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

ORIGINAL DATE 1/25/08
SPONSOR Cote **LAST UPDATED** **HB** 387

SHORT TITLE Locomotive Fuel Tax Exemption Effective Dates **SB**

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	**FY09**	**FY10**		
		$4,986.0	Non-Recurring	General Fund
		$623.0	Non-Recurring	Small Cities Assistance Fund
		$623.0	Non-Recurring	Small Counties Assistance Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

No Response Received From
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

House Bill 387 amends Laws 2007, Chapter 172, Section 29, which stated the effective date for the locomotive fuel gross receipts and compensating tax exemptions that were enacted in 2007 as part of House Bill 839, the omnibus economic development tax bill.

Under current law, those tax exemptions would become effective on July 1, 2009 if construction of a railroad locomotive refueling facility project in Dona Ana county has commenced, including by January 1, 2009. House Bill 387 provides that if that condition is not met, the tax exemptions will become effective one year later on July 1, 2010 if construction of the project has commenced by January 1, 2010.

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 83.1 million gallons of railroad fuel are consumed in New Mexico each year.

Of the 83.1 million gallons of railroad fuel consumed in New Mexico each year, it is estimated that about 41.6 million are purchased in California, where sales tax is paid, making those 41.6 million gallons eligible for a compensating tax credit that existed prior to the exemption enacted in 2007. The remaining 41.6 million gallons will qualify for the exemptions enacted in 2007.

Assuming an average fuel price of $3 per gallon, the tax base eligible for the compensating exemption enacted in 2007 is about $124.7 million (41.6 million gallons X $3). Since the compensating tax rate is 5 percent, tax collections eligible for the exemption total $6.2 million. Absent the exemption, 80 percent of this revenue would accrue to the general fund ($4,986 thousand) and 20 percent would accrue to the small cities and small counties assistance funds ($623 thousand).

Summary of FY10 Nonrecurring Impacts (in thousands)

General Fund:	$4,986.0
Small Cities Assistance Fund:	$623.3
Small Counties Assistance Fund:	$623.3

Construction of the Santa Teresa facility is expected to begin in time to make the compensating tax exemption effective in FY11 instead of FY10. Since the December 2007 consensus revenue estimate for compensating tax did not increase in anticipation that the Santa Teresa facility would not commence construction in time to earn the compensating tax exemption in FY10, this bill will result in a nonrecurring revenue increase in FY10.

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 and the Mexican border. Union Pacific's agreement to build the facility in New Mexico was 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.

In 2007, House Bill 839, the omnibus economic development tax bill, created a gross receipts tax exemption for receipts from the sale of fuel to a common carrier for use in a locomotive engine, as well as a compensating tax exemption for the value of fuel used by a common carrier in a locomotive engine. Those exemptions were to become effective on July 1, 2009 contingent on commencement of construction of the United Pacific terminal facility by January 1, 2009.

Construction of the Santa Teresa facility has been delayed because acquisition of land owned by BLM is taking more time than anticipated. The land will be acquired through a land exchange between BLM and the State Land Office, with subsequent sale to Union Pacific.

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.

ADMINISTRATIVE IMPLICATIONS

Administrative impacts on TRD will be minimal.

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/nt