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HOUSE BILL 120

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

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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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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:

5 (1) after July 1, 2011, made a capital
6 investment of one hundred million dollars (\$100,000,000) or
7 more in new construction or renovations at the railroad
8 locomotive refueling facility in which the fuel is loaded or
9 used; or

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

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

24 (1) after July 1, 2011, made a capital
25 investment of one hundred million dollars (\$100,000,000) or

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

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

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

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1 the presentation of a certificate of eligibility obtained from
2 the economic development department pursuant to this
3 subsection.

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

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

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

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

24 SECTION 2. REPEAL.--Laws 2011, Chapter 60, Sections 4 and
25 5 and Laws 2011, Chapter 61, Sections 4 and 5 are repealed.

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