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HOUSE BILL 201

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Cathrynn N. Brown

AN ACT

RELATING TO TAXATION; CREATING AN OPTIONAL DESIGNATION FOR A  
PERSONAL INCOME TAX CONTRIBUTION TO COUNTY ROAD FUNDS; 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] OPTIONAL DESIGNATION OF TAX REFUND  
CONTRIBUTION--COUNTY ROAD FUNDS.--

A. Any individual whose state income tax liability  
after application of allowable credits and tax rebates in any  
year is lower than the amount of money held by the department  
to the credit of such individual for that tax year may  
designate any portion of the income tax refund due to the

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1 individual to be paid to a county road fund. In the case of a  
2 joint return, both individuals shall make such a designation.

3 B. The department shall revise the state income tax  
4 form to allow the designation of such contributions in the  
5 following form:

6 "County Road Fund - Check [ ] if you wish to contribute a  
7 part or all of your tax refund to the county road fund of  
8 \_\_\_\_\_ county. Enter here \$ \_\_\_\_\_ the amount of your  
9 contribution."

10 C. The provisions of this section do not apply to  
11 income tax refunds subject to interception under the provisions  
12 of the Tax Refund Intercept Program Act, and any designation  
13 made under the provisions of this section to such refunds is  
14 void."

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

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

19 A. A taxpayer who is not a dependent of another  
20 individual and who donates to a county road fund may apply for,  
21 and the department may allow, a credit against the taxpayer's  
22 tax liability imposed pursuant to the Income Tax Act in an  
23 amount not to exceed one million dollars (\$1,000,000). The tax  
24 credit provided by this section may be referred to as the  
25 "county road fund donation income tax credit".

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1           B. A taxpayer may claim a county road fund donation  
2 income tax credit for the taxable year in which the taxpayer  
3 donates to a county road fund. To receive the tax credit, a  
4 taxpayer shall apply to the department on forms and in the  
5 manner prescribed by the department. The application shall  
6 include evidence that the taxpayer made a donation as required  
7 by this section.

8           C. That portion of a county road fund donation  
9 income tax credit that exceeds a taxpayer's tax liability in  
10 the taxable year in which the credit is claimed shall not be  
11 refundable.

12           D. Married individuals filing separate returns for  
13 a taxable year for which they could have filed a joint return  
14 may each claim only one-half of the county road fund donation  
15 income tax credit that would have been claimed on a joint  
16 return.

17           E. A taxpayer may be allocated the right to claim a  
18 county road fund donation income tax credit in proportion to  
19 the taxpayer's ownership interest if the taxpayer owns an  
20 interest in a business entity that is taxed for federal income  
21 tax purposes as a partnership or limited liability company and  
22 that business entity has met all of the requirements to be  
23 eligible for the credit.

24           F. A taxpayer allowed a tax credit pursuant to this  
25 section shall report the amount of the credit to the department

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1 in a manner required by the department.

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

11 SECTION 3. A new section of the Corporate Income and  
12 Franchise Tax Act is enacted to read:

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

15 A. A taxpayer that files a New Mexico corporate  
16 income tax return that donates to a county road fund may apply  
17 for, and the department may allow, a credit against the  
18 taxpayer's tax liability imposed pursuant to the Corporate  
19 Income and Franchise Tax Act in an amount not to exceed one  
20 million dollars (\$1,000,000). The tax credit provided by this  
21 section may be referred to as the "county road fund donation  
22 corporate income tax credit".

23 B. A taxpayer may claim a county road fund donation  
24 corporate income tax credit for the taxable year in which the  
25 taxpayer donates to a county road fund. To receive the tax

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1 credit, a taxpayer shall apply to the department on forms and  
2 in the manner prescribed by the department. The application  
3 shall include evidence that the taxpayer made a donation as  
4 required by this section.

5 C. That portion of a county road fund donation  
6 corporate income tax credit that exceeds a taxpayer's tax  
7 liability in the taxable year in which the credit is claimed  
8 shall not be refundable.

9 D. 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 E. The department shall compile an annual report on  
13 the county road fund donation corporate income tax credit that  
14 shall include the number of taxpayers approved by the  
15 department to receive the credit, the aggregate amount of  
16 credits approved and any other information necessary to  
17 evaluate the cost of the credit. The department shall compile  
18 and 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 SECTION 4. APPLICABILITY.--The provisions of this act  
22 apply to taxable years beginning on or after January 1, 2019.