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HOUSE BILL 63

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Randal S. Crowder and Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO TAXATION; RENAMING THE COUNTY AND MUNICIPAL  
GASOLINE TAX ACT AS THE COUNTY AND MUNICIPAL FUELS TAX ACT;  
GRANTING AUTHORITY TO ALL COUNTIES AND MUNICIPALITIES TO IMPOSE  
A TAX ON RETAIL SALES OF GASOLINE AND SPECIAL FUEL WITHIN THEIR  
JURISDICTIONS; CHANGING PERMITTED USE OF PROCEEDS OF COUNTY AND  
MUNICIPAL GASOLINE AND SPECIAL FUEL TAXES; PROVIDING FOR LOCAL  
ADMINISTRATION OF COUNTY AND MUNICIPAL GASOLINE AND SPECIAL  
FUEL TAXES; REVISING PURPOSES FOR WHICH BONDS MAY BE ISSUED;  
MAKING A CONFORMING AMENDMENT TO THE MOTOR VEHICLE CODE;  
REPEALING THE SPECIAL COUNTY HOSPITAL GASOLINE TAX ACT;  
AMENDING, REPEALING AND ENACTING SECTIONS 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:

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1 "7-24A-1. SHORT TITLE.--Chapter 7, Article 24A NMSA 1978  
2 may be cited as the "County and Municipal [~~Gasoline~~] Fuels Tax  
3 Act".

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

6 "7-24A-2. DEFINITIONS.--As used in the County and  
7 Municipal [~~Gasoline~~] Fuels Tax Act:

8 [~~A. "county" means a class A county or an H class  
9 county;~~]

10 A. "alternative fuel" means liquefied petroleum  
11 gas, compressed natural gas, liquefied natural gas or a  
12 water-phased hydrocarbon fuel emulsion consisting of a  
13 hydrocarbon base and water in an amount not less than twenty  
14 percent by volume of the total water-phased fuel emulsion, all  
15 of which may be used for the generation of power to propel a  
16 motor vehicle on the highways;

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

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

24 D. "county area" means that portion of a county  
25 located outside the boundaries of any municipality, except that

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1 for an H class county, "county area" means the entire county;

2 E. "gasoline" means any flammable liquid  
3 hydrocarbon used primarily as fuel for the propulsion of motor  
4 vehicles or motorboats, including flammable liquid hydrocarbon  
5 that contains a minimum of ten percent by volume of denatured  
6 ethanol, of at least one hundred ninety-nine proof, exclusive  
7 of denaturants. "Gasoline" does not include diesel engine  
8 fuel, kerosene, alternative fuel or products sold for use in  
9 aircraft;

10 ~~[B-]~~ F. "governing body" means the city council or  
11 city commission of a city, the board of trustees of a town or  
12 village or the board of county commissioners of a ~~[class A~~  
13 county or an H class] county;

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

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

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1           ~~[G.]~~ I. "municipality" means any incorporated city,  
2 town or village, whether incorporated under general act,  
3 special act or special charter, ~~[located within a class A~~  
4 ~~county or]~~ but does not include an H class county;

5           ~~[D.]~~ J. "person" means:

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

12                   (2) to the extent permitted by law, the United  
13 States or any agency or instrumentality thereof or the state of  
14 New Mexico or any political subdivision, agency or  
15 instrumentality thereof;

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

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

23           K. "special fuel" means any diesel-engine fuel,  
24 biodiesel, blended biodiesel or kerosene used for the  
25 generation of power to propel a motor vehicle. "Special fuel"

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1 does not include gasoline, alternative fuel or products sold  
2 for use in aircraft; and

3 L. "taxpayer" means a person liable for payment of  
4 a tax imposed pursuant to the County and Municipal Fuels Tax  
5 Act."

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

8 "7-24A-3. USE OF PROCEEDS.--~~[A.]~~ The proceeds of a county  
9 or municipal gasoline or special fuel tax shall be used only  
10 for public bridge [and road] or highway projects, [or public  
11 ~~transportation related trails and for expenses of purchasing,~~  
12 ~~maintaining and operating transit operations and facilities,~~  
13 ~~for the operation of a transit authority established by the~~  
14 ~~Municipal Transit Law or as provided in the County and~~  
15 ~~Municipal Gasoline Tax Act, for operation of a vehicle emission~~  
16 ~~inspection program or for road, street or highway construction,~~  
17 ~~repair or maintenance in the county or municipality. The~~  
18 ~~proceeds of a county or municipal gasoline tax may be pledged]~~  
19 including the construction, reconstruction, repair or  
20 maintenance of public bridges and highways, or for the payment  
21 of bonds issued pursuant to the County and Municipal [Gasoline]  
22 Fuels Tax Act. [A county or municipality may engage in the  
23 ~~business of transportation of passengers and property within~~  
24 ~~the political subdivision by whatever means it may decide and~~  
25 ~~may acquire cars, motor buses and other equipment necessary for~~

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1 ~~carrying on the business. It may acquire land and erect~~  
2 ~~buildings and equip them with all necessary machinery and~~  
3 ~~facilities for operation, maintenance, modification, repair and~~  
4 ~~storage of any buses, cars, trucks or other equipment needed.~~  
5 ~~It may do all things necessary for the acquisition and conduct~~  
6 ~~of the business of public transportation.~~

7 ~~B. A governing body may enact ordinances and~~  
8 ~~resolutions and promulgate rules as it may deem necessary and~~  
9 ~~proper for the conduct of the business of transportation and~~  
10 ~~for fixing and collecting all fares, rates and charges for~~  
11 ~~services rendered.~~

12 ~~C. Any county or municipality engaging in the~~  
13 ~~business of transportation may extend any system of~~  
14 ~~transportation to points outside its boundaries where necessary~~  
15 ~~and incidental to furnishing efficient transportation to points~~  
16 ~~within the county or municipality.~~

17 ~~D. A governing body may lease any system of~~  
18 ~~transportation in whole or in part to any person who will~~  
19 ~~contract to operate it according to the rules, time tables and~~  
20 ~~other requirements established by the governing body.~~

21 ~~E. Any county or municipality may furnish~~  
22 ~~transportation service to areas located outside its boundaries,~~  
23 ~~provided that prior contracts have been entered into with the~~  
24 ~~county or municipality in which the areas are located covering~~  
25 ~~the schedules, rates, service and other pertinent matters~~

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1 ~~before initiation of such service.~~

2 ~~F. The power of eminent domain is granted to a~~  
3 ~~participating county or municipality for the purpose of~~  
4 ~~acquiring lands and buildings necessary to provide efficient~~  
5 ~~public transit or a vehicle emission inspection program to be~~  
6 ~~exercised in the manner provided by law.~~

7 ~~G. A county or municipality, as an operating~~  
8 ~~entity, may enter into contracts for special transportation~~  
9 ~~service, charter buses, advertising and any other function that~~  
10 ~~a private enterprise operating a public transit facility could~~  
11 ~~do or perform for revenue.~~

12 ~~H. A governing body may spend any public funds to~~  
13 ~~pay the costs of operation of public transit or a vehicle~~  
14 ~~emission inspection program if revenues of the system prove to~~  
15 ~~be insufficient.~~

16 ~~I. A county or municipality is authorized to enter~~  
17 ~~into binding agreements with the United States or any of its~~  
18 ~~officers or agencies or the state or any of its officers or~~  
19 ~~agencies or any combination of agencies, departments or~~  
20 ~~officers of both the United States and the state for planning,~~  
21 ~~developing, modernizing, studying, improving, financing,~~  
22 ~~operating or otherwise affecting public transit; to accept any~~  
23 ~~loans, grants or payments from any of these agencies; and to~~  
24 ~~make any commitments or assume any obligations required by any~~  
25 ~~of these agencies as a condition of receiving the benefits~~

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1 ~~thereof.]"~~

2 SECTION 4. A new section of the County and Municipal  
3 Fuels Tax Act, Section 7-24A-4.1 NMSA 1978, is enacted to read:

4 "7-24A-4.1. [NEW MATERIAL] ADMINISTRATION--ENFORCEMENT.--  
5 A county or municipality that has in effect an ordinance  
6 imposing a tax pursuant to the County and Municipal Fuels Tax  
7 Act shall administer and enforce the tax."

8 SECTION 5. A new section of the County and Municipal  
9 Fuels Tax Act, Section 7-24A-4.2 NMSA 1978, is enacted to read:

10 "7-24A-4.2. [NEW MATERIAL] REGISTRATION REQUIRED.--  
11 A. Each person selling gasoline or special fuel at  
12 retail fuel dispensers in a county that imposes a county  
13 gasoline or special fuel tax shall register with the county as  
14 a seller of that product at retail fuel dispensers.

15 B. Each person selling gasoline or special fuel at  
16 retail fuel dispensers in a municipality that imposes a  
17 municipal gasoline or special fuel tax shall register with the  
18 municipality as a seller of that product at retail fuel  
19 dispensers."

20 SECTION 6. A new section of the County and Municipal  
21 Fuels Tax Act, Section 7-24A-4.3 NMSA 1978, is enacted to read:

22 "7-24A-4.3. [NEW MATERIAL] RECORDS REQUIRED--INSPECTION  
23 OF BOOKS AND RECORDS OF TAXPAYERS--AUDITS.--

24 A. A taxpayer shall maintain records and books of  
25 account in a manner that will permit the accurate computation

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1 of tax. A county or municipality shall require taxpayers to  
2 establish and maintain tax-related accounts and shall designate  
3 the records to be retained and the period of retention.

4 B. A county or municipality administering a tax  
5 pursuant to the County and Municipal Fuels Tax Act shall cause  
6 the records and books of account of a taxpayer to be inspected  
7 or audited at such times as the county or municipality deems  
8 necessary to administer and enforce the tax. Upon request, a  
9 taxpayer shall make the taxpayer's records and books of account  
10 available for inspection at reasonable hours to persons  
11 designated by the county or municipality to conduct the audit  
12 or other inspection. The taxpayer shall be permitted to submit  
13 a claim for refund with respect to any period open to  
14 inspection or audit."

15 SECTION 7. A new section of the County and Municipal  
16 Fuels Tax Act, Section 7-24A-4.4 NMSA 1978, is enacted to read:

17 "7-24A-4.4. [NEW MATERIAL] TAX RETURNS--DUE DATE--  
18 REPORTING PERIOD--EXTENSIONS.--

19 A. A taxpayer shall file tax returns in the manner  
20 and in the form and content as prescribed by the county or  
21 municipality administering a tax imposed pursuant to the County  
22 and Municipal Fuels Tax Act. Filing by electronic or optical  
23 means may be permitted or required by the county or  
24 municipality.

25 B. The county or municipality, by ordinance, shall

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1 specify the due date for filing of returns and payment of tax  
2 due. Reporting periods shall be by calendar months, unless the  
3 ordinance requires or permits reporting by calendar quarters.

4 C. A county or municipality may provide, by  
5 ordinance, for the granting, for good cause, of extensions of  
6 time to file a return or to pay tax; provided that no extension  
7 of time shall prevent the accrual of interest as otherwise  
8 provided in the County and Municipal Fuels Tax Act."

9 SECTION 8. A new section of the County and Municipal  
10 Fuels Tax Act, Section 7-24A-4.5 NMSA 1978, is enacted to read:

11 "7-24A-4.5. [NEW MATERIAL] CIVIL PENALTY--INTEREST.--

12 A. A county or municipality that imposes a tax  
13 pursuant to the County and Municipal Fuels Tax Act may provide,  
14 by ordinance, for a civil penalty when a taxpayer fails to file  
15 or pay timely. The penalty shall not exceed the greater of ten  
16 percent of the amount of tax due or one hundred dollars (\$100).

17 B. The county or municipality shall provide, by  
18 ordinance, that if an amount of tax imposed is not paid on or  
19 before the day on which it becomes due, interest shall be paid  
20 to the county or municipality on that amount from the first day  
21 following the day on which the tax is due, without regard to  
22 any extension of time, until it is paid; provided that if the  
23 amount of interest is less than one dollar (\$1.00), no interest  
24 shall be due. The rate of interest shall not exceed one  
25 percent per month.

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1           C. The county or municipality shall provide, by  
2 ordinance, that interest shall be allowed and paid on the  
3 amount of tax overpaid by a taxpayer that is subsequently  
4 refunded or credited to that taxpayer; provided that if the  
5 amount of interest owed is less than one dollar (\$1.00), no  
6 interest shall be paid. The rate of interest on overpayments  
7 shall be the same as the rate set pursuant to Subsection B of  
8 this section."

9           SECTION 9. A new section of the County and Municipal  
10 Fuels Tax Act, Section 7-24A-4.6 NMSA 1978, is enacted to read:

11           "7-24A-4.6. [NEW MATERIAL] LIEN FOR TAX--PAYMENT--  
12 CERTIFICATE OF LIENS.--

13           A. A county or municipal gasoline or special fuel  
14 tax imposed by a county or municipality constitutes a lien in  
15 favor of the county or municipality upon the real property and  
16 the personal property located on that real property where the  
17 sales of gasoline are subject to the tax. The lien may be  
18 enforced as provided in Chapter 3, Article 36 NMSA 1978.  
19 Priority of the lien shall be determined from the date of  
20 filing.

21           B. Under process or order of court, no person shall  
22 sell the property of any taxpayer without first ascertaining  
23 from the clerk or treasurer of the county or municipality in  
24 which the taxpayer is located the amount of any county or  
25 municipal gasoline or special fuel tax due to the county or

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1 municipality. Any amount of tax due to the county or  
2 municipality shall be paid from the proceeds of the sale before  
3 payment is made to the judgment creditor or any other person  
4 with a claim to the sale proceeds.

5 C. Upon application, the clerk or treasurer of the  
6 county or municipality shall furnish to any person a  
7 certificate showing the amount of all liens in the records of  
8 the county or municipality against the taxpayer."

9 SECTION 10. A new section of the County and Municipal  
10 Fuels Tax Act, Section 7-24A-4.7 NMSA 1978, is enacted to read:

11 "7-24A-4.7. [NEW MATERIAL] DELINQUENCIES--OVERPAYMENTS--  
12 DISPUTES.--

13 A. A county or municipality may bring an action in  
14 law or equity in district court for the collection of any  
15 amount of county or municipal gasoline or special fuel tax that  
16 is past due, including any related penalty, interest, costs of  
17 collection and reasonable attorney fees. A district court may  
18 issue a writ of mandamus or order an injunction or other  
19 appropriate remedy to enforce the provisions of the ordinance.  
20 The court may award costs and reasonable attorney fees to the  
21 prevailing party in a court action to enforce the provisions of  
22 the ordinance.

23 B. The county or municipality shall provide, by  
24 ordinance, at least one procedure by which a taxpayer may seek  
25 refund of amounts claimed to have been paid in excess of the

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1 amount of tax due.

2 C. The county or municipality shall provide, by  
3 ordinance, the procedures for resolving disputes regarding a  
4 county or municipal gasoline or special fuel tax, including  
5 deductions pertaining thereto."

6 SECTION 11. Section 7-24A-5 NMSA 1978 (being Laws 1978,  
7 Chapter 182, Section 5, as amended) is amended to read:

8 "7-24A-5. COUNTY GASOLINE TAX--AUTHORIZATION--  
9 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 to  
12 [~~two cents (\$.02) a~~] five cents (\$.05) per gallon on all  
13 gasoline sold at retail fuel dispensers within the [~~boundaries~~  
14 ~~of the county on all property not lying within the boundaries~~  
15 ~~of a municipality and upon which gasoline taxes are imposed in~~  
16 ~~accordance with the Gasoline Tax Act~~] county area. The tax  
17 imposed by this section is to be referred to as the "county  
18 gasoline tax" and is in addition to the tax imposed in the  
19 Gasoline Tax Act.

20 [~~B. If the governing body of a county adopts an~~  
21 ~~ordinance imposing a county gasoline tax, the governing body~~  
22 ~~shall submit the question of levying the tax to the qualified~~  
23 ~~electors in the county residing outside the boundaries of a~~  
24 ~~municipality.~~

25 G.] B. The county gasoline tax may be imposed in

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1 increments of one cent (\$.01) per gallon up to a maximum of  
2 [~~two cents (\$.02)~~] five cents (\$.05) per gallon. The amount of  
3 the tax and the specific purposes for which the proceeds shall  
4 be used shall be stated in the ordinance adopted by the  
5 governing body of the county as provided in Subsection A of  
6 this section. [~~The gasoline tax shall not be imposed for the  
7 purpose of funding a vehicle emissions inspection program if a  
8 re-registration fee that funds a vehicle emissions inspection  
9 and maintenance program has been imposed pursuant to Subsection  
10 C of Section 74-2-4 NMSA 1978.~~]"

11 SECTION 12. A new section of the County and Municipal  
12 Fuels Tax Act, Section 7-24A-5.1 NMSA 1978, is enacted to read:

13 "7-24A-5.1. [NEW MATERIAL] COUNTY SPECIAL FUEL TAX--  
14 AUTHORIZATION--IMPOSITION--RATE.--

15 A. The majority of the members of the governing  
16 body of a county may adopt an ordinance imposing a tax of up to  
17 five cents (\$.05) per gallon on all special fuel sold at retail  
18 fuel dispensers within the county area. The tax imposed by  
19 this section is to be referred to as the "county special fuel  
20 tax" and is in addition to the tax imposed in the Special Fuels  
21 Supplier Tax Act.

22 B. The county special fuel tax may be imposed in  
23 increments of one cent (\$.01) per gallon up to a maximum of  
24 five cents (\$.05) per gallon. The amount of the tax and the  
25 specific purposes for which the proceeds shall be used shall be

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1 stated in the ordinance authorized by Subsection A of this  
2 section and adopted by the governing body of the county."

3 SECTION 13. Section 7-24A-6 NMSA 1978 (being Laws 1978,  
4 Chapter 182, Section 6, as amended) is amended to read:

5 "7-24A-6. [~~COUNTY GASOLINE TAX~~] PROCEDURE FOR ADOPTION OF  
6 COUNTY ORDINANCE--ELECTION.--[A.] The ordinance imposing a  
7 county gasoline tax or a county special fuel tax shall not go  
8 into effect until after an election is held and a simple  
9 majority of the qualified electors of the county residing  
10 outside the boundaries of a municipality [~~vote~~] votes in favor  
11 of imposing the [~~county gasoline~~] tax. The governing body of  
12 the county shall provide for an election on the question of  
13 imposing a county gasoline tax or a county special fuel tax  
14 within [~~sixty~~] ninety days after the day the ordinance is  
15 adopted. Such question may be submitted to the electors and  
16 voted upon as a separate question at any general election or at  
17 any special election called for that purpose by the governing  
18 body. The election upon the question shall be called, held,  
19 conducted and canvassed in substantially the same manner as  
20 provided by law for general elections. If the question of  
21 imposing a county gasoline tax or a county special fuel tax  
22 fails, the governing body shall not again propose [~~a county~~  
23 ~~gasoline tax~~] an ordinance imposing that tax for [a period of]  
24 at least one year after the election.

25 [~~B. Within five days after passage of a county~~

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1 ~~gasoline tax ordinance, the governing body of the county shall~~  
2 ~~submit a certified copy of the ordinance to the taxation and~~  
3 ~~revenue department.]"~~

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

6 "7-24A-10. MUNICIPAL GASOLINE TAX--AUTHORIZATION--  
7 IMPOSITION--RATE.--

8 A. The majority of the members of the governing  
9 body of a municipality may adopt an ordinance imposing a tax of  
10 up to ~~[two cents (\$.02)]~~ five cents (\$.05) per gallon on all  
11 gasoline sold at retail fuel dispensers within the boundaries  
12 of the municipality ~~[and upon which gasoline taxes are imposed~~  
13 ~~in accordance with the Gasoline Tax Act]~~. The tax imposed by  
14 this section is to be referred to as the "municipal gasoline  
15 tax" and is in addition to the tax imposed in the Gasoline Tax  
16 Act.

17 ~~[B. If the governing body of a municipality adopts~~  
18 ~~an ordinance imposing a municipal gasoline tax, the governing~~  
19 ~~body shall submit the question of levying the tax to the~~  
20 ~~qualified electors in the municipality.~~

21 ~~G.]~~ B. The municipal gasoline tax may be imposed in  
22 increments of one cent (\$.01) per gallon up to a maximum of  
23 ~~[two cents (\$.02)]~~ five cents (\$.05) per gallon. The amount of  
24 the tax and the specific purposes for which the proceeds shall  
25 be used shall be stated in the ordinance authorized by

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1 Subsection A of this section and adopted by the governing body  
2 of the municipality [~~as provided in Subsection A of this~~  
3 ~~section. The gasoline tax shall not be imposed for the purpose~~  
4 ~~of funding a vehicle emissions inspection program if a re-~~  
5 ~~registration fee that funds a vehicle emissions inspection and~~  
6 ~~maintenance program has been imposed pursuant to Subsection C~~  
7 ~~of Section 74-2-4 NMSA 1978]."~~

8 SECTION 15. A new section of the County and Municipal  
9 Fuels Tax Act, Section 7-24A-10.1 NMSA 1978, is enacted to  
10 read:

11 "7-24A-10.1. [NEW MATERIAL] MUNICIPAL SPECIAL FUEL  
12 TAX--AUTHORIZATION--IMPOSITION--RATE.--

13 A. The majority of the members of the governing  
14 body of a municipality may adopt an ordinance imposing a tax of  
15 up to five cents (\$.05) per gallon on all special fuel sold at  
16 retail fuel dispensers within the boundaries of the  
17 municipality. The tax imposed by this section is to be  
18 referred to as the "municipal special fuel tax" and is in  
19 addition to the tax imposed in the Special Fuels Supplier Tax  
20 Act.

21 B. The municipal special fuel tax may be imposed in  
22 increments of one cent (\$.01) per gallon up to a maximum of  
23 five cents (\$.05) per gallon. The amount of the tax and the  
24 specific purposes for which the proceeds shall be used shall be  
25 stated in the ordinance authorized by Subsection A of this

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1 section and adopted by the governing body of the municipality."

2 SECTION 16. Section 7-24A-11 NMSA 1978 (being Laws 1978,  
3 Chapter 182, Section 11, as amended) is amended to read:

4 "7-24A-11. [~~MUNICIPAL GASOLINE TAX~~] PROCEDURE FOR  
5 ADOPTION OF MUNICIPAL ORDINANCE--ELECTION.--[A.] The ordinance  
6 imposing a municipal gasoline tax or a municipal special fuel  
7 tax shall not go into effect until after an election is held  
8 and a simple majority of the qualified electors of the  
9 municipality voting on the question [~~vote~~] votes in favor of  
10 imposing the [~~municipal gasoline~~] tax. The governing body of  
11 the municipality shall provide for an election on the question  
12 of imposing the municipal gasoline tax or municipal special  
13 fuel tax within [~~sixty~~] ninety days after the day the ordinance  
14 is adopted. Such question may be submitted to the electors and  
15 voted upon as a separate question at any regular or special  
16 election or at any special election called for that purpose by  
17 the governing body. The election upon the question shall be  
18 called, held, conducted and canvassed in substantially the same  
19 manner as provided by law for special municipal elections as  
20 provided in the Municipal Election Code. If the question of  
21 imposing a municipal gasoline tax or municipal special fuel tax  
22 fails, the governing body shall not again propose [~~a municipal~~  
23 ~~gasoline tax~~] an ordinance imposing that tax for [a period of]  
24 at least one year after the election.

25 [~~B. After passage of a municipal gasoline tax~~]

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1 ~~ordinance, the governing body of the municipality shall submit~~  
2 ~~a certified copy of the ordinance to the taxation and revenue~~  
3 ~~department.]"~~

4 SECTION 17. A new section of the County and Municipal  
5 Fuels Tax Act, Section 7-24A-11.1 NMSA 1978, is enacted to  
6 read:

7 "7-24A-11.1. [NEW MATERIAL] DEDUCTIONS.--In computing tax  
8 due, the following may be deducted from sales at retail fuel  
9 dispensers:

10 A. with respect to county or municipal gasoline  
11 tax:

12 (1) gasoline sold to the United States or an  
13 agency or instrumentality thereof for the exclusive use of the  
14 United States or an agency or instrumentality thereof.

15 Gasoline sold to the United States includes gasoline delivered  
16 into the fuel supply tank of a government-licensed vehicle of  
17 the United States; and

18 (2) gasoline sold to an Indian nation, tribe  
19 or pueblo or a political subdivision, agency or instrumentality  
20 of that Indian nation, tribe or pueblo for the exclusive use of  
21 the Indian nation, tribe or pueblo or a political subdivision,  
22 agency or instrumentality thereof. Gasoline sold to an Indian  
23 nation, tribe or pueblo includes gasoline delivered into the  
24 fuel supply tank of a government-licensed vehicle of the Indian  
25 nation, tribe or pueblo; and

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underscored material = new  
~~[bracketed material] = delete~~

1           B. with respect to county or municipal special fuel  
2 tax:

3                   (1) special fuel sold to the United States or  
4 an agency or instrumentality thereof for the exclusive use of  
5 the United States or an agency or instrumentality thereof.

6 Special fuel sold to the United States includes special fuel  
7 delivered into the fuel supply tank of a government-licensed  
8 vehicle of the United States;

9                   (2) special fuel sold to an Indian nation,  
10 tribe or pueblo or a political subdivision, agency or  
11 instrumentality of that Indian nation, tribe or pueblo for the  
12 exclusive use of the Indian nation, tribe or pueblo or a  
13 political subdivision, agency or instrumentality thereof.

14 Special fuel sold to an Indian nation, tribe or pueblo includes  
15 special fuel delivered into the fuel supply tank of a  
16 government-licensed vehicle of the Indian nation, tribe or  
17 pueblo;

18                   (3) special fuel sold to the state of New  
19 Mexico or a political subdivision, agency or instrumentality of  
20 the state of New Mexico for the exclusive use of the state of  
21 New Mexico or a political subdivision, agency or  
22 instrumentality thereof. Special fuel sold to the state of New  
23 Mexico includes special fuel delivered into the fuel supply  
24 tank of a government-licensed vehicle; and

25                   (4) special fuel that is number 2 diesel fuel

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underscored material = new  
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1 sold for the generation of power to propel a vehicle authorized  
2 by contract with the public education department as a school  
3 bus; provided that the fuel has a distillation temperature of  
4 five hundred degrees Fahrenheit at a ten percent recovery point  
5 and six hundred forty degrees Fahrenheit at a ninety percent  
6 recovery point."

7 SECTION 18. Section 7-24A-14 NMSA 1978 (being Laws 1978,  
8 Chapter 182, Section 14, as amended) is amended to read:

9 "7-24A-14. BOND ORDINANCE.--

10 A. The governing body may adopt an ordinance  
11 providing for issuance of bonds to enable the county or  
12 municipality to [~~acquire land, buildings, buses or other~~  
13 ~~equipment required for public transit, a vehicle emission~~  
14 ~~inspection program or for road, street or] fund public bridge  
15 or highway construction, reconstruction, repair or maintenance  
16 or for refunding bonds previously issued for such purpose or  
17 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 the~~  
25 ~~transit facilities, the gross revenues of which are so pledged,~~

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underscored material = new  
[bracketed material] = delete

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

7 ~~(2)]~~ (1) income derived from franchises  
8 granted by the governing body of a county or municipality;

9 ~~(3)]~~ (2) contributions, grants or other  
10 financial assistance from the state or federal government or  
11 any other source;

12 ~~(4)]~~ (3) county or municipal gasoline or  
13 special fuel tax revenue; or

14 ~~(5)]~~ (4) any one or a combination of these  
15 sources.

16 C. The ordinance ~~[is irrevocable]~~ shall not be  
17 repealed as long as any indebtedness on the bonds is unpaid by  
18 the county or municipality."

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

21 "7-24A-17. CONSTRUCTION.--The County and Municipal  
22 ~~[Gasoline]~~ Fuels Tax Act is full authority for authorization  
23 and issuance of bonds. ~~[If]~~ In any proceeding involving the  
24 validity and enforceability of any bond or its security, any  
25 bond reciting in substance that it was issued by the county or

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underscored material = new  
[bracketed material] = delete

1 municipality to aid in financing [~~public transit or~~  
2 ~~transportation projects or any other~~] for a purpose authorized  
3 by the County and Municipal [~~Gasoline~~] Fuels Tax Act is  
4 conclusively presumed to have been issued for a [~~county or~~  
5 ~~municipal transit or transportation project or other~~] purpose  
6 in accordance with that act."

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

9 "7-24A-18. ADDITIONAL SECURITY.--To further the  
10 marketability of bonds, the ordinance authorizing their issue  
11 may

12 [~~A. secure their payment by deed of trust or~~  
13 ~~mortgage conveying county- or municipally-owned land and~~  
14 ~~improvements acquired for the public transit facility operation~~  
15 ~~or use from the proceeds of the bonds to a trustee for the~~  
16 ~~benefit and security of the bondholders; and~~

17 ~~B.]~~ authorize any [~~other~~] security agreement not in  
18 conflict with law."

19 SECTION 21. Section 66-6-25 NMSA 1978 (being Laws 1978,  
20 Chapter 35, Section 360, as amended) is amended to read:

21 "66-6-25. REGISTRATION BY COUNTY OR MUNICIPALITY  
22 PROHIBITED.--~~[A.]~~ No county or municipality shall require  
23 registration or charge fees for any vehicle subject to  
24 registration under the Motor Vehicle Code.

25 [~~B. Notwithstanding the provisions of Subsection A~~

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underscored material = new  
[bracketed material] = delete

1 ~~of this section, a county or municipality designated as an~~  
2 ~~agent pursuant to Section 66-2-14.1 NMSA 1978 may impose a fee~~  
3 ~~in an amount not to exceed five dollars (\$5.00) per year in~~  
4 ~~addition to any other registration fee required. This fee~~  
5 ~~shall not be imposed if the county or municipality has imposed~~  
6 ~~a gasoline tax pursuant to the County and Municipal Gasoline~~  
7 ~~Tax Act, the proceeds of which are used to fund a vehicle~~  
8 ~~emission inspection program. Any money collected as a result~~  
9 ~~of the imposition of an additional fee pursuant to this~~  
10 ~~subsection shall be used only to fund a vehicle emission~~  
11 ~~inspection program.]"~~

12 SECTION 22. REPEAL.--

13 A. Sections 7-24A-4, 7-24A-6.1 through 7-24A-8,  
14 7-24A-12 and 7-24A-21 NMSA 1978 (being Laws 1978, Chapter 182,  
15 Section 4, Laws 1986, Chapter 74, Section 1, Laws 1978, Chapter  
16 182, Section 7, Laws 1990, Chapter 88, Section 8 and Laws 1978,  
17 Chapter 182, Sections 8, 12 and 21, as amended) are repealed.

18 B. Sections 7-24B-1 through 7-24B-9 NMSA 1978  
19 (being Laws 1987, Chapter 45, Sections 10 through 13, Laws  
20 1990, Chapter 88, Section 16 and Laws 1987, Chapter 45,  
21 Sections 15 through 18, as amended) are repealed.

22 SECTION 23. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2017.