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HOUSE BILL 47

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

INTRODUCED BY

Patricia A. Lundstrom and Alonzo Baldonado

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),  
which has a contingent effective date of July 1, 2013, pursuant  
to Laws 2011, Chapter 60, Section 5 and Laws 2011, Chapter 61,  
Section 5, 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

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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."