F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2/23/07
SPONSOR Cote **LAST UPDATED** **HB** 1081

SHORT TITLE Locomotive Fuel Gross Receipts **SB**

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	**FY08**	**FY09**		
	(*See Narrative for FY10 impact)		Recurring	General Fund
	(*See Narrative for FY10 impact)		Recurring	Small Cities Assistance Fund
	(*See Narrative for FY10 impact)		Recurring	Small Counties Assistance Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 547

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department (EDD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 1081 creates new gross receipts tax and compensating tax exemptions for receipts from the sale of fuel to a common carrier to be loaded or used in locomotive engine. The new exemptions will apply to sales that occur after July 1, 2009.

FISCAL IMPLICATIONS

Based on information from the U.S. Department of Transportation, TRD estimates that approximately 59 billion ton-miles of freight are carried on New Mexico's railroad lines each year. Based on an estimate of 710 ton-miles traveled per gallon of fuel, TRD estimates that about 82.6 million gallons of railroad fuel are consumed in New Mexico each year.

Of the 82.6 million gallons of railroad fuel consumed in New Mexico each year, it is estimated that about 40.6 million are purchased in California, where sales tax is paid, making those 40.6 million gallons eligible for an existing compensating tax credit. The remaining 42 million gallons will qualify for the exemptions created in the amended bill.

Assuming an average fuel price of $2 per gallon, the tax base eligible for the new exemptions will be $84 million (42 million gallons X $2). Since the compensating tax rate is 5 percent, tax collections will be reduced by $4.2 million. Eighty percent of this revenue reduction will accrue to the general fund ($3,360 thousand) and 20 percent will accrue to the small cities and small counties assistance funds ($840 thousand).

Summary of FY10 Impacts (dollars in thousands)

General Fund:	(3,360.0)
Small Cities Assistance Fund:	(420.0)
Small Counties Assistance Fund:	(420.0)

SIGNIFICANT ISSUES

In October 2006, Union Pacific railroad announced plans to build a new terminal facility four miles west of Santa Teresa, New Mexico, which is near El Paso, Texas. However, Union Pacific's agreement to build the facility in New Mexico is contingent on removal of New Mexico's gross receipts and compensating tax liabilities for locomotive fuel by 2009.

The Santa Teresa facility will employ 260 Union Pacific employees who currently work in El Paso as well as 285 new employees. The 285 new jobs will be mainly engineers and mechanical workers. The Santa Teresa facility will be constructed on about 1 thousand acres of Bureau of Land Management (BLM) and State of New Mexico land. Union Pacific is said to be waiting to purchase that land until the tax deductions contained in this bill are enacted.

By 2015, Union Pacific plans to construct an intermodal ramp at the Santa Teresa facility that is expected to process about 100 thousand container units each year. This type of facility is used to transfer shipping containers from one train to another or from train to truck.

In 2005, federal Safe, Accountable, Flexible, and Efficient Transportation Equity Act provided $14 million to relocate Union Pacific's facility from El Paso to Santa Teresa. About $5 million of that federal funding will be used to construct a road connecting Pete Domenici Highway in Santa Teresa to the new Union Pacific facility.

Currently, Union Pacific is also negotiating with the Arizona Land Department for a parcel of land halfway between Tucson and Phoenix. The company plans to build a new switching station there. According to the Arizona Joint Legislative Budget Committee, Union Pacific has not sought any tax relief from the State of Arizona as a precursor to doing business in that state.

ADMINISTRATIVE IMPLICATIONS

Administrative impacts on TRD will be minimal.

Exemptions from the gross receipts and compensating taxes are different than deductions. While deductions claimed must be reported, taxpayers are not required the report the amount of receipts for which exemptions are claimed. Exemptions reduce the burden on taxpayers but also reduce the amount of information available to TRD, auditors, and policymakers. It is more difficult for auditors to determine whether exemptions are being claimed correctly.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 1081 is related to House Bill 547 as amended by the House Taxation and Revenue Committee. House Bill 547 provides gross receipts and compensating tax exemptions for the same receipts, but the exemptions created in House Bill 547 only take effect if EDD certifies to TRD before July 1, 2009 that construction of a railroad locomotive refueling facility has commenced in Dona Ana County.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The plan to relocate Union Pacific's facility from El Paso to Santa Teresa may fall through.

SS/mt