users or agricultural water  
8 rights owners are excluded from the provisions of Subsection A  
9 of this section."

10 SECTION 2. A new section of the Income Tax Act is enacted  
11 to read:

12 "[NEW MATERIAL] WATER HARVESTING INCOME TAX CREDIT.--

13 A. A taxpayer who is not a dependent of another  
14 individual and who purchases and installs a permitted rainwater  
15 or storm water catchment system after January 1, 2024 and  
16 before December 31, 2034 in a residence or business in New  
17 Mexico owned by that taxpayer may apply for a tax credit  
18 against the taxpayer's tax liability imposed pursuant to the  
19 Income Tax Act in an amount up to twenty percent of the  
20 purchase and installation costs of the system. The tax credit  
21 provided by this section may be referred to as the "water  
22 harvesting income tax credit".

23 B. The purpose of the water harvesting income tax  
24 credit is to provide an incentive for homeowners and businesses  
25 to collect and store harvested water for future use.

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1           C. The water harvesting income tax credit shall not  
2 exceed five thousand dollars (\$5,000). The department shall  
3 allow a water harvesting income tax credit only for a water  
4 harvesting system permitted by the regulation and licensing  
5 department.

6           D. The department may allow a maximum annual  
7 aggregate of two million dollars (\$2,000,000) in water  
8 harvesting income tax credits per year. Applications for the  
9 tax credit shall be considered in the order received by the  
10 department.

11           E. A taxpayer may claim a water harvesting income  
12 tax credit in the taxable year in which the taxpayer purchases  
13 and installs a water harvesting system. To receive a water  
14 harvesting income tax credit, a taxpayer shall apply to the  
15 department on forms and in the manner prescribed by the  
16 department. The application shall include a certification made  
17 pursuant to Subsection J of this section.

18           F. If the requirements of this section have been  
19 complied with, the department shall issue to the applicant a  
20 document granting the tax credit allowed pursuant to this  
21 section. The document shall be numbered for identification and  
22 shall declare its date of issuance and the amount of the tax  
23 credit allowed pursuant to this section. The document may be  
24 submitted by the applicant with that taxpayer's income tax  
25 return or may be sold, exchanged or otherwise transferred to

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1 another taxpayer. The parties to such a transaction shall  
2 notify the department of the sale, exchange or transfer within  
3 ten days of the sale, exchange or transfer.

4 G. That portion of a water harvesting income tax  
5 credit that exceeds a taxpayer's tax liability in the taxable  
6 year in which the tax credit is claimed may be carried forward  
7 for a maximum of ten consecutive taxable years.

8 H. Married individuals filing separate returns for  
9 a taxable year for which they could have filed a joint return  
10 may each claim only one-half of the water harvesting income tax  
11 credit that would have been claimed on a joint return.

12 I. A taxpayer may be allocated the right to claim a  
13 water harvesting income tax credit in proportion to the  
14 taxpayer's ownership interest if the taxpayer owns an interest  
15 in a business entity that is taxed for federal income tax  
16 purposes as a partnership and that business entity has met all  
17 of the requirements to be eligible for the tax credit. The  
18 total tax credit claimed by all members of the partnership or  
19 limited liability company shall not exceed the allowable tax  
20 credit pursuant to Subsection C of this section.

21 J. Prior to July 1, 2024, the regulation and  
22 licensing department, in consultation with the state engineer,  
23 shall adopt rules establishing procedures to provide  
24 certification of water harvesting systems for the purposes of  
25 obtaining a water harvesting income tax credit. The rules

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1 shall address technical specifications and requirements  
2 relating to safety, code and standards compliance, minimum and  
3 maximum system sizes, system applications and lists of eligible  
4 components. The regulation and licensing department may modify  
5 the specifications and requirements as necessary to maintain a  
6 high level of system quality and performance.

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

11 L. The department shall compile an annual report on  
12 the water harvesting income tax credit pursuant to this section  
13 that shall include the number of taxpayers approved by the  
14 department to receive the tax credit, the aggregate amount of  
15 tax credits approved and any other information necessary to  
16 evaluate the effectiveness of the tax credit. Beginning in  
17 2028 and every five years thereafter that the tax credit is in  
18 effect, the department shall compile and present the annual  
19 reports to the revenue stabilization and tax policy committee  
20 and the legislative finance committee with an analysis of the  
21 effectiveness and cost of the tax credit and whether the tax  
22 credit is performing the purpose for which it was created.

23 M. As used in this section, "rainwater or storm  
24 water catchment system" means a system that is designed to  
25 provide for the collection of rainwater, storm water or

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1 untreated wastewater that has not come into contact with toilet  
2 waste for use as potable or non-potable water."

3 SECTION 3. A new section of the Construction Industries  
4 Licensing Act is enacted to read:

5 "[NEW MATERIAL] DIVISION--ADDITIONAL DUTIES--RAINWATER AND  
6 STORM WATER CATCHMENT SYSTEMS--RULES.--

7 A. On or before January 1, 2025, the division  
8 shall, with the approval of the commission and after public  
9 hearing, adopt rules for:

10 (1) the design, construction, installation and  
11 inspection of rainwater and storm water catchment systems that  
12 conform with generally recognized national standards; and

13 (2) a person to become certified to design,  
14 construct, install or inspect a rainwater or storm water  
15 catchment system that conforms with generally recognized  
16 national standards, including qualifying certification  
17 programs.

18 B. Upon the adoption of the division's rules for  
19 standards and certifications, the commission shall adopt rules:

20 (1) to require a permit prior to the  
21 construction or installation of a rainwater or storm water  
22 catchment system, including a reasonable fee for the issuance  
23 of a permit; and

24 (2) establishing wage standards for a person  
25 who designs, constructs, installs or inspects a rainwater or

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1 storm water catchment system.

2 C. The division shall:

3 (1) develop by rule a system to monitor the  
4 use of rainwater and storm water catchment systems that are  
5 permitted by the commission;

6 (2) prepare a report of best practices for the  
7 operation of a rainwater and storm water catchment system and  
8 post it on the division's website; and

9 (3) develop a list of entities that meet the  
10 division's standards for providing certification to design,  
11 construct, install or inspect a rainwater or storm water  
12 catchment system and post it on the division's website.

13 D. As used in this section, "rainwater and storm  
14 water catchment system" or "rainwater or storm water catchment  
15 system" means a system that is designed to provide for the  
16 collection of rainwater, storm water or untreated wastewater  
17 that has not come into contact with toilet waste for use as  
18 potable or non-potable water."

19 SECTION 4. A new section of the Environmental Improvement  
20 Act is enacted to read:

21 "[NEW MATERIAL] MATCHING FUNDS--CONSTRUCTION AND  
22 INSTALLATION OF RAINWATER AND STORM WATER CATCHMENT SYSTEMS.--

23 A. A person responsible for the management of a  
24 publicly owned building or facility may apply to the department  
25 for matching funds to construct or install a rainwater or storm

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1 water catchment system for the publicly owned building or  
2 facility.

3 B. The department shall award matching funds, after  
4 review and approval of the project by the department, on a  
5 first-come, first-served basis.

6 C. Except for a project that has an established  
7 labor agreement, a project awarded matching funds pursuant to  
8 this section shall:

9 (1) pay wages to a person who designs,  
10 constructs, installs or inspects a rainwater or storm water  
11 catchment system in compliance with the wage standards  
12 developed by the construction industries commission;

13 (2) use workers who are certified to design,  
14 construct, install or inspect a rainwater or storm water  
15 catchment system; and

16 (3) maintain a workforce with fifteen percent  
17 registered with an apprenticeship program.

18 D. As used in this section, "rainwater or storm  
19 water catchment system" means a system that is designed to  
20 provide for the collection of rainwater, storm water or  
21 untreated wastewater that has not come into contact with toilet  
22 waste for use as potable or non-potable water."

23 SECTION 5. APPLICABILITY.--The provisions of Section 2 of  
24 this act apply to taxable years beginning on or after January  
25 1, 2024.

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