

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 45

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO TAXATION; EXPANDING THE DEDUCTION FOR LOCOMOTIVE  
FUEL FROM GROSS RECEIPTS AND FROM COMPENSATING TAX.

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

SECTION 1. Section 7-9-110.3 NMSA 1978 (being Laws 2011,  
Chapter 60, Section 3 and Laws 2011, Chapter 61, Section 3) is  
amended to read:

"7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL  
DEDUCTION.--

A. The purpose of the deduction on fuel loaded or  
used by a common carrier in a locomotive engine from gross  
receipts and from compensating tax is to encourage the  
construction, renovation, maintenance and operation of railroad  
locomotive refueling facilities and ~~[related activities]~~ other  
railroad capital investments in New Mexico.

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underscored material = new  
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1           B. To be eligible for the deduction on fuel loaded  
2 or used by a common carrier in a locomotive engine from  
3 compensating tax, the fuel shall be used or loaded by a common  
4 carrier that, after July 1, 2011:

5                   (1) made a capital investment of one hundred  
6 million dollars (\$100,000,000) or more in new construction or  
7 renovations at the railroad locomotive refueling facility in  
8 which the fuel is loaded or used; or

9                   (2) on or after July 1, 2012, made a capital  
10 investment of fifty million dollars (\$50,000,000) or more in  
11 new railroad infrastructure improvements, including railroad  
12 facilities, track, signals and supporting railroad network,  
13 located in New Mexico; provided that the new railroad  
14 infrastructure improvements are not required by a regulatory  
15 agency to correct problems, such as regular or preventative  
16 maintenance, specifically identified by that agency as  
17 requiring necessary corrective action.

18           C. To be eligible for the deduction on fuel loaded  
19 or used by a common carrier in a locomotive engine from gross  
20 receipts, a common carrier shall deliver an appropriate  
21 nontaxable transaction certificate to the seller and the sale  
22 shall be made to a common carrier that:

23                   (1) after July 1, 2011, made a capital  
24 investment of one hundred million dollars (\$100,000,000) or  
25 more in new construction or renovations at the railroad

1 locomotive refueling facility in which the fuel is sold [~~and~~  
2 ~~the common carrier shall deliver an appropriate nontaxable~~  
3 ~~transaction certificate to the seller]; or~~

4 (2) on or after July 1, 2012, made a capital  
5 investment of fifty million dollars (\$50,000,000) or more in  
6 new railroad infrastructure improvements, including railroad  
7 facilities, track, signals and supporting railroad network,  
8 located in New Mexico; provided that the new railroad  
9 infrastructure improvements are not required by a regulatory  
10 agency to correct problems, such as regular or preventative  
11 maintenance, specifically identified by that agency as  
12 requiring necessary corrective action.

13 D. The economic development department shall  
14 promulgate rules for the issuance of a certificate of  
15 eligibility for the purposes of claiming a deduction on fuel  
16 loaded or used by a common carrier in a locomotive engine from  
17 gross receipts or compensating tax. A common carrier may  
18 request a certificate of eligibility from the economic  
19 development department to provide to the taxation and revenue  
20 department to establish eligibility for a nontaxable  
21 transaction certificate for the deduction on fuel loaded or  
22 used by a common carrier in a locomotive engine from gross  
23 receipts. The taxation and revenue department shall issue  
24 nontaxable transaction certificates to a common carrier upon  
25 the presentation of a certificate of eligibility obtained from

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1 the economic development department pursuant to this  
2 subsection.

3 E. The economic development department shall keep a  
4 record of temporary and permanent jobs from all railroad  
5 activity [~~at each railroad locomotive refueling facility~~] where  
6 a capital investment is made by a common carrier that claims a  
7 deduction on fuel loaded or used by a common carrier in a  
8 locomotive engine from gross receipts or from compensating tax.  
9 The economic development department and the taxation and  
10 revenue department shall estimate the amount of state revenue  
11 that is attributable to all railroad activity [~~occurring at~~  
12 ~~each locomotive refueling facility~~] where a capital investment  
13 is made by a common carrier that claims a deduction on fuel  
14 loaded or used by a common carrier in a locomotive engine from  
15 gross receipts or from compensating tax.

16 F. The economic development department and the  
17 taxation and revenue department shall compile an annual report  
18 with the number of taxpayers who claim the deduction on fuel  
19 loaded or used by a common carrier in a locomotive engine from  
20 gross receipts and from compensating tax, the number of jobs  
21 created as a result of that deduction, the amount of that  
22 deduction approved, the net revenue to the state as a result of  
23 that deduction and any other information required by the  
24 legislature to aid in evaluating the effectiveness of that  
25 deduction. A taxpayer who claims a deduction on fuel loaded or

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1 used by a common carrier in a locomotive engine from gross  
 2 receipts or from compensating tax shall provide the economic  
 3 development department and the taxation and revenue department  
 4 with the information required to compile that report. The  
 5 economic development department and the taxation and revenue  
 6 department shall present that report before the legislative  
 7 interim revenue stabilization and tax policy committee and the  
 8 legislative finance committee by November of each year.  
 9 Notwithstanding any other section of law to the contrary, the  
 10 economic development department and the taxation and revenue  
 11 department may disclose the number of applicants for the  
 12 deduction on fuel loaded or used by a common carrier in a  
 13 locomotive engine from gross receipts and from compensating  
 14 tax, the amount of the deduction approved, the number of  
 15 employees of the taxpayer and any other information required by  
 16 the legislature or the taxation and revenue department to aid  
 17 in evaluating the effectiveness of that deduction.

18 G. An appropriate legislative committee shall  
 19 review the effectiveness of the deduction for each taxpayer who  
 20 claims the deduction on fuel loaded or used by a common carrier  
 21 in a locomotive engine from gross receipts and from  
 22 compensating tax every six years beginning in 2019."

23 SECTION 2. SEVERABILITY.--If any part or application of  
 24 this act is held invalid, the remainder or its application to  
 25 other situations or persons shall not be affected.

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