

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 114a

52nd Legislature, 1st Session, 2015

Tracking Number: .197715.2

Short Title: Local Gov't Special Fuels Taxes

Sponsor(s): Senator Ron Griggs

Analyst: Ian Kleats

Date: March 6, 2015

AS AMENDED

The Senate Finance Committee amendment amends the title of the bill to more accurately reflect its contents with respect to the removal of restrictions on which counties and municipalities are authorized to impose a county or municipal gasoline tax.

Original Bill Summary:

Effective July 1, 2015, SB 114 amends sections of the *County and Municipal Gasoline Tax Act* and the *Motor Vehicle Code*, and it enacts new sections of the *County and Municipal Gasoline Tax Act* to:

- rename the *County and Municipal Gasoline Tax Act* to the *County and Municipal Gasoline and Special Fuel Tax Act* within both the *County and Municipal Gasoline Tax Act* and the *Motor Vehicle Code*;
- strike definitions for county and municipality that had restricted counties and municipalities eligible to impose a county or municipal gasoline tax to Class A or H counties and municipalities therein;
- provide definitions for biodiesel, blended biodiesel, gallon, highway, motor vehicle, and special fuel;
- provide for the imposition of and the use of proceeds from a county or municipal special fuel tax on special fuels, which includes diesel engine fuel, at a maximum rate of \$0.02 per gallon; and
- repeal a section of the *County and Municipal Gasoline Tax Act* requiring that any ordinance imposing a county or municipal gasoline tax conform to the deductions, refunds, and credits contained in the *Gasoline Tax Act*.

Fiscal Impact:

SB 114 does not contain an appropriation.

Substantive Issues:

If enacted, SB 114 would allow any county or municipality to impose a county or municipal gasoline or special fuel excise tax of up to \$0.02 per gallon, whereas current law allows only Class A or Class H counties and the municipalities therein to impose a \$0.02 per gallon county or

municipal gasoline tax. According to the Department of Finance and Administration, of New Mexico's 33 counties, only six counties were either Class A or Class H in 2014. Consequently, 27 counties would become eligible to impose these taxes.

According to the FY 16 Public School Support budget recommendation from the Public Education Department (PED), the PED School Transportation Bureau projects that school districts and school bus contractors will spend approximately \$15,831,000 on diesel fuel at a cost of \$3.75 per gallon, which equates to roughly 4,221,600 gallons. If the diesel fuel purchases of all school districts and school bus contractors were subject to the maximum \$0.02 per gallon tax, SB 114 could incur an additional cost to school districts statewide of approximately \$84,432 for FY 16.

Technical Issues:

Special fuel sold for use in a public school bus providing to-and-from school transportation to students may be deducted when calculating special fuel excise tax owed. By repealing Section 7-24A-7 NMSA 1978, which requires that any ordinance imposing a county or municipal gasoline tax conform to the deductions, refunds, and credits contained in the *Gasoline Tax Act*, and not amending that section to reference the *Special Fuels Supplier Tax Act* in a similar manner to which the *Gasoline Tax Act* is currently referenced, SB 114 would allow all counties and municipalities to tax special fuel purchased for fuel in school buses providing to-and-from school transportation for public school students. The sponsor may wish to amend SB 114 to replace the repeal of Section 7-24A-7 NMSA 1978 with an amendment to that section that includes a reference to the *Special Fuels Supplier Tax Act*.

Background:

During the 2014 interim, the Legislative Education Study Committee (LESC) revisited the recommendations of the 2013 LESC Interim Subcommittee on School Bus Transportation. This subcommittee, which included members of the Legislature, solicited input from interested stakeholders, such as school administrators and private school bus contractors, and considered issues related to school transportation, including:

- transportation safety for early childhood students;
- cross-district transportation for students of choice;
- school bus replacement schedules;
- allocations through the school transportation funding formula; and
- options to deal with high fuel costs.

Public school to-and-from transportation is funded through an allocation formula provided in the *Public School Finance Act*. This formula is a distribution model using site characteristics such as ridership, miles, and total school buses used. Whether a school district operates its own school bus transportation or contracts with a private firm in the provision of those services is not included as a variable in the allocation formula.

Private school bus contractors negotiate their contracts annually with school districts. According to the Student Transportation Bureau at PED, which reviews them, these contracts include the following line items:

- salary and benefits;
- maintenance and operations; and
- fuel.

Committee Referrals:

SCORC/SFC
HTPWC/HWMC

Related Bills:

H 58 *Increase Gas Tax for State Road Fund*