

1 AN ACT

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

6  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

10 "7-24A-1. SHORT TITLE.--Chapter 7, Article 24A NMSA  
11 1978 may be cited as the "County and Municipal Gasoline and  
12 Special Fuel Tax Act"."

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

15 "7-24A-2. DEFINITIONS.--As used in the County and  
16 Municipal Gasoline and Special Fuel Tax Act:

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

24 C. "gallon" means the quantity of liquid necessary  
25 to fill a standard United States gallon liquid measure or  
that same quantity adjusted to a temperature of sixty degrees  
Fahrenheit at the election of any distributor, but a

1 distributor shall report on the same basis for a period of at  
2 least one year;

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

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

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

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

25 H. "person" means:

(1) any individual, estate, trust, receiver,  
cooperative association, club, corporation, company, firm,

1 partnership, joint venture, syndicate or other entity,  
2 including any utility owned or operated by a county,  
3 municipality or other political subdivision of the state; or  
4 (2) to the extent permitted by law, the  
5 United States or any agency or instrumentality thereof or the  
6 state of New Mexico or any political subdivision thereof;

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

13 J. "transit route" means a road, highway or street  
14 normally used in the operation of a public transportation  
15 system; and

16 K. "vehicle emission inspection program" means a  
17 vehicle emission inspection program designed to reduce  
18 pollutants emitted by motor vehicles of less than ten  
19 thousand pounds pursuant to a county or municipal ordinance."

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

22 "7-24A-3. USE OF PROCEEDS.--

23 A. The proceeds of a county or municipal gasoline  
24 tax shall be used for bridge and road projects or public  
25 transportation related trails and for expenses of purchasing,  
maintaining and operating transit operations and facilities,  
for the operation of a transit authority established by the

1 Municipal Transit Law or as provided in the County and  
2 Municipal Gasoline and Special Fuel Tax Act, for operation of  
3 a vehicle emission inspection program or for road, street or  
4 highway construction, repair or maintenance in the county or  
5 municipality. The proceeds of a county or municipal gasoline  
6 tax may be pledged for the payment of bonds issued pursuant  
7 to the County and Municipal Gasoline and Special Fuel Tax  
8 Act.

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

20 C. A county or municipality may engage in the  
21 business of transportation of passengers and property within  
22 the political subdivision by whatever means it may decide and  
23 may acquire cars, motor buses and other equipment necessary  
24 for carrying on the business. It may acquire land and erect  
25 buildings and equip them with all necessary machinery and  
facilities for operation, maintenance, modification, repair  
and storage of any buses, cars, trucks or other equipment

1 needed. It may do all things necessary for the acquisition  
2 and conduct of the business of public transportation.

3 D. A governing body may enact ordinances and  
4 resolutions and promulgate rules as it may deem necessary and  
5 proper for the conduct of the business of transportation and  
6 for fixing and collecting all fares, rates and charges for  
7 services rendered.

8 E. A county or municipality engaging in the  
9 business of transportation may extend any system of  
10 transportation to points outside its boundaries where  
11 necessary and incidental to furnishing efficient  
12 transportation to points within the county or municipality.

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

17 G. A county or municipality may furnish  
18 transportation service to areas located outside its  
19 boundaries, provided that prior contracts have been entered  
20 into with the county or municipality in which the areas are  
21 located covering the schedules, rates, service and other  
22 pertinent matters before initiation of such service.

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

1 I. A county or municipality, as an operating  
2 entity, may enter into contracts for special transportation  
3 service, charter buses, advertising and any other function  
4 that a private enterprise operating a public transit facility  
5 could do or perform for revenue.

6 J. A governing body may spend public funds to pay  
7 the costs of operation of public transit or a vehicle  
8 emission inspection program if revenues of the system prove  
9 to be insufficient.

10 K. A county or municipality is authorized to enter  
11 into binding agreements with the United States or any of its  
12 officers or agencies or the state or any of its officers or  
13 agencies or any combination of agencies, departments or  
14 officers of both the United States and the state for  
15 planning, developing, modernizing, studying, improving,  
16 financing, operating or otherwise affecting public transit;  
17 to accept any loans, grants or payments from any of these  
18 agencies; and to make any commitments or assume any  
19 obligations required by any of these agencies as a condition  
20 of receiving the benefits thereof."

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

23 "COUNTY SPECIAL FUEL TAX--AUTHORIZATION--IMPOSITION--  
24 RATE.--

25 A. The majority of the members of the governing  
body of a county may adopt an ordinance imposing a tax of up  
to two cents (\$.02) per gallon on special fuel sold at retail

1 within the boundaries of the county on all property not lying  
2 within the boundaries of a municipality and upon which taxes  
3 are imposed in accordance with the Special Fuels Supplier Tax  
4 Act. The tax imposed by this section is to be referred to as  
5 the "county special fuel tax".

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

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

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

19 "7-24A-6. COUNTY GASOLINE TAX OR SPECIAL FUEL TAX--  
20 PROCEDURE FOR ADOPTION OF ORDINANCE--ELECTION.--

21 A. The ordinance imposing a county gasoline tax or  
22 county special fuel tax shall not go into effect until after  
23 an election is held and a simple majority of the qualified  
24 electors of the county residing outside the boundaries of a  
25 municipality votes in favor of imposing the tax. The  
governing body of the county shall provide for an election on  
the question of imposing the tax within sixty days after the

1 day the ordinance is adopted. Such question may be submitted  
2 to the electors and voted upon as a separate question at any  
3 general election or at any special election called for that  
4 purpose by the governing body. The election upon the  
5 question shall be called, held, conducted and canvassed in  
6 substantially the same manner as provided by law for general  
7 elections. If the question of imposing the tax fails, the  
8 governing body shall not again propose an ordinance for that  
9 tax for a period of one year after the election.

10 B. Within five days after passage of a county  
11 gasoline tax or county special fuel tax ordinance, the  
12 governing body of the county shall submit a certified copy of  
13 the ordinance to the taxation and revenue department."

14 SECTION 6. Section 7-24A-6.1 NMSA 1978 (being Laws  
15 1986, Chapter 74, Section 1, as amended) is amended to read:

16 "7-24A-6.1. COUNTY-WIDE GASOLINE TAX--AUTHORIZATION--  
17 IMPOSITION--RATE--ELECTION.--

18 A. A county-wide gasoline tax may be imposed on  
19 each gallon of gasoline sold at retail within the county in  
20 increments of one cent (\$.01) per gallon up to a maximum of  
21 two cents (\$.02) per gallon for the purpose of funding a  
22 vehicle emissions inspection program and other programs as  
23 specified in Subsection D of this section when the governing  
24 bodies of a county and a municipality adopt identical  
25 ordinances submitting the question to the qualified electors  
in the county in a joint election.

B. The procedures of the County and Municipal



1 Gasoline and Special Fuel Tax Act shall apply unless  
2 otherwise provided in this section.

3 C. The ordinance shall not go into effect until  
4 after a joint election is held pursuant to Section 7-24A-21  
5 NMSA 1978 and a simple majority of the qualified electors of  
6 the county voting on the issue vote in favor of imposing a  
7 county-wide gasoline tax. If the ordinance is approved by a  
8 majority of the qualified electors of the county voting on  
9 the issue, the gasoline tax shall be imposed county-wide,  
10 both within and outside the boundaries of any municipality  
11 within the county.

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

1 division in the enforcement of denial of motor vehicle  
2 registration for noncompliance with a vehicle emissions  
3 inspection program. The costs reimbursed are appropriated to  
4 the motor vehicle division for that purpose."

5 SECTION 7. Section 7-24A-7.1 NMSA 1978 (being Laws  
6 1990, Chapter 88, Section 8) is amended to read:

7 "7-24A-7.1. REGISTRATION REQUIRED.--Each person selling  
8 gasoline or special fuel at retail in a county or in a  
9 municipality that imposes a tax pursuant to the County and  
10 Municipal Gasoline and Special Fuel Tax Act shall register  
11 with the county or the municipality, as appropriate, as a  
12 seller of gasoline at retail or a seller of special fuel at  
13 retail, or both, as appropriate."

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

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

SECTION 9. A new section of the County and Municipal

1 Gasoline and Special Fuel Tax Act is enacted to read:

2 "MUNICIPAL SPECIAL FUEL TAX--AUTHORIZATION--IMPOSITION--  
3 RATE.--

4 A. The majority of the members of the governing  
5 body of a municipality may adopt an ordinance imposing a tax  
6 of up to two cents (\$.02) per gallon on special fuel sold at  
7 retail within the boundaries of the municipality and upon  
8 which taxes are imposed in accordance with the Special Fuels  
9 Supplier Tax Act. The tax imposed by this section is to be  
10 referred to as the "municipal special fuel tax".

11 B. If the governing body of a municipality adopts  
12 an ordinance imposing a municipal special fuel tax, the  
13 governing body shall submit the question of levying the tax  
14 to the qualified electors in the municipality.

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

22 SECTION 10. Section 7-24A-11 NMSA 1978 (being Laws  
23 1978, Chapter 182, Section 11, as amended) is amended to  
24 read:

25 "7-24A-11. MUNICIPAL GASOLINE TAX OR SPECIAL FUEL TAX--  
PROCEDURE FOR ADOPTION OF ORDINANCE--ELECTION.--

A. The ordinance imposing a municipal gasoline tax

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

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

21 SECTION 11. Section 7-24A-12 NMSA 1978 (being Laws  
22 1978, Chapter 182, Section 12, as amended) is amended to  
23 read:

24 "7-24A-12. COLLECTION OF MUNICIPAL GASOLINE TAX AND  
25 MUNICIPAL SPECIAL FUEL TAX.--The municipality shall collect  
the municipal gasoline tax and municipal special fuel tax  
imposed by the County and Municipal Gasoline and Special Fuel

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

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

11 "7-24A-14. BOND ORDINANCE.--

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

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

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

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

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

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

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

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

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

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

21 "7-24A-17. CONSTRUCTION.--The County and Municipal  
22 Gasoline and Special Fuel Tax Act is full authority for  
23 authorization and issuance of bonds. If any proceeding  
24 involving the validity and enforceability of any bond or its  
25 security, any bond reciting in substance that it was issued  
by the county or municipality to aid in financing public  
transit or transportation projects or any other purpose

1 authorized by the County and Municipal Gasoline and Special  
2 Fuel Tax Act is conclusively presumed to have been issued for  
3 a county or municipal transit or transportation project or  
4 other purpose in accordance with that act."

5 SECTION 14. Section 7-24A-21 NMSA 1978 (being Laws  
6 1978, Chapter 182, Section 21, as amended) is amended to  
7 read:

8 "7-24A-21. JOINT ELECTION.--

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

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

21 C. If a joint election is held by a municipality  
22 and a county pursuant to Section 7-24A-6.1 NMSA 1978 and a  
23 simple majority of the qualified electors of the county  
24 voting on the issue votes in favor of imposing the  
25 county-wide gasoline tax, the tax shall be collected pursuant  
to the County and Municipal Gasoline and Special Fuel Tax  
Act."

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

3 "7-24B-4. SPECIAL COUNTY HOSPITAL GASOLINE TAX--  
4 AUTHORIZATION--IMPOSITION--RATE.--

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

13 B. The special county hospital gasoline tax may be  
14 imposed by the governing body of a county regardless of  
15 whether the county has imposed a tax on gasoline pursuant to  
16 the County and Municipal Gasoline and Special Fuel Tax Act.

17 C. The special county hospital gasoline tax may be  
18 imposed in increments of one cent (\$.01) per gallon up to a  
19 maximum of two cents (\$.02) per gallon. The amount of the  
20 tax and the specific purposes for which the proceeds shall be  
21 used shall be stated in the ordinance adopted by the  
22 governing body of the county.

23 D. The special county hospital gasoline tax shall  
24 be imposed for a period of not more than five years from the  
25 effective date of the ordinance imposing the tax. This  
authorization may be extended for additional five-year  
periods provided all requirements for enactment of the first



1 ordinance are met."

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

4 "66-6-25. REGISTRATION BY COUNTY OR MUNICIPALITY  
5 PROHIBITED.--

6 A. No county or municipality shall require  
7 registration or charge fees for any vehicle subject to  
8 registration under the Motor Vehicle Code.

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

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

23 SECTION 18. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2015. \_\_\_\_\_  
25