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AN ACT

RELATING TO TAXATION; PROVIDING A 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. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX--LOCOMOTIVE ENGINE
FUEL.--Receipts from the sale of fuel to a common carrier to
be loaded or used in a locomotive engine may be deducted from
gross receipts. For the purposes of this section,
"locomotive engine" means a wheeled vehicle consisting of a
self-propelled engine that is used to draw trains along
railway tracks."

SECTION 2. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"DEDUCTION--COMPENSATING TAX--LOCOMOTIVE ENGINE
FUEL.--The value of fuel to be loaded or used by a common
carrier in a locomotive engine may be deducted in computing
the compensating tax due. For the purposes of this section,
"locomotive engine" means a wheeled vehicle consisting of a
self-propelled engine that is used to draw trains along
railway tracks."

SECTION 3. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

1 "PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL
2 DEDUCTION.--

3 A. The purpose of the deduction on fuel loaded or
4 used by a common carrier in a locomotive engine from gross
5 receipts and from compensating tax is to encourage the
6 construction, renovation, maintenance and operation of
7 railroad locomotive refueling facilities and related
8 activities in New Mexico.

9 B. To be eligible for the deduction on fuel loaded
10 or used by a common carrier in a locomotive engine from
11 compensating tax, the fuel shall be used or loaded by a
12 common carrier that, after July 1, 2011, made a capital
13 investment of one hundred million dollars (\$100,000,000) or
14 more in new construction or renovations at the railroad
15 locomotive refueling facility in which the fuel is loaded or
16 used.

17 C. To be eligible for the deduction on fuel loaded
18 or used by a common carrier in a locomotive engine from gross
19 receipts, the sale shall be made to a common carrier that,
20 after July 1, 2011, made a capital investment of one hundred
21 million dollars (\$100,000,000) or more in new construction or
22 renovations at the railroad locomotive refueling facility in
23 which the fuel is sold, and the common carrier shall deliver
24 an appropriate nontaxable transaction certificate to the
25 seller.

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
5 from gross receipts or compensating tax. A common carrier
6 may 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
14 from the economic development department pursuant to this
15 subsection.

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

1 in a locomotive engine from gross receipts or from
2 compensating tax.

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

1 locomotive engine from gross receipts and from compensating
2 tax, the amount of the deduction approved, the number of
3 employees of the taxpayer and any other information required
4 by the legislature or the taxation and revenue department to
5 aid in evaluating the effectiveness of that deduction.

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

11 SECTION 4. SEVERABILITY.--If any part or application of
12 this act is held invalid, the remainder or its application to
13 other situations or persons shall not be affected.

14 SECTION 5. CONTINGENT EFFECTIVE DATE--NOTIFICATION.--
15 The effective date of the provisions of this act is
16 July 1, 2013, provided that prior to July 1, 2012, the
17 economic development department certifies to the taxation and
18 revenue department that construction of a railroad locomotive
19 refueling facility project in Dona Ana county has commenced,
20 including land acquisition, acquisition of all necessary
21 permits and commencement of actual construction. The taxation
22 and revenue department shall notify the New Mexico compilation
23 commission and the director of the legislative council service
24 prior to July 1, 2013 as to whether the certification from the
25 economic development department has been received. _____