

1 SENATE BILL 45

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

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10 AN ACT

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

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

15 SECTION 1. Section 7-9-110.3 NMSA 1978 (being Laws 2011,
16 Chapter 60, Section 3 and Laws 2011, Chapter 61, Section 3),
17 which has a contingent effective date of July 1, 2013, pursuant
18 to Laws 2011, Chapter 60, Section 5 and Laws 2011, Chapter 61,
19 Section 5, is amended to read:

20 "7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL
21 DEDUCTION.--

22 A. The purpose of the deduction on fuel loaded or
23 used by a common carrier in a locomotive engine from gross
24 receipts and from compensating tax is to encourage the
25 construction, renovation, maintenance and operation of railroad

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1 locomotive refueling facilities and related activities in New
2 Mexico.

3 B. To be eligible for the deduction on fuel loaded
4 or used by a common carrier in a locomotive engine from
5 compensating tax, the fuel shall be used or loaded by a common
6 carrier that, after July 1, 2011, made a capital investment of
7 ~~[one hundred million dollars (\$100,000,000) or more in new~~
8 ~~construction or renovations at the railroad locomotive~~
9 ~~refueling facility in which the fuel is loaded or used]~~ fifty
10 million dollars (\$50,000,000) or more in railroad
11 infrastructure improvements, including railroad locomotive
12 refueling facilities, railroad track and signals and supporting
13 railroad network, located in New Mexico.

14 C. To be eligible for the deduction on fuel loaded
15 or used by a common carrier in a locomotive engine from gross
16 receipts, the sale shall be made to a common carrier that,
17 after July 1, 2011, made a capital investment of ~~[one hundred~~
18 ~~million dollars (\$100,000,000) or more in new construction or~~
19 ~~renovations at the railroad locomotive refueling facility in~~
20 ~~which the fuel is sold]~~ fifty million dollars (\$50,000,000) or
21 more in railroad infrastructure improvements, including
22 railroad locomotive refueling facilities, railroad track and
23 signals and supporting railroad network, located in New Mexico,
24 and the common carrier shall deliver an appropriate nontaxable
25 transaction certificate to the seller.

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1 D. The economic development department shall
2 promulgate rules for the issuance of a certificate of
3 eligibility for the purposes of claiming a deduction on fuel
4 loaded or used by a common carrier in a locomotive engine from
5 gross receipts or compensating tax. A common carrier may
6 request a certificate of eligibility from the economic
7 development department to provide to the taxation and revenue
8 department to establish eligibility for a nontaxable
9 transaction certificate for the deduction on fuel loaded or
10 used by a common carrier in a locomotive engine from gross
11 receipts. The taxation and revenue department shall issue
12 nontaxable transaction certificates to a common carrier upon
13 the presentation of a certificate of eligibility obtained from
14 the economic development department pursuant to this
15 subsection.

16 E. The economic development department shall keep a
17 record of temporary and permanent jobs from all railroad
18 activity at each railroad locomotive refueling facility that
19 claims a deduction on fuel loaded or used by a common carrier
20 in a locomotive engine from gross receipts or from compensating
21 tax. The economic development department and the taxation and
22 revenue department shall estimate the amount of state revenue
23 that is attributable to all railroad activity occurring at each
24 locomotive refueling facility that claims a deduction on fuel
25 loaded or used by a common carrier in a locomotive engine from

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1 gross receipts or from compensating tax.

2 F. The economic development department and the
3 taxation and revenue department shall compile an annual report
4 with the number of taxpayers who claim the deduction on fuel
5 loaded or used by a common carrier in a locomotive engine from
6 gross receipts and from compensating tax, the number of jobs
7 created as a result of that deduction, the amount of that
8 deduction approved, the net revenue to the state as a result of
9 that deduction and any other information required by the
10 legislature to aid in evaluating the effectiveness of that
11 deduction. A taxpayer who claims a deduction on fuel loaded or
12 used by a common carrier in a locomotive engine from gross
13 receipts or from compensating tax shall provide the economic
14 development department and the taxation and revenue department
15 with the information required to compile that report. The
16 economic development department and the taxation and revenue
17 department shall present that report before the legislative
18 interim revenue stabilization and tax policy committee and the
19 legislative finance committee by November of each year.

20 Notwithstanding any other section of law to the contrary, the
21 economic development department and the taxation and revenue
22 department may disclose the number of applicants for the
23 deduction on fuel loaded or used by a common carrier in a
24 locomotive engine from gross receipts and from compensating
25 tax, the amount of the deduction approved, the number of

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1 employees of the taxpayer and any other information required by
2 the legislature or the taxation and revenue department to aid
3 in evaluating the effectiveness of that deduction.

4 G. An appropriate legislative committee shall
5 review the effectiveness of the deduction on fuel loaded or
6 used by a common carrier in a locomotive engine from gross
7 receipts and from compensating tax every six years beginning in
8 2019."