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HOUSE BILL 328

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Roberto "Bobby" J. Gonzales and Patricia A. Lundstrom

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, motorboats or aircraft, including flammable liquid
5 hydrocarbon that contains a minimum of ten percent by volume of
6 denatured ethanol, of at least one hundred ninety-nine proof,
7 exclusive of denaturants. "Gasoline" does not include diesel
8 engine fuel, kerosene, alternative fuel and products specially
9 prepared and sold for use in aircraft propelled by turbo-prop
10 or jet-type engines;

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

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

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

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1 trailer or semitrailer;

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

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

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

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

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

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

24 K. "special fuel" means any diesel-engine fuel,
25 biodiesel, blended biodiesel or kerosene used for the

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1 generation of power to propel a motor vehicle, except for
2 gasoline, alternative fuel and products specially prepared and
3 sold for use in aircraft propelled by turbo-prop or jet
4 engines; and

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

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

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

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

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

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

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

23 ~~E. Any county or municipality may furnish~~
24 ~~transportation service to areas located outside its boundaries,~~
25 ~~provided that prior contracts have been entered into with the~~

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1 ~~county or municipality in which the areas are located covering~~
2 ~~the schedules, rates, service and other pertinent matters~~
3 ~~before initiation of such service.~~

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

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

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

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

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1 ~~make any commitments or assume any obligations required by any~~
2 ~~of these agencies as a condition of receiving the benefits~~
3 ~~thereof.]"~~

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

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

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

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

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

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

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

25 A. A taxpayer shall maintain records and books of

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1 account in a manner that will permit the accurate computation
2 of tax. A county or municipality may require tax-related
3 accounts and records to be retained and shall designate the
4 period of retention.

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

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

16 "7-24A-4.4. [NEW MATERIAL] TAX RETURNS--DUE DATE--
17 REPORTING PERIOD--EXTENSIONS.--

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

24 B. The county or municipality, by ordinance, shall
25 specify the due date for filing of returns and payment of tax

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1 due. Reporting periods shall be by calendar months, unless the
2 ordinance requires or permits reporting by calendar quarters.

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

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

10 "7-24A-4.5. [NEW MATERIAL] CIVIL PENALTY--INTEREST.--

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

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

25 C. The county or municipality shall provide, by

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

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

10 "7-24A-4.6. [NEW MATERIAL] LIEN FOR TAX--PAYMENT--
11 CERTIFICATE OF LIENS.--

12 A. A county or municipal gasoline or special fuel
13 tax imposed by a county or municipality constitutes a lien in
14 favor of the county or municipality upon the personal and real
15 property of the taxpayer. The lien may be enforced as provided
16 in Chapter 3, Article 36 NMSA 1978. Priority of the lien shall
17 be determined from the date of filing.

18 B. Under process or order of court, no person shall
19 sell the property of any taxpayer without first ascertaining
20 from the clerk or treasurer of the county or municipality in
21 which the taxpayer is located the amount of any county or
22 municipal gasoline or special fuel tax due to the county or
23 municipality. Any amount of tax due to the county or
24 municipality shall be paid from the proceeds of the sale before
25 payment is made to the judgment creditor or any other person

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1 with a claim to the sale proceeds.

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

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

8 "7-24A-4.7. [NEW MATERIAL] DELINQUENCIES--OVERPAYMENTS--
9 DISPUTES.--

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

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

24 C. The county or municipality shall provide, by
25 ordinance, the procedures for resolving disputes regarding a

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1 county or municipal gasoline or special fuel tax, including
2 deductions pertaining thereto."

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

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

7 A. The majority of the members of the governing
8 body of a county may adopt an ordinance imposing a tax of up to
9 two cents (\$.02) [~~⌘~~] per gallon on all gasoline sold at retail
10 within the [~~boundaries of the county on all property not lying~~
11 ~~within the boundaries of a municipality and upon which gasoline~~
12 ~~taxes are imposed in accordance with the Gasoline Tax Act]~~
13 county area. The tax imposed by this section is to be referred
14 to as the "county gasoline tax" and is in addition to the tax
15 imposed in the Gasoline Tax Act.

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

21 ~~⌘~~] B. The county gasoline tax may be imposed in
22 increments of one cent (\$.01) per gallon up to a maximum of two
23 cents (\$.02) 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 adopted by the governing body of the

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

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

9 "7-24A-5.1. [NEW MATERIAL] COUNTY SPECIAL FUEL TAX--
10 AUTHORIZATION--IMPOSITION--RATE.--

11 A. The majority of the members of the governing
12 body of a county may adopt an ordinance imposing a tax of up to
13 two cents (\$.02) per gallon on all special fuel sold at retail
14 within the county area. The tax imposed by this section is to
15 be referred to as the "county special fuel tax" and is in
16 addition to the tax imposed in the Special Fuels Supplier Tax
17 Act.

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

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

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1 "7-24A-6. [~~COUNTY GASOLINE TAX~~] PROCEDURE FOR ADOPTION OF
2 COUNTY ORDINANCE--ELECTION.--

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

21 B. Within five days after passage of a county
22 gasoline tax ordinance or a county special fuel tax ordinance,
23 the governing body of the county shall submit a certified copy
24 of the ordinance to the taxation and revenue department."

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

2 "7-24A-10. MUNICIPAL GASOLINE TAX--AUTHORIZATION--
3 IMPOSITION--RATE.--

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

12 [~~B. If the governing body of a municipality adopts~~
13 ~~an ordinance imposing a municipal gasoline tax, the governing~~
14 ~~body shall submit the question of levying the tax to the~~
15 ~~qualified electors in the municipality.~~

16 ~~G.]~~ B. The municipal gasoline tax may be imposed in
17 increments of one cent (\$.01) per gallon up to a maximum of two
18 cents (\$.02) per gallon. The amount of the tax and the
19 specific purposes for which the proceeds shall be used shall be
20 stated in the ordinance adopted by the governing body of the
21 municipality as provided in Subsection A of this section. [~~The~~
22 ~~gasoline tax shall not be imposed for the purpose of funding a~~
23 ~~vehicle emissions inspection program if a re-registration fee~~
24 ~~that funds a vehicle emissions inspection and maintenance~~
25 ~~program has been imposed pursuant to Subsection C of Section~~

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1 ~~74-2-4 NMSA 1978.]~~"

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

5 "7-24A-10.1. [NEW MATERIAL] MUNICIPAL SPECIAL FUEL
6 TAX--AUTHORIZATION--IMPOSITION--RATE.--

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

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

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

22 "7-24A-11. [~~MUNICIPAL GASOLINE TAX~~] PROCEDURE FOR
23 ADOPTION OF MUNICIPAL ORDINANCE--ELECTION.--

24 A. The ordinance imposing a municipal gasoline tax
25 or a municipal special fuel tax shall not go into effect until

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1 after an election is held and a simple majority of the
2 qualified electors of the municipality voting on the question
3 [~~vote~~] votes in favor of imposing the [~~municipal gasoline~~] tax.
4 The governing body of the municipality shall provide for an
5 election on the question of imposing the municipal gasoline tax
6 or municipal special fuel 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 the
11 question shall be called, held, conducted and canvassed in
12 substantially the same manner as provided by law for special
13 municipal elections as provided in the Municipal Election Code.
14 If the question of imposing a municipal gasoline tax or
15 municipal special fuel tax fails, the governing body shall not
16 again propose a [~~municipal gasoline~~] tax ordinance for a period
17 of one year after the election.

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

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

25 "7-24A-11.1. [NEW MATERIAL] DEDUCTIONS.--In computing tax

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1 due, the following may be deducted from sales at retail:

2 A. with respect to county or municipal gasoline
3 tax:

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

7 Gasoline sold to the United States includes gasoline delivered
8 into the fuel supply tank of a government-licensed vehicle of
9 the United States; and

10 (2) gasoline sold to an Indian nation, tribe
11 or pueblo or a political subdivision, agency or instrumentality
12 of that Indian nation, tribe or pueblo for the exclusive use of
13 the Indian nation, tribe or pueblo or a political subdivision,
14 agency or instrumentality thereof. Gasoline sold to an Indian
15 nation, tribe or pueblo includes gasoline delivered into the
16 fuel supply tank of a government-licensed vehicle of the Indian
17 nation, tribe or pueblo; and

18 B. with respect to county or municipal special fuel
19 tax:

20 (1) special fuel sold to the United States or
21 an agency or instrumentality thereof for the exclusive use of
22 the United States or an agency or instrumentality thereof.

23 Special fuel sold to the United States includes special fuel
24 delivered into the fuel supply tank of a government-licensed
25 vehicle of the United States;

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1 (2) special fuel sold to an Indian nation,
2 tribe or pueblo or a political subdivision, agency or
3 instrumentality of that Indian nation, tribe or pueblo for the
4 exclusive use of the Indian nation, tribe or pueblo or a
5 political subdivision, agency or instrumentality thereof.
6 Special fuel sold to an Indian nation, tribe or pueblo includes
7 special fuel delivered into the fuel supply tank of a
8 government-licensed vehicle of the Indian nation, tribe or
9 pueblo;

10 (3) special fuel sold to the state of New
11 Mexico or a political subdivision, agency or instrumentality of
12 the state of New Mexico for the exclusive use of the state of
13 New Mexico or a political subdivision, agency or
14 instrumentality thereof. Special fuel sold to the state of New
15 Mexico includes special fuel delivered into the fuel supply
16 tank of a government-licensed vehicle; and

17 (4) special fuel that is number 2 diesel fuel
18 sold for the generation of power to propel a vehicle authorized
19 by contract with the public education department as a school
20 bus; provided that the fuel has a distillation temperature of
21 five hundred degrees Fahrenheit at a ten percent recovery point
22 and six hundred forty degrees Fahrenheit at a ninety percent
23 recovery point."

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

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1 "7-24A-14. BOND ORDINANCE.--

2 A. The governing body may adopt an ordinance
3 providing for issuance of bonds to enable the county or
4 municipality to acquire land, buildings, ~~[buses or other]~~
5 materials, equipment, vehicles or other property or services
6 required for public transit, ~~[a vehicle emission inspection~~
7 ~~program or for road, street or]~~ highway or bridge construction,
8 reconstruction, repair or maintenance or for refunding bonds
9 previously issued for such purpose or any such purposes.

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

11 ~~[(1) gross income derived by the county or~~
12 ~~municipality from the transit facilities or vehicle emission~~
13 ~~inspection facilities financed with the proceeds and other~~
14 ~~transit facilities not so financed; provided that when gross~~
15 ~~revenues are so pledged, the county or municipality may apply~~
16 ~~to the payment of the expense of maintaining and operating the~~
17 ~~transit facilities, the gross revenues of which are so pledged,~~
18 ~~the county's or municipality's revenues derived from sources~~
19 ~~other than the proceeds of ad valorem taxes and may, in the~~
20 ~~proceedings authorizing the issue of bonds, covenant and agree~~
21 ~~to apply to the payment of the maintenance and operation~~
22 ~~expenses so much of the revenues as may be necessary for such~~
23 ~~purposes or as may be specified in the proceedings;~~

24 ~~(2)]~~ (1) income derived from franchises
25 granted by the governing body of a county or municipality;

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underscored material = new
[bracketed material] = delete

1 [~~3~~] (2) contributions, grants or other
2 financial assistance from the state or federal government or
3 any other source;

4 [~~4~~] (3) county or municipal gasoline or
5 special fuel tax revenue; or

6 [~~5~~] (4) any one or a combination of these
7 sources.

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

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

13 "7-24A-17. CONSTRUCTION.--The County and Municipal
14 [~~Gasoline~~] Fuels Tax Act is full authority for authorization
15 and issuance of bonds. [~~If~~] In any proceeding involving the
16 validity and enforceability of any bond or its security, any
17 bond reciting in substance that it was issued by the county or
18 municipality to aid in financing public transit or
19 transportation projects or any other purpose authorized by the
20 County and Municipal [~~Gasoline~~] Fuels Tax Act is conclusively
21 presumed to have been issued for a county or municipal transit
22 or transportation project or other purpose in accordance with
23 that act."

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

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underscored material = new
[bracketed material] = delete

1 "7-24A-18. ADDITIONAL SECURITY.--To further the
2 marketability of bonds, the ordinance authorizing their issue
3 may

4 ~~[A. secure their payment by deed of trust or~~
5 ~~mortgage conveying county- or municipally-owned land and~~
6 ~~improvements acquired for the public transit facility operation~~
7 ~~or use from the proceeds of the bonds to a trustee for the~~
8 ~~benefit and security of the bondholders; and~~

9 B.] authorize any [other] security agreement not in
10 conflict with law."

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

13 "66-6-25. REGISTRATION BY COUNTY OR MUNICIPALITY
14 PROHIBITED.--

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

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

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1 ~~emission inspection program. Any money collected as a result~~
2 ~~of the imposition of an additional fee pursuant to this~~
3 ~~subsection shall be used only to fund a vehicle emission~~
4 ~~inspection program.]"~~

5 SECTION 22. REPEAL.--

6 A. Sections 7-24A-4, 7-24A-6.1 through 7-24A-8,
7 7-24A-12 and 7-24A-21 NMSA 1978 (being Laws 1978, Chapter 182,
8 Section 4, Laws 1986, Chapter 74, Section 1, Laws 1978, Chapter
9 182, Section 7, Laws 1990, Chapter 88, Section 8 and Laws 1978,
10 Chapter 182, Sections 8, 12 and 21, as amended) are repealed.

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

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