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AN ACT

RELATING TO TAXATION; AUTHORIZING A MUNICIPALITY OR COUNTY TO IMPOSE A TAX ON SPECIAL FUEL; EXPANDING AN AUTHORIZATION TO IMPOSE A TAX ON GASOLINE TO ALL MUNICIPALITIES AND COUNTIES; REPEALING A SECTION OF THE NMSA 1978.

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

SECTION 1. Section 7-24A-1 NMSA 1978 (being Laws 1978, Chapter 182, Section 1, as amended) is amended to read:

"7-24A-1. SHORT TITLE.--Chapter 7, Article 24A NMSA 1978 may be cited as the "County and Municipal Gasoline and Special Fuel Tax Act"."

SECTION 2. Section 7-24A-2 NMSA 1978 (being Laws 1991, Chapter 156, Section 2) is amended to read:

"7-24A-2. DEFINITIONS.--As used in the County and Municipal Gasoline and Special Fuel Tax Act:

A. "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets the American society for testing and materials specifications for biodiesel fuel, B100 or B99 blend stock for distillate fuels;

B. "blended biodiesel" means a diesel engine fuel that contains at least two percent biodiesel;

C. "gallon" means the quantity of liquid necessary to fill a standard United States gallon liquid measure or

1 that same quantity adjusted to a temperature of sixty degrees
2 Fahrenheit at the election of any distributor, but a
3 distributor shall report on the same basis for a period of at
4 least one year;

5 D. "gasoline" means any flammable liquid
6 hydrocarbon used primarily as fuel for the propulsion of
7 motor vehicles, motorboats or aircraft except for
8 diesel-engine fuel, kerosene, liquefied petroleum gas,
9 compressed or liquefied natural gas and products specially
10 prepared and sold for use in aircraft propelled by turbo-prop
11 or jet-type engines;

12 E. "governing body" means the city council or city
13 commission of a city, the board of trustees of a town or
14 village or the board of county commissioners of a county;

15 F. "highway" means every road, highway,
16 thoroughfare, street or way, including toll roads, generally
17 open to the use of the public as a matter of right for the
18 purpose of motor vehicle travel regardless of whether it is
19 temporarily closed for the purpose of construction,
20 reconstruction, maintenance or repair;

21 G. "motor vehicle" means any self-propelled
22 vehicle or device that is either subject to registration
23 under Section 66-3-1 NMSA 1978 or used or that may be used on
24 the public highways in whole or in part for the purpose of
25 transporting persons or property and includes any connected

1 trailer or semitrailer;

2 H. "person" means:

3 (1) any individual, estate, trust, receiver,
4 cooperative association, club, corporation, company, firm,
5 partnership, joint venture, syndicate or other entity,
6 including any utility owned or operated by a county,
7 municipality or other political subdivision of the state; or

8 (2) to the extent permitted by law, the
9 United States or any agency or instrumentality thereof or the
10 state of New Mexico or any political subdivision thereof;

11 I. "special fuel" means any diesel-engine fuel,
12 biodiesel, blended biodiesel or kerosene used for the
13 generation of power to propel a motor vehicle, except for
14 gasoline, liquefied petroleum gas, compressed or liquefied
15 natural gas and products specially prepared and sold for use
16 in aircraft propelled by turbo-prop or jet engines;

17 J. "transit route" means a road, highway or street
18 normally used in the operation of a public transportation
19 system; and

20 K. "vehicle emission inspection program" means a
21 vehicle emission inspection program designed to reduce
22 pollutants emitted by motor vehicles of less than ten
23 thousand pounds pursuant to a county or municipal ordinance."

24 SECTION 3. Section 7-24A-3 NMSA 1978 (being Laws 1978,
25 Chapter 182, Section 3, as amended) is amended to read:

1 "7-24A-3. USE OF PROCEEDS.--

2 A. The proceeds of a county or municipal gasoline
3 tax shall be used for bridge and road projects or public
4 transportation related trails and for expenses of purchasing,
5 maintaining and operating transit operations and facilities,
6 for the operation of a transit authority established by the
7 Municipal Transit Law or as provided in the County and
8 Municipal Gasoline and Special Fuel Tax Act, for operation of
9 a vehicle emission inspection program or for road, street or
10 highway construction, repair or maintenance in the county or
11 municipality. The proceeds of a county or municipal gasoline
12 tax may be pledged for the payment of bonds issued pursuant
13 to the County and Municipal Gasoline and Special Fuel Tax
14 Act.

15 B. The proceeds of a county or municipal special
16 fuel tax shall be used for bridge and road projects or for
17 road, street or highway construction, repair or maintenance
18 in the county or municipality. The proceeds of a county or
19 municipal special fuel tax may be pledged for the payment of
20 bonds issued pursuant to the County and Municipal Gasoline
21 and Special Fuel Tax Act; provided that the bonds were issued
22 to enable the county or municipality to acquire land,
23 buildings or other equipment required for bridge, road,
24 street or highway construction, repair or maintenance or for
25 refunding bonds previously issued for such purposes.

1 C. A county or municipality may engage in the
2 business of transportation of passengers and property within
3 the political subdivision by whatever means it may decide and
4 may acquire cars, motor buses and other equipment necessary
5 for carrying on the business. It may acquire land and erect
6 buildings and equip them with all necessary machinery and
7 facilities for operation, maintenance, modification, repair
8 and storage of any buses, cars, trucks or other equipment
9 needed. It may do all things necessary for the acquisition
10 and conduct of the business of public transportation.

11 D. A governing body may enact ordinances and
12 resolutions and promulgate rules as it may deem necessary and
13 proper for the conduct of the business of transportation and
14 for fixing and collecting all fares, rates and charges for
15 services rendered.

16 E. A county or municipality engaging in the
17 business of transportation may extend any system of
18 transportation to points outside its boundaries where
19 necessary and incidental to furnishing efficient
20 transportation to points within the county or municipality.

21 F. A governing body may lease any system of
22 transportation in whole or in part to any person who will
23 contract to operate it according to the rules, time tables
24 and other requirements established by the governing body.

25 G. A county or municipality may furnish

1 transportation service to areas located outside its
2 boundaries, provided that prior contracts have been entered
3 into with the county or municipality in which the areas are
4 located covering the schedules, rates, service and other
5 pertinent matters before initiation of such service.

6 H. The power of eminent domain is granted to a
7 participating county or municipality for the purpose of
8 acquiring lands and buildings necessary to provide efficient
9 public transit or a vehicle emission inspection program to be
10 exercised in the manner provided by law.

11 I. A county or municipality, as an operating
12 entity, may enter into contracts for special transportation
13 service, charter buses, advertising and any other function
14 that a private enterprise operating a public transit facility
15 could do or perform for revenue.

16 J. A governing body may spend public funds to pay
17 the costs of operation of public transit or a vehicle
18 emission inspection program if revenues of the system prove
19 to be insufficient.

20 K. A county or municipality is authorized to enter
21 into binding agreements with the United States or any of its
22 officers or agencies or the state or any of its officers or
23 agencies or any combination of agencies, departments or
24 officers of both the United States and the state for
25 planning, developing, modernizing, studying, improving,

1 financing, operating or otherwise affecting public transit;
2 to accept any loans, grants or payments from any of these
3 agencies; and to make any commitments or assume any
4 obligations required by any of these agencies as a condition
5 of receiving the benefits thereof."

6 SECTION 4. A new section of the County and Municipal
7 Gasoline and Special Fuel Tax Act is enacted to read:

8 "COUNTY SPECIAL FUEL TAX--AUTHORIZATION--IMPOSITION--
9 RATE.--

10 A. The majority of the members of the governing
11 body of a county may adopt an ordinance imposing a tax of up
12 to two cents (\$.02) per gallon on special fuel sold at retail
13 within the boundaries of the county on all property not lying
14 within the boundaries of a municipality and upon which taxes
15 are imposed in accordance with the Special Fuels Supplier Tax
16 Act. The tax imposed by this section is to be referred to as
17 the "county special fuel tax".

18 B. If the governing body of a county adopts an
19 ordinance imposing a county special fuel tax, the governing
20 body shall submit the question of levying the tax to the
21 qualified electors in the county residing outside the
22 boundaries of a municipality.

23 C. The county special fuel tax may be imposed in
24 increments of one cent (\$.01) per gallon up to a maximum of
25 two cents (\$.02) per gallon. The amount of the tax and the

1 specific purposes for which the proceeds shall be used shall
2 be stated in the ordinance adopted by the governing body of
3 the county as provided in Subsection A of this section."

4 SECTION 5. Section 7-24A-6 NMSA 1978 (being Laws 1978,
5 Chapter 182, Section 6, as amended) is amended to read:

6 "7-24A-6. COUNTY GASOLINE TAX OR SPECIAL FUEL TAX--
7 PROCEDURE FOR ADOPTION OF ORDINANCE--ELECTION.--

8 A. The ordinance imposing a county gasoline tax or
9 county special fuel tax shall not go into effect until after
10 an election is held and a simple majority of the qualified
11 electors of the county residing outside the boundaries of a
12 municipality votes in favor of imposing the tax. The
13 governing body of the county shall provide for an election on
14 the question of imposing the tax within sixty days after the
15 day the ordinance is adopted. Such question may be submitted
16 to the electors and voted upon as a separate question at any
17 general election or at any special election called for that
18 purpose by the governing body. The election upon the
19 question shall be called, held, conducted and canvassed in
20 substantially the same manner as provided by law for general
21 elections. If the question of imposing the tax fails, the
22 governing body shall not again propose an ordinance for that
23 tax for a period of one year after the election.

24 B. Within five days after passage of a county
25 gasoline tax or county special fuel tax ordinance, the

1 governing body of the county shall submit a certified copy of
2 the ordinance to the taxation and revenue department."

3 SECTION 6. Section 7-24A-6.1 NMSA 1978 (being Laws
4 1986, Chapter 74, Section 1, as amended) is amended to read:

5 "7-24A-6.1. COUNTY-WIDE GASOLINE TAX--AUTHORIZATION--
6 IMPOSITION--RATE--ELECTION.--

7 A. A county-wide gasoline tax may be imposed on
8 each gallon of gasoline sold at retail within the county in
9 increments of one cent (\$.01) per gallon up to a maximum of
10 two cents (\$.02) per gallon for the purpose of funding a
11 vehicle emissions inspection program and other programs as
12 specified in Subsection D of this section when the governing
13 bodies of a county and a municipality adopt identical
14 ordinances submitting the question to the qualified electors
15 in the county in a joint election.

16 B. The procedures of the County and Municipal
17 Gasoline and Special Fuel Tax Act shall apply unless
18 otherwise provided in this section.

19 C. The ordinance shall not go into effect until
20 after a joint election is held pursuant to Section 7-24A-21
21 NMSA 1978 and a simple majority of the qualified electors of
22 the county voting on the issue vote in favor of imposing a
23 county-wide gasoline tax. If the ordinance is approved by a
24 majority of the qualified electors of the county voting on
25 the issue, the gasoline tax shall be imposed county-wide,

1 both within and outside the boundaries of any municipality
2 within the county.

3 D. If the qualified electors of the county vote in
4 favor of an ordinance imposing a county-wide gasoline tax
5 pursuant to Subsection C of Section 7-24A-21 NMSA 1978 and
6 any proceeds of the tax are dedicated by the ordinance to a
7 vehicle emissions inspection program, then the proceeds of
8 the tax imposed shall be used first for the vehicle emissions
9 inspection program and the balance shall be used for other
10 environmental programs such as water quality or air quality
11 programs. That balance shall be distributed to the
12 municipality and the county based on the proportions that the
13 population of the municipality and the population of the
14 county outside the boundaries of the municipality bear to the
15 total population of the county. The municipality and county
16 shall reimburse the motor vehicle division of the taxation
17 and revenue department for actual costs incurred in
18 administering any plan that involves the motor vehicle
19 division in the enforcement of denial of motor vehicle
20 registration for noncompliance with a vehicle emissions
21 inspection program. The costs reimbursed are appropriated to
22 the motor vehicle division for that purpose."

23 SECTION 7. Section 7-24A-7.1 NMSA 1978 (being Laws
24 1990, Chapter 88, Section 8) is amended to read:

25 "7-24A-7.1. REGISTRATION REQUIRED.--Each person selling

1 gasoline or special fuel at retail in a county or in a
2 municipality that imposes a tax pursuant to the County and
3 Municipal Gasoline and Special Fuel Tax Act shall register
4 with the county or the municipality, as appropriate, as a
5 seller of gasoline at retail or a seller of special fuel at
6 retail, or both, as appropriate."

7 SECTION 8. Section 7-24A-8 NMSA 1978 (being Laws 1978,
8 Chapter 182, Section 8, as amended) is amended to read:

9 "7-24A-8. COLLECTION OF COUNTY GASOLINE TAX AND COUNTY
10 SPECIAL FUEL TAX.--The county shall collect the county
11 gasoline tax and county special fuel tax imposed by the
12 County and Municipal Gasoline and Special Fuel Tax Act.
13 Every person subject to the imposition of the county gasoline
14 tax or county special fuel tax shall file a return on forms
15 provided by and with the information required by the county
16 and shall pay the tax due on or before the twenty-fifth day
17 of the month following the month in which the gasoline or
18 special fuel is sold at retail within the boundaries of the
19 county."

20 SECTION 9. A new section of the County and Municipal
21 Gasoline and Special Fuel Tax Act is enacted to read:

22 "MUNICIPAL SPECIAL FUEL TAX--AUTHORIZATION--IMPOSITION--
23 RATE.--

24 A. The majority of the members of the governing
25 body of a municipality may adopt an ordinance imposing a tax

1 of up to two cents (\$.02) per gallon on special fuel sold at
2 retail within the boundaries of the municipality and upon
3 which taxes are imposed in accordance with the Special Fuels
4 Supplier Tax Act. The tax imposed by this section is to be
5 referred to as the "municipal special fuel tax".

6 B. If the governing body of a municipality adopts
7 an ordinance imposing a municipal special fuel tax, the
8 governing body shall submit the question of levying the tax
9 to the qualified electors in the municipality.

10 C. The municipal special fuel tax may be imposed
11 in increments of one cent (\$.01) per gallon up to a maximum
12 of two cents (\$.02) per gallon. The amount of the tax and
13 the specific purposes for which the proceeds shall be used
14 shall be stated in the ordinance adopted by the governing
15 body of the municipality as provided in Subsection A of this
16 section."

17 SECTION 10. Section 7-24A-11 NMSA 1978 (being Laws
18 1978, Chapter 182, Section 11, as amended) is amended to
19 read:

20 "7-24A-11. MUNICIPAL GASOLINE TAX OR SPECIAL FUEL TAX--
21 PROCEDURE FOR ADOPTION OF ORDINANCE--ELECTION.--

22 A. The ordinance imposing a municipal gasoline tax
23 or municipal special fuel tax shall not go into effect until
24 after an election is held and a simple majority of the
25 qualified electors of the municipality voting on the question

1 votes in favor of imposing the tax. The governing body of
2 the municipality shall provide for an election on the
3 question of imposing the tax within sixty days after the day
4 the ordinance is adopted. Such question may be submitted to
5 the electors and voted upon as a separate question at any
6 regular or special election or at any special election called
7 for that purpose by the governing body. The election upon
8 the question shall be called, held, conducted and canvassed
9 in substantially the same manner as provided by law for
10 special municipal elections as provided in the Municipal
11 Election Code. If the question of imposing the tax fails,
12 the governing body shall not again propose an ordinance for
13 that tax for a period of one year after the election.

14 B. After passage of a municipal gasoline tax or
15 municipal special fuel tax ordinance, the governing body of
16 the municipality shall submit a certified copy of the
17 ordinance to the taxation and revenue department."

18 SECTION 11. Section 7-24A-12 NMSA 1978 (being Laws
19 1978, Chapter 182, Section 12, as amended) is amended to
20 read:

21 "7-24A-12. COLLECTION OF MUNICIPAL GASOLINE TAX AND
22 MUNICIPAL SPECIAL FUEL TAX.--The municipality shall collect
23 the municipal gasoline tax and municipal special fuel tax
24 imposed by the County and Municipal Gasoline and Special Fuel
25 Tax Act. Every person subject to the imposition of the

1 municipal gasoline tax or municipal special fuel tax shall
2 file a return on forms provided by and with the information
3 required by the municipality and shall pay the tax due on or
4 before the twenty-fifth day of the month following the month
5 in which the gasoline or special fuel is sold at retail
6 within the boundaries of the municipality."

7 SECTION 12. Section 7-24A-14 NMSA 1978 (being Laws
8 1978, Chapter 182, Section 14, as amended) is amended to
9 read:

10 "7-24A-14. BOND ORDINANCE.--

11 A. The governing body may adopt an ordinance
12 providing for issuance of bonds to enable the county or
13 municipality to acquire land, buildings, buses or other
14 equipment required for public transit, a vehicle emission
15 inspection program or for road, street or highway
16 construction, repair or maintenance or for refunding bonds
17 previously issued for such purpose or any such purposes.

18 B. The bonds are payable solely from a pledge of:

19 (1) gross income derived by the county or
20 municipality from the transit facilities or vehicle emission
21 inspection facilities financed with the proceeds and other
22 transit facilities not so financed; provided that when gross
23 revenues are so pledged, the county or municipality may apply
24 to the payment of the expense of maintaining and operating
25 the transit facilities, the gross revenues of which are so

1 pledged, the county's or municipality's revenues derived from
2 sources other than the proceeds of ad valorem taxes and may,
3 in the proceedings authorizing the issue of bonds, covenant
4 and agree to apply to the payment of the maintenance and
5 operation expenses so much of the revenues as may be
6 necessary for such purposes or as may be specified in the
7 proceedings;

8 (2) income derived from franchises granted
9 by the governing body of a county or municipality;

10 (3) contributions, grants or other financial
11 assistance from the state or federal government or any other
12 source;

13 (4) county or municipal gasoline tax or
14 special fuel tax revenue; or

15 (5) any one or a combination of these
16 sources.

17 C. The ordinance is irrepealable as long as any
18 indebtedness on the bonds is unpaid by the county or
19 municipality."

20 SECTION 13. Section 7-24A-17 NMSA 1978 (being Laws
21 1978, Chapter 182, Section 17) is amended to read:

22 "7-24A-17. CONSTRUCTION.--The County and Municipal
23 Gasoline and Special Fuel Tax Act is full authority for
24 authorization and issuance of bonds. If any proceeding
25 involving the validity and enforceability of any bond or its

1 security, any bond reciting in substance that it was issued
2 by the county or municipality to aid in financing public
3 transit or transportation projects or any other purpose
4 authorized by the County and Municipal Gasoline and Special
5 Fuel Tax Act is conclusively presumed to have been issued for
6 a county or municipal transit or transportation project or
7 other purpose in accordance with that act."

8 SECTION 14. Section 7-24A-21 NMSA 1978 (being Laws
9 1978, Chapter 182, Section 21, as amended) is amended to
10 read:

11 "7-24A-21. JOINT ELECTION.--

12 A. If an election is held by one or more
13 municipalities within a county or a municipality and the
14 county concerning adoption of the county and municipal
15 gasoline or special fuel taxes, such election may be held
16 jointly by such county and municipality, or municipalities,
17 and may be held at any election except a primary election.

18 B. The election may be conducted using paper
19 ballots. Consolidated voter precincts may be used if the
20 board of county commissioners determines that such a
21 consolidation would provide for a cost-effective and
22 efficient election process and such consolidation would
23 ensure the integrity of the election process.

24 C. If a joint election is held by a municipality
25 and a county pursuant to Section 7-24A-6.1 NMSA 1978 and a

1 simple majority of the qualified electors of the county
2 voting on the issue votes in favor of imposing the
3 county-wide gasoline tax, the tax shall be collected pursuant
4 to the County and Municipal Gasoline and Special Fuel Tax
5 Act."

6 SECTION 15. Section 7-24B-4 NMSA 1978 (being Laws 1987,
7 Chapter 45, Section 13, as amended) is amended to read:

8 "7-24B-4. SPECIAL COUNTY HOSPITAL GASOLINE TAX--
9 AUTHORIZATION--IMPOSITION--RATE.--

10 A. The majority of the members of the governing
11 body of a county may adopt an ordinance imposing a tax of up
12 to two cents (\$.02) a gallon on all gasoline sold at retail
13 in the county and upon which gasoline taxes are imposed in
14 accordance with the Gasoline Tax Act. The tax imposed by
15 this section is to be referred to as the "special county
16 hospital gasoline tax" and is in addition to the tax imposed
17 in the Gasoline Tax Act.

18 B. The special county hospital gasoline tax may be
19 imposed by the governing body of a county regardless of
20 whether the county has imposed a tax on gasoline pursuant to
21 the County and Municipal Gasoline and Special Fuel Tax Act.

22 C. The special county hospital gasoline tax may be
23 imposed in increments of one cent (\$.01) per gallon up to a
24 maximum of two cents (\$.02) per gallon. The amount of the
25 tax and the specific purposes for which the proceeds shall be

1 used shall be stated in the ordinance adopted by the
2 governing body of the county.

3 D. The special county hospital gasoline tax shall
4 be imposed for a period of not more than five years from the
5 effective date of the ordinance imposing the tax. This
6 authorization may be extended for additional five-year
7 periods provided all requirements for enactment of the first
8 ordinance are met."

9 SECTION 16. Section 66-6-25 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 360, as amended) is amended to read:

11 "66-6-25. REGISTRATION BY COUNTY OR MUNICIPALITY
12 PROHIBITED.--

13 A. No county or municipality shall require
14 registration or charge fees for any vehicle subject to
15 registration under the Motor Vehicle Code.

16 B. Notwithstanding the provisions of Subsection A
17 of this section, a county or municipality designated as an
18 agent pursuant to Section 66-2-14.1 NMSA 1978 may impose a
19 fee in an amount not to exceed five dollars (\$5.00) per year
20 in addition to any other registration fee required. This fee
21 shall not be imposed if the county or municipality has
22 imposed a gasoline tax pursuant to the County and Municipal
23 Gasoline and Special Fuel Tax Act, the proceeds of which are
24 used to fund a vehicle emission inspection program. Any
25 money collected as a result of the imposition of an

1 additional fee pursuant to this subsection shall be used only
2 to fund a vehicle emission inspection program."

3 SECTION 17. REPEAL.--Section 7-24A-7 NMSA 1978 (being
4 Laws 1978, Chapter 182, Section 7, as amended) is repealed.

5 SECTION 18. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2015. _____

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