MINUTES
of the
FIRST MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

July 25, 2017
State Capitol, Room 322
Santa Fe

The first meeting of the Transportation Infrastructure Revenue Subcommittee was called to order by Representative Roberto "Bobby" J. Gonzales, chair, on July 25, 2017 at 9:35 a.m. in Room 322 of the State Capitol.

Present	**Absent**
Rep. Roberto "Bobby" J. Gonzales, Chair	Rep. David M. Gallegos
Sen. John Arthur Smith, Vice Chair	Rep. Patricio Ruiloba
Sen. Ron Griggs	Sen. Clemente Sanchez
Rep. Jane E. Powdrell-Culbert	Sen. Pat Woods

Advisory Members

Sen. Carlos R. Cisneros	Sen. Carroll H. Leavell
Rep. Sharon Clahchischilliage	Rep. Antonio Maestas
Rep. Harry Garcia	Sen. William H. Payne
Rep. Bealquin Bill Gomez	
Sen. Stuart Ingle	
Rep. Rick Little	

Staff
Mark Edwards, Drafter, Legislative Council Service (LCS)
Pam Stokes, Staff Attorney, LCS
Kathleen Dexter, Researcher, LCS
Sara Wiedmaier, Intern, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and other written testimony are in the meeting file.

Tuesday, July 25

Representative Gonzales and Senator Smith opened the meeting with comments about the critical role that New Mexico's roads and transportation system play in the state's economy.

State of the State System

Tom Church, secretary, Department of Transportation (DOT), and several DOT employees gave a series of presentations on the current state of New Mexico's transportation infrastructure and its funding.

State Road Fund: Budget, Revenue and Bonds

Michael Friel, accounting services director and chief financial officer, DOT, reported that the DOT's operating budget for fiscal year (FY) 2018 totals $876.4 million, covering four programs: 1) project design and construction; 2) highway operations; 3) business support; and 4) the MODAL program. Federal funding accounts for nearly one-half of the department's overall budget, though the business support budget comes entirely from state sources. In addition to its FY 2018 budget, the DOT also received "rollover" authorizations on three appropriations from previous years totaling $480 million, thus extending the expenditure periods on those appropriations until June 30, 2018. The department also received budget adjustment authority up to $32 million on its FY 2018 budget.

The DOT factored in a vacancy rate of approximately 10 percent when crafting its FY 2018 budget. Actual vacancy rates among the four programs are higher, with the highest (22 percent) found in the project design and construction program. Overall, however, the department saw an increase in full-time-equivalent employees over the past fiscal year, mainly due to increased staffing in the ports-of-entry initiative.

Laura Bianchini, economist, DOT, presented a portrait of DOT state revenue sources dating back to FY 2007 and revenue estimates into FY 2021, as well as a breakdown of how revenue related to road use is distributed.

The DOT's most recent State Road Fund forecast for FY 2018 shows a one percent increase in revenue over the estimate made for the fund in January, with an annual growth rate of more than one percent estimated for the next few years. Overall DOT revenue is estimated to grow by 2.2 percent from FY 2018 to FY 2019 and by approximately one percent annually in the following few years.

Projections for the State Road Fund's four major revenue sources through FY 2021 vary. The two revenue sources most closely tied with the state's local economy — the gasoline tax and vehicle registration fees — are projected to either remain flat or slightly decline. Revenue sources more closely tied to the national economy via the trucking industry — the weight distance tax and the special fuel excise tax — are projected to increase.

Ms. Bianchini cited three areas of uncertainty in the revenue forecasts:

- the impact of federal regulations that require trucking companies, beginning in December 2017, to use electronic logging devices (ELDs) and to limit the number of consecutive hours a driver is on the road;
- oil price volatility, which can both positively and negatively affect revenue from the gasoline tax and motor vehicle registration fees; and
- changes to the Motor Vehicle Division (MVD) of the Taxation and Revenue Department's information technology (IT) system and how data are categorized.

The State Road Fund is the largest, though not the only, recipient of revenue generated from the gasoline tax, the special fuel excise tax and vehicle registration fees. Revenue from these sources is also distributed to counties, municipalities and the Local Governments Road Fund for improvements to local roads, as well as to various other transportation-related funds. All revenue from the weight distance tax goes to the State Road Fund.

Marcos Trujillo, director, Project Oversight Division, DOT, presented an overview of the department's bond portfolio, which totals $1.26 billion in outstanding debt with a maturity date of 2027. The bulk of the annual debt service payments through FY 2024 will be made from federal funds, with the State Road Fund responsible for only about 20 percent during that period, or approximately $30 million annually. However, substantial balloon payments for debt from the Rail Runner will come due in FY 2025 and FY 2026, which will increase the payments due from the State Road Fund to approximately $110 million in each of those years. The DOT is looking into restructuring and extending the Rail Runner debt as a way to ameliorate the balloon payment situation.

Upon questioning, the presenters, Secretary Church and subcommittee members addressed the following topics.

Revenue increases. The increases in State Road Fund revenue categorized as "MVD miscellaneous" in FY 2017 and FY 2018 may have come from vehicle registration and driver's license fees that were misclassified in the new MVD IT system. Sudden increases in DOT revenue from one fiscal year to the next may also be the result of a delay in revenue distributions from the Taxation and Revenue Department. The DOT is working with the Taxation and Revenue Department on these issues.

ELD regulation. The federal ELD regulation requires that trucking companies use ELD technology but imposes no requirements on states to install equipment on or make alterations to their highways.

Federal funding. President Trump's proposed federal budget includes an 18 percent reduction to the Highway Trust Fund. The DOT must delay projects when federal funding is either lost or delayed, though projects that are entirely state-funded can still proceed.

Rather than a traditional annual budget, over the last 12 years federal transportation funding has been subject to short-term continuing resolutions. Funding under the current resolution is authorized only through September. One reason Congress will not enact a transportation budget now is because it would impact congressional action on the president's proposed tax package.

Funding sufficiency. On average, 43 percent of the nation's transportation needs are funded.

Funding allocation. One-seventh of the state's transportation funding is distributed to Albuquerque, and the balance is evenly split among the six transportation districts. Members expressed concerns that rural areas of the state might not be getting what they need under this system.

Tribal lands. The state pays tribes for rights of way on state roads that cross tribal lands and enters into employment agreements with tribes on those projects. The federal Bureau of Indian Affairs pays for federal roads on tribal lands and currently has allocated $900 million for tribal road projects nationwide.

Highway Conditions, Maintenance and Construction Program

Tamara Haas, P.E., director, Asset Management and Planning Division, DOT, reported on the DOT program for assessing road conditions statewide.

The federal Moving Ahead for Progress in the 21st Century Act, or MAP-21, requires states to conduct ongoing assessments of transportation assets, including highways and bridges. Under the DOT's Transportation Asset Management Plan, a contractor collects pavement condition data on approximately 15,000 lane miles annually for a database that is used to assess road conditions on national highway system roads in the state and to assign pavement condition ratings. The ratings will soon be switched from a two-category system ("fair or better" and "poor") to a three-category system ("good", "fair" and "poor"). Using the two-category system, 83 percent of New Mexico roads rated "fair or better" in 2016, down from 87 percent four years prior.

Under the Overall Condition Index rating system, New Mexico's roads currently have a 59.3 rating. To maintain that rating through FY 2021, the state's annual expenditure would increase from the current $290 million to $413 million. To improve the quality of the roads to a rating of 65.0 by FY 2021, the state's annual expenditure would rise to $723 million. Bridge ratings rose from 93.0 in FY 2013 to 95.5 in FY 2017, with a fixed annual expenditure of $14 million during that period.

As road conditions deteriorate, the cost of improving a road increases. At the state's current overall condition rating of 59.3, it costs on average $280,000 to improve a two-mile segment. If the overall rating were 95.0 or higher, the cost of improvement would drop to $16,000 per two-mile segment.

Upon questioning, Ms. Haas, Secretary Church and subcommittee members addressed the following topics.

Pavement condition assessments. Interstate pavement miles are assessed annually, while non-interstate national highway system pavement miles are assessed every two years (50 percent of the miles assessed in each year). The assessments are required for federal funding, and the contractor is paid up to $900,000 annually for the work. Local roads are not assessed under this program. Data on road conditions broken down by highway district will be available on the DOT website by November.

Highway cabling. The median cabling on Interstate 25 was paid for with federal highway improvement funds. More cabling will be completed statewide.

Railroads. If a railroad overpass improvement is made for the benefit of the railroad, such as widening to accommodate a second track, the railroad pays for the improvement; if it is done for the benefit of a highway, such as an additional traffic lane, the state pays for the improvement. The DOT only assesses conditions on railroad overpasses if the railroad intersects with a road under the DOT's jurisdiction. There are places near the Pueblo of Acoma and the Pueblo of Laguna where trains parked on the track block at-grade railroad intersections and stop road traffic, including emergency vehicles.

Waste Isolation Pilot Project (WIPP). The federal Department of Energy has paid New Mexico $8 million and still owes New Mexico $27 million for road repairs under a settlement concerning WIPP traffic.

Prevailing wage requirement. The prevailing wage requirement under the federal Davis-Bacon Act currently costs the state approximately $20 million. The impact of any changes to the requirement is unknown.

Gasoline tax increase. A member described historical efforts to raise the gasoline tax via amendments to the Constitution of New Mexico and noted that if people see what their taxes are spent for, there is less objection to paying them. An increase of one cent per gallon would yield $12 million to $15 million annually, which could be used for bonding on road projects. An increase of 10 cents per gallon, with a sunset of 10 years, would allow the state to bond approximately $1 billion for roads.

Other states. Utah and Colorado allocate 50 percent to 70 percent of their road funding budget to asset management and spend the remainder on road projects.

Damage costs. If a motorist damages a guardrail in a traffic accident, the DOT charges the motorist's insurance company for the cost of the repair.

Rick Padilla, P.E., state maintenance manager, DOT, gave an update on the department's road and rest area maintenance expenditures. Not including roads maintained by local entities, New Mexico's roadway assets include 30,000 lane miles — a total of $15.4 billion in assets. Winter road maintenance expenditures for the past three fiscal years have exceeded, and nearly doubled, the DOT's budget for snow and ice removal; when this happens, less money is available for road improvement projects during the summer. FY 2017 road maintenance projects totaled $12.9 million, with nearly one-half of that amount coming from the federal government for improvements to WIPP roads. The DOT's rest area maintenance budget for FY 2018 comes to $4.2 million, with an additional $980,000 allocated for improvements at rest areas. The DOT's base budget for its fleet of road maintenance equipment and vehicles has remained flat at $10 million since FY 2013, though the department received an additional $28.5 million through budget adjustment requests in FY 2014 through FY 2016.

Upon questioning, Mr. Padilla, Secretary Church and subcommittee members addressed the following topics.

Winter road maintenance. Cinder, sometimes mixed with salt, is the most cost-effective method for de-icing roads. Liquid de-icer is more corrosive than salt and is the topic of lawsuits in other states, where drivers have claimed it made the roads more slick.

Cabling. An additional cable added to the lower part of the highway cabling system is designed to prevent motorcycles from going under the barrier.

Armando Armendariz, P.E., director, Design and Construction Division, DOT, reported on the State Transportation Improvement Program and its $700 million of active projects statewide. The program is a four-year, fiscally constrained plan based on available federal funds under which the DOT manages project programming, design and development. With input from local planning organizations, the DOT prioritizes projects based on four factors: 1) safety and fatalities; 2) roadway condition; 3) economic development; and 4) congestion mitigation. At $350 million, the DOT's budget for FY 2017 covered only one-half of the road construction needs identified statewide.

Upon questioning, Mr. Armendariz, Secretary Church and subcommittee members addressed the following topics.

Intersection improvements. Capital outlay funding remains intact for improvements to the intersection of New Mexico Highway 371 (NM 371) and Navajo Highway 36 (N 36), and for improvements to the intersection on old U.S. Route 66 that provides access to Fire Rock Casino (Fire Rock intersection). However, the NM 371/N 36 project is on hold due to design issues, and the DOT is currently in litigation with the design consultant. Regarding the Fire Rock intersection, the project is on hold until there is an agreement with the Navajo Nation regarding its duties and responsibilities for power, signage and striping.

Project closures. The media are not informed when the DOT completes a road project.

Texas. Texas currently has 11 transportation projects of $1 billion or more. A decade ago, Texas instituted a policy that all new expansion roads would be toll roads.

Aamodt water settlement area easements. Easements in the area covered by the Aamodt water settlement are not finished but are in progress. Some easements are unclear because the property lines vary, with some at the edge of roads and some in the middle of roads.

Paseo del Volcan easement. The DOT needs an additional $16 million to complete the purchase of rights of way for the Paseo del Volcan project.

Federal transportation budget. The president's proposed budget proposes to send 90 percent of federal transportation funding to public-private partnerships — most likely toll roads — while 10 percent would go directly to states. This funding structure would be difficult for New Mexico, which has mostly rural roads and nearly no areas in which a toll road would be viable.

Representative Gonzales closed this part of the agenda with a request that the DOT's remaining presentations be held over for the subcommittee's next meeting.

Gallup Intermodal Industrial Park Update

Tommy Haws, president, Greater Gallup Economic Development Corporation (EDC), and Ean Johnson, regional manager for economic development, BNSF Railway (BNSF), gave an update on the intermodal industrial park under development on the west side of Gallup, known as the Gallup Energy Logistics (GEL) Park.

Mr. Johnson noted that BNSF is one of the major freight rail companies in North America. BNSF has 32,500 route miles in 28 states and three Canadian provinces that provide shipping connections from the Pacific Coast to the Great Lakes and to the Gulf Coast. He said that the most heavily traveled BNSF route is the east-west line through New Mexico known as the Transcon. The 2,500-acre GEL Park will take advantage of its location on the Transcon to recruit various companies requiring warehousing and rail transshipment facilities as part of their product logistics routes. Along with a site near the Village of Los Lunas, the GEL Park is one of two sites in New Mexico to become a BNSF certified site. BNSF certification lets a prospective tenant company know that a site already has access to various markets, shipping logistics or utilities and is used as a marketing tool. The only other state with two BNSF-certified sites is Wyoming. The railway is working to improve Carbon Coal Road, which provides highway access to the industrial park.

Mr. Haws said that Gallup's location on the Transcon and on Interstate 40 (I-40) combined with its distance from the Port of Long Beach in California creates the potential to develop an inland port in Gallup. The federal Fixing America's Surface Transportation Act requires that truck shipments be electronically monitored to ensure that drivers take a minimum 10-hour rest break after 11 hours of driving. On I-40, Gallup falls within the 11-hour limit zone from Long Beach. Mr. Haws said that the Greater Gallup EDC is pursuing a private industry partner to develop a trucking "supercenter", where trucks can be parked in secured areas and drivers can access not only food but also lodging and services during their required rest periods. Mr. Haws then said that the combination of the rail-centered GEL Park and a trucking supercenter could change Gallup into an ideal location for an inland port for companies seeking relief from the congestion in warehousing and distribution facilities currently connected with ports on the California coast. He noted that an update on the trucking supercenter development would be presented to the subcommittee at a later meeting this year.

Upon questioning, the presenters and subcommittee members addressed the following topics.

Trucking supercenter. The trucking supercenter facility will allow drivers to transfer trailers to other drivers to keep freight traveling when drivers reach their 11-hour limits. The supercenter will offer more amenities than are available at current truck stops in the Gallup area, including entertainment, overnight lodging and health care. Its effect on local truck stops is unknown. The New Mexico Trucking Association is the driving force behind the supercenter. While the facility will be built through private investment, public funding will be necessary for access roads.

State highway impact. Development of the GEL Park will impact state highways in the area with increased oil and gas industry truck traffic going into the center. New Mexico Highway 491 has been widened to four lanes to accommodate increased traffic, but New Mexico Highways 371 and 602 still need improvements. Public-private partnerships to help with maintenance on these roads have been discussed but not yet studied.

Intermodal facility activities. Coal is the primary resource currently being transloaded in the GEL Park. Developers also hope to attract warehouse distribution facilities for internet sales companies and to receive a foreign trade zone designation for the park.

Pueblo of Laguna facility. The Pueblo of Laguna planned to build a refinery with a rail-served industrial park, but the pueblo stopped pursuing this plan when BNSF finalized its deal for the Gallup facility.

Sulphur. In addition to delivering to locations in the southeast part of the state, BNSF trains that carry sulphur from New Mexico deliver to Wyoming, Montana and Indiana.

Veterans. BNSF hosts hiring events for veterans and has human resource staff to help veterans transition from military service to employment with the railway.

BNSF route near Vado. One member reported on concerns in the Vado community about a proposed route for BNSF in that area.

Oil and gas production. Oil and gas production is trending upward, though production varies from one basin to another. The Permian Basin is currently very productive, while the San Juan Basin, where extraction is more expensive, is less productive. Currently, BNSF's main business with the industry is hauling support items for drilling operations, such as sand.

Anticipated Challenges Presented by Autonomous Vehicles (AVs) on New Mexico Roadways

Senator James P. White and Charles Remkes, manager, intelligent transportation system operations, DOT, gave an overview of AVs and the issues that may arise as a market for these vehicles develops in the state.

Vehicles are classified in six categories for the purpose of determining their level of automation. While many vehicles already have some automated features, such as cruise control, AVs that are currently under development are automated to the extent that a driver is not necessary in most driving conditions. Several companies are developing AVs, with General Motors aiming to mass produce such vehicles in 2018 and Google conducting AV pilot projects in several locations. AV technology is also under development in the trucking industry: in 2016, Anheuser-Busch delivered a load of beer from Fort Collins to Colorado Springs, Colorado, with a tractor-trailer that used AV technology.

Eighteen states have passed legislation, and governors in four additional states have issued executive orders to foster or enable AV use. New Mexico has neither AV statutes nor orders in place, though the City of Albuquerque recently publicized its willingness to allow AV testing and development within the city. At the federal level, all vehicles are subject to safety standards developed by the National Highway Traffic Safety Administration, and manufacturers must self-certify that their AVs meet these standards before they may offer them for sale. However, safety for an AV needs to go beyond a vehicle's physical features, such as crash worthiness, to include its IT features, such as cybersecurity. While some states are working to set their own AV standards, there are currently efforts in Congress to establish baseline standards in federal law.

The presenters posed a number of scenarios unique to AVs that are not currently covered in New Mexico's statutes, such as who would be ticketed in the event of a traffic accident (the passenger or the manufacturer), what sort of insurance coverage would be required and whether the fuel-saving benefits of a reduced minimum distance between AV trucks on highways is offset by increased risk to other drivers.

In discussion, subcommittee members expressed concerns over AV driving systems, including that they are: 1) vulnerable to hacking; and 2) dependent on physically intact roads, striping and signage, none of which are consistently available in New Mexico.

Adjournment

There being no further business before the subcommittee, the subcommittee adjourned at 4:10 p.m.