

HOUSE BILL 104

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; CREATING THE COUNTY ROAD FUND DONATION
INCOME TAX CREDIT AND THE COUNTY ROAD FUND DONATION CORPORATE
INCOME TAX CREDIT.

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:

"[NEW MATERIAL] COUNTY ROAD FUND DONATION INCOME TAX
CREDIT.--

A. For taxable years prior to January 1, 2025, a
taxpayer who is not a dependent of another individual and who
makes a donation to a county road fund may apply for, and the
department may allow, a credit against the taxpayer's tax
liability imposed pursuant to the Income Tax Act in an amount
equal to fifty percent of the amount donated, not to exceed one

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1 million dollars (\$1,000,000). The tax credit provided by this
2 section may be referred to as the "county road fund donation
3 income tax credit".

4 B. A taxpayer may request a county to apply the
5 donated amount to a specific road or bridge, or portion
6 thereof; provided that, if a county does not agree to the
7 request, the donation shall be deemed not made, the donated
8 amount, if received by the county, shall be returned to the
9 taxpayer and the taxpayer shall not be eligible for a county
10 road fund donation income tax credit for that donated amount.

11 C. A taxpayer may claim a county road fund donation
12 income tax credit for the taxable year in which the taxpayer
13 makes a donation to a county road fund. To receive the tax
14 credit, a taxpayer shall apply to the department on forms and
15 in the manner prescribed by the department. The application
16 shall include evidence that the taxpayer made a donation as
17 required by this section.

18 D. That portion of a county road fund donation
19 income tax credit that exceeds a taxpayer's tax liability in
20 the taxable year in which the credit is claimed shall not be
21 refundable.

22 E. Married individuals filing separate returns for
23 a taxable year for which they could have filed a joint return
24 may each claim only one-half of the county road fund donation
25 income tax credit that would have been claimed on a joint

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1 return.

2 F. A taxpayer may be allocated the right to claim a
3 county road fund donation income tax credit in proportion to
4 the taxpayer's ownership interest if the taxpayer owns an
5 interest in a business entity that is taxed for federal income
6 tax purposes as a partnership or limited liability company and
7 that business entity has met all of the requirements to be
8 eligible for the credit.

9 G. 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 H. The department shall compile an annual report on
13 the county road fund donation income tax credit that shall
14 include the number of taxpayers approved by the department to
15 receive the credit, the aggregate amount of credits approved
16 and any other information necessary to evaluate the cost of the
17 credit. The department shall compile and present the report to
18 the revenue stabilization and tax policy committee and the
19 legislative finance committee with an analysis of the cost of
20 the tax credit."

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

23 "[NEW MATERIAL] COUNTY ROAD FUND DONATION CORPORATE INCOME
24 TAX CREDIT.--

25 A. For taxable years prior to January 1, 2025, a
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1 taxpayer that files a New Mexico corporate income tax return
2 that makes a donation to a county road fund may apply for, and
3 the department may allow, a credit against the taxpayer's tax
4 liability imposed pursuant to the Corporate Income and
5 Franchise Tax Act in an amount equal to fifty percent of the
6 amount donated, not to exceed one million dollars (\$1,000,000).
7 The tax credit provided by this section may be referred to as
8 the "county road fund donation corporate income tax credit".

9 B. A taxpayer may request a county to apply the
10 donated amount to a specific road or bridge, or portion
11 thereof; provided that, if a county does not agree to the
12 request, the donation shall be deemed not made, the donated
13 amount, if received by the county, shall be returned to the
14 taxpayer and the taxpayer shall not be eligible for a county
15 road fund donation corporate income tax credit for that donated
16 amount.

17 C. A taxpayer may claim a county road fund donation
18 corporate income tax credit for the taxable year in which the
19 taxpayer makes a donation to a county road fund. To receive
20 the tax credit, a taxpayer shall apply to the department on
21 forms and in the manner prescribed by the department. The
22 application shall include evidence that the taxpayer made a
23 donation as required by this section.

24 D. That portion of a county road fund donation
25 corporate income tax credit that exceeds a taxpayer's tax

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1 liability in the taxable year in which the credit is claimed
2 shall not be refundable.

3 E. A taxpayer allowed a tax credit pursuant to this
4 section shall report the amount of the credit to the department
5 in a manner required by the department.

6 F. The department shall compile an annual report on
7 the county road fund donation corporate income tax credit that
8 shall include the number of taxpayers approved by the
9 department to receive the credit, the aggregate amount of
10 credits approved and any other information necessary to
11 evaluate the cost of the credit. The department shall compile
12 and present the report to the revenue stabilization and tax
13 policy committee and the legislative finance committee with an
14 analysis of the cost of the tax credit."

15 SECTION 3. APPLICABILITY.--The provisions of this act
16 apply to taxable years beginning on or after January 1, 2020.