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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/16/09  
**LAST UPDATED** 3/17/2009    **HB** \_\_\_\_\_

**SPONSOR**    Ortiz y Pino

**SHORT TITLE**    Regional Transit District Road Projects    **SB** 528/aSPAC

**ANALYST** Moser

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Indeterminate	Indeterminate	Indeterminate	Indeterminate	State Road Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Attorney General (AGO)  
 New Mexico Department of Transportation (NMDOT)  
 Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of SPAC Amendment

Senate Public Affairs Committee amendment to Senate Bill 528 removes the concerns expressed by NMDOT (see Significant Issues) by further clarifying the definition of a “regional transit system”. The amendment also amends Section 73-25-6 NMSA, Powers of the District, to clearly state that any action taken by a regional transit system “...does not create a right of control or ownership in a street, road, highway or bridge if control or ownership previously existed in another governmental unit.”

#### Synopsis of Original Bill

Senate Bill 528 amends the Regional Transit District Act, NMSA 1978, §§ 73-25-1 through 73-25-18 (the “Act”), by adding a new subsection to the definition of “regional transit system” to include “a street, road, highway or bridge that is significant to the district as determined by the board, in a district whose geographic area includes a class A county with a population greater than five hundred thousand according to the most recent federal decennial census.” The only regional transit district qualifying under this definition change is the Rio Metro Regional Transit District (RMRTD) which provides public transportation services in Valencia, Bernalillo and Sandoval Counties (the greater Albuquerque metropolitan area).

## FISCAL IMPLICATIONS

DFA indicates that the definition of a regional transit system does not allow the funding of streets, roads, highways or bridges. This bill expands that definition to allow the RTD to fund roadway projects that could improve the overall regional system. RTD's possess the authority to present to the voters within the RTD a county regional transit gross receipts tax not to exceed 1/2 of one percent of the gross receipts tax. In November 2008 the voters within the RMRTD approved a 1/8<sup>th</sup> of one percent tax increase for rail runner operations and bus and road projects within the district. This bill would expand the scope of activities for which this tax could be used within the district and may provide supplemental funding for projects under the jurisdiction of NMDOT and the municipalities and counties within the district. This bill, by creating an alternative funding stream for projects normally funded by NMDOT, could allow these resources to be redirected throughout the state.

## SIGNIFICANT ISSUES

NMDOT indicates that Senate Bill 528 gives authority to the RMRTD to include streets, roads, highways and bridges as part of their "regional transit system" and to collect revenues - such as tolls, fees, rates, charges and assessments – derived from these facilities.

The bill does not require the RMRTD to follow the Metropolitan Planning Organization (MPO) planning process. NMDOT is concerned the RMRTD could designate a state road as part of its "transit system". The RMRTD could then convert that road into a toll road or could modify it in other ways that might impair safety, increase congestion or contribute to the premature deterioration of the roadway, which raises the issue as to whether RMRTD would have the authority to do so without NMDOT's consent. Therefore, if a state road becomes part of RMRTD's "transit system," the RMRTD would almost certainly want to influence the design of improvements to that system, again raising the issue of whether the RMRTD would have that authority. The NMDOT is concerned that the RMRTD might argue that the language in the bill grants that authority.

NMDOT states that "NMDOT and the Mid-Region MPO currently have differing levels of authority over the road/bridge system based on functional classification and a collaborative relationship prescribed by CFR 23. Section 73-25-3(H) currently provides that an RTD has separate authority over a "property, improvement or system *designed to be compatible with established state and local transportation plans....*" The word "or" preceding § 73-25-3(H) (2), gives the RTD the power to designate roads/bridges as part of their system, but without the limitation (see italicized text) in the preceding paragraph. In the absence of that limitation, the NMDOT is concerned about the extent of authority this designation might convey to the RMRTD. The RMRTD would clearly have the authority to use gross receipts tax revenue to fund improvements; and the authority to establish fees, tolls, etc. to create new revenue. Currently, any significant project must go through the MPO planning process. However, under SB 528, the conversion of a road to a toll facility, for example, would not be required to go through the MPO or NMDOT for approval, and it is not clear what the RMRTD's role would be in designing, prioritizing, or ruling-out certain proposed improvements as being contrary to the RMRTD's multimodal mission

The AGO indicates that Senate Bill 528 would allow regional transit districts to issue revenue bonds and invest in infrastructure within the district, as determined by the district's board of directors. The AGO, also notes, that this action may or may not be compatible with state and local transportation plans.

The Regional Transit Act currently defines a regional transit system as “a property, improvement or system designed to be compatible with established state and local transportation plans that transports or conveys passengers within a region by means of a high-occupancy vehicle, including an automobile, truck, bus, van or railcar.” DFA indicates that the Mid Region Council of Governments (MRCOG) supports this bill because it would give them another tool to meet transportation needs within their district by providing a funding tool for these projects.

If passed, DFA indicates that the board directors for RMRTD would need to reach agreement on building streets, roads, highways or bridges in municipalities or counties outside of individual boundaries. Since the district does not own any land, it would need to develop agreements that allow the district to add streets, roads, highways or bridges to their transportation system on property not owned by the district. Or, reach agreement on how to transfer of property to the district. MRCOG indicates that this bill would allow MRCOG that ability to work the cities, counties and the Department of Transportation to provide funding for projects that do not have adequate funding now.

#### **OTHER SUBSTANTIVE ISSUES**

The RMRTD's board of director membership consists of five members from Albuquerque, one from Belen, two from Bernalillo County, one from the town of Bernalillo, one from Corrales, one from Los Lunas, one from Los Ranchos de Albuquerque, two from Rio Rancho, one from Sandoval County and one from Valencia County.

GM/mt