New Mexico Legislature

TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

2017 INTERIM FINAL REPORT

Legislative Council Service
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INTERIM SUMMARY

Transportation Infrastructure Revenue Subcommittee
2017 Interim Summary

The Transportation Infrastructure Revenue Subcommittee held four meetings in 2017. The subcommittee did not consider any legislative proposals for potential endorsement.

Presentations to the subcommittee predominantly addressed three topics.

The Status of State and Local Transportation Systems

The Department of Transportation reported that it has been modernizing data collection for road conditions around the state and is gaining a much more accurate picture of the overall condition of the road system. However, the available funding, through a combination of federal and state sources, remains insufficient to meet the demand for construction and maintenance. The funding gap has been a topic of the subcommittee's discussions with the Department of Transportation for several years. The department indicated that, if the funding trend continues for another 10 years, the resulting maintenance delays will create a need for road reconstruction rather than maintenance in several locations.

The New Mexico Municipal League reported that the statewide backlog of needed road maintenance and construction projects for municipalities would cost $1.2 billion. This figure remained constant from 2016 to 2017 and represents projects for which no local, state or federal funding is available. The New Mexico Association of Counties (NMAC) has not aggregated the statewide road costs of its members. The NMAC reported that discussions with individual counties over the last few years has led to the conclusion that, overall, county road departments are facing funding challenges similar to those facing municipalities.

The Methods and Implications of Collecting Gasoline Taxes at the Pump or at the Rack

Presentations to the subcommittee indicated that states that have used a tax at the rack collection system have reported a higher incidence of compliance with reporting requirements than states that collect gasoline taxes at the pump. However, it is not clear the degree to which making changes to New Mexico's collection system would result in higher revenues. One issue is how a collection system accounts for members of federally recognized Indian nations, tribes and pueblos. Several states have implemented systems that attempt to account for each gasoline sale to a tribal member, and most of these systems have been the subject of litigation. New Mexico has avoided litigation through a negotiated system with several tribes based on the location of the gas stations. On non-tribal land, the state collects a gasoline tax that goes into the State Road Fund. On tribal land, the relevant tribal government collects a gasoline tax that is typically used to fund its own transportation system.

The Development of Rail and Trucking Shipping Centers Around the State

Several locations around the state, including Gallup, Los Lunas, Albuquerque, Santa Teresa and Luna County, have been, or are in the process of being, developed as facilities to leverage national and international rail and highway freight logistics routes. The subcommittee regularly heard presentations regarding a number of these individual developments.

WORK PLAN AND MEETING SCHEDULE

2017 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

Members

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

Advisory Members

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

Work Plan

The New Mexico Legislative Council created the Transportation Infrastructure Revenue Subcommittee on June 5, 2017 to identify current and new sources of revenue and develop recommendations to meet the needs of New Mexico's businesses and residents for transportation infrastructure.

During the 2017 interim, the Transportation Infrastructure Revenue Subcommittee proposes to review and discuss the following topics, as time permits:

1. an update on the status of the state's transportation system;

2. the projected shortfalls in transportation funding versus the needs for maintenance and demand for new system capacity;

3. an update from the New Mexico Municipal League and the New Mexico Association of Counties on their transportation system projections;

4. the number of states that have recently reconfigured their transportation funding systems and the methods they have used;

5. various proposals to address transportation funding at the federal level and the possible effects of those proposals on New Mexico (e.g., converting major interstate highways to toll roads);

6. potential incentives to promote freight rail from Albuquerque to Santa Fe and Las Vegas;

7. options to manage the balloon payments for the Rail Runner debt in fiscal years 2025 and 2026;

8. the benefits and detriments of bonding against any potential new revenue sources;

9. continued examination of transportation infrastructure needed for economic expansion;

10. the potential to implement the recommendations reported in response to House Memorial 96 from the 2016 legislative session for the creation of trucking centers on Interstate 10 and Interstate 40;

11. examination of the effects on the state's economy of not having an in-state only north-south route from Santa Teresa to Las Cruces;

12. lessons learned about successful freight rail nodes around the country that could be used to expand the connections from the Albuquerque-Rio Rancho-Los Lunas business area to the BNSF Transcon line as part of manufacturing business recruitment;

13. an update on development of a BNSF trans-modal node in McKinley County;

14. methods to capture a "user fee" that would be equivalent to the gasoline tax for electric vehicles;

15. the growth in demand for inter-city assisted travel options for seniors and the projected ability of state, local governments and the private sector to meet that demand; and

16. an examination of the potential demands placed on the state's road system by the testing and eventual marketing of autonomous vehicles and any statutory changes needed to account for autonomous vehicles.

Transportation Infrastructure Revenue Subcommittee
2017 Approved Meeting Schedule

Date	Location
July 25	Santa Fe
August 22	Santa Fe
September 22	Santa Fe
October 10	Santa Fe

AGENDAS AND MINUTES

Revised: July 25, 2017

TENTATIVE AGENDA
for the
FIRST MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

July 25, 2017
State Capitol, Room 322
Santa Fe

Tuesday, July 25

9:30 a.m. **Call to Order**
—Representative Roberto "Bobby" J. Gonzales, Chair

9:35 a.m. (1) **State of the State System**
A. Overview
—Tom Church, Secretary, Department of Transportation (DOT)
B. State Road Fund: Budget, Revenue and Bonds
—Michael Friel, Accounting Services Director and Chief Financial Officer, DOT
—Laura Bianchini, Economist, DOT
—Marcos Trujillo, Project Oversight Division, DOT
C. Highway Conditions, Maintenance and Construction Program
—Tamara Haas, P.E., Director, Asset Management and Planning, DOT
—Rick Padilla, P.E., State Maintenance Manager, DOT
—Armando Armendariz, P.E., Director, Design and Construction Division, DOT
D. Modal Program: Ports of Entry; Transit and Rail; Traffic Safety
—Michael Sandoval, Executive Manager, Modal Program, DOT
E. Dust Mitigation Example
—Trent Botkin, Supervisor, Natural Resource Section, DOT

12:00 noon **Lunch**

1:00 p.m. (2) **Gallup Intermodal Industrial Park Update**
—Tommy Haws, President, Pinnacle Bank; President, Greater Gallup Economic Development Corporation
—Ean Johnson, Regional Manager, Economic Development, BNSF Railway

2:00 p.m. (3) **Anticipated Challenges Presented by Autonomous Vehicles on New Mexico Roadways**
—Senator James P. White, District 19
—Charles Remkes, Manager, ITS Operations, DOT

3:00 p.m. **Adjourn**

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.

Revised: August 21, 2017

TENTATIVE AGENDA
for the
SECOND MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

August 22, 2017
State Capitol, Room 322
Santa Fe

Tuesday, August 22

9:30 a.m.		**Call to Order** —Representative Roberto "Bobby" J. Gonzales, Chair
9:35 a.m.	(1)	**Gas Tax at the Rack Collection Proposals** —Representative James G. Townsend —Representative Carl Trujillo
10:30 a.m.	(2)	**Overview of Current Collection System Versus Proposed System** —James O'Neill, O'Neill Consulting LLC
11:00 a.m.	(3)	**Tribal Government Perspective on Behalf of the All Pueblo Council of Governors and the New Mexico Native American Petroleum Coalition** —Teresa Leger, Leger Law & Strategy, LLC —Regis Pecos —Carolyn Abeita, VanAmberg, Rogers, Yepa, Abeita & Gomez, LLP
12:00 noon	(4)	**Potential Revenue Effects of a Gas Tax at the Rack System** —Dawn Iglesias, Economist, Legislative Finance Committee —James Girard, Economist, Taxation and Revenue Department
12:30 p.m.		**Adjourn**

MINUTES
of the
SECOND MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

August 22, 2017
State Capitol, Room 322
Santa Fe

The second meeting of the Transportation Infrastructure Revenue Subcommittee was called to order by Representative Roberto "Bobby" J. Gonzales, chair, on August 22, 2017 at 9:25 a.m. in Room 322 of the State Capitol.

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

Advisory Members

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

Staff
Mark Edwards, Drafter, Legislative Council Service (LCS)
Pam Stokes, Staff Attorney, LCS
Jon Boller, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and other written testimony are in the meeting file or posted on the subcommittee's web page.

<u>Tuesday, August 22</u>

Gas Tax at the Rack Collection Proposals
Representative Carl Trujillo presented the subcommittee with a spreadsheet on State Road Fund revenue, along with a spreadsheet on revenue from the state's gasoline tax, noting that

although total revenue from the gasoline tax in fiscal year 2016 was approximately $152 million, only $111 million was distributed to the State Road Fund. He questioned why there was a $41 million difference between what was collected and what was deposited in the State Road Fund.

Representative Trujillo also explained that both he and Representative James G. Townsend had sponsored bills in the 2017 legislative session that would have imposed the gasoline tax on the seller, rather than the buyer, at the rack. Along with other provisions in those bills, he said, taxing the buyer rather than the seller would result in increased gasoline tax revenue, in part due to better compliance with the tax provisions.

Addressing the difference between gasoline tax revenue and deposits in the State Road Fund, James Girard, economist, Taxation and Revenue Department, explained that gasoline tax revenues are distributed to five or six other transportation-related funds in addition to the State Road Fund, which accounts for the $41 million difference.

In response to a question about compliance issues, and the implication that tribes are not complying with the law, Representative Townsend said that he was not implying that anyone was doing anything illegal. Rather, he explained, the system is very complicated and simplifying the process would make it easier to collect the tax. He and Representative Trujillo proposed to change the law so that the tribes would pay the tax on gasoline to the state.

Other questions and comments included the following:

- House Bills 487 and 509, both from the 2017 regular session, are the same, except that House Bill 509 increased the gasoline tax and the special fuel excise tax by five cents per gallon;
- revenue-sharing agreements with the Pueblo of Nambe and the Pueblo of Santo Domingo will not expire until 2024, so neither bill would have changed the terms of that agreement in the interim;
- the tribes and pueblos are allowed a deduction equivalent to the amount of tax they impose on gasoline, up to 17 cents per gallon, thus avoiding multi-jurisdictional double taxation of gasoline; and
- in 1995, the legislature repealed all but one cent of the 1993 increase in the gasoline tax.

Overview of Current Collection System Versus Proposed System

Jim O'Neill, O'Neill Consulting, LLC, outlined various fuel taxes imposed by the state, including the alternative fuel excise tax, the special fuel excise tax, the gasoline tax and the petroleum products loading fee, and he discussed how and on whom these taxes are imposed. There are different tax rates for gasoline and special fuels (diesel), and there are different terms for the persons who pick up fuel at refineries' or terminals' racks — "distributors" for gasoline and "suppliers" for diesel — he explained. Mr. O'Neill described the structure of the fuel delivery system, noting that New Mexico has a variation of "tax at the rack", in which the taxable event occurs at the terminal rack, with the obligation to report and pay the tax on the distributor/supplier that receives the fuel at the rack. The distributors/suppliers may then deduct receipts from the sale to various entities by documenting those transactions (such as sales to the state, the federal government or to Indian nations, tribes or pueblos) and then claiming the deduction. Mr. O'Neill also explained how tribal sovereignty limits the ability of the state to impose taxes on tribal territory, and how the state and tribal governments have addressed the problem of dual taxation by allowing gasoline sold at retail on tribal territory to be deducted if the tribe or pueblo imposes a similar tax on the fuel.

Alternatives to the present tax structure were described by Mr. O'Neill, including taxing fuel at the retail level, having refineries and pipeline terminals pay the fuel tax or imposing a highway use tax on all vehicles to replace or supplement fuel taxes.

Tribal Government Perspective on Behalf of the All Pueblo Council of Governors and the New Mexico Native American Petroleum Coalition

Teresa Leger, Leger Law & Strategies, LLC, introduced several tribal and pueblo officials from the Pueblos of Taos, San Felipe, Santo Domingo and Pojoaque, the Jicarilla Apache Nation and the Navajo Nation, among others. Ms. Leger noted that both House Bills 487 and 509 eliminated the tribal gasoline tax deduction, and she questioned whether New Mexico is really an "us versus them" kind of place or a place where residents actually work things out. The answer to that question, she said, is that residents actually work things out in New Mexico and that since 1995, New Mexicans have not been fighting in court over the gasoline tax, unlike other states such as Arizona, Oklahoma, Washington, New York and North Dakota. Rather, she said, New Mexicans have addressed the dual taxation problem by achieving what the U.S. Department of Transportation describes as "tax peace".

The tribal gasoline tax deduction represents a small percentage of gasoline tax revenue, she said. The tribes do impose and collect the same 17 cents per gallon as the state, she explained, which is sent back to the tribal governments and used to provide essential government services and leverage federal funds. Ms. Leger stated that the tribes do not care about tax at the rack, as long as the tribal gasoline tax deduction is preserved.

Carolyn Abeita, VanAmberg, Rogers, Yepa, Abeita & Gomez, LLP, stressed that New Mexico is far ahead of other states when it comes to how it handles the dual taxation issue. Ms. Abeita explained that the incidence of the gasoline tax is already "at the rack", but distributors are responsible for paying the tax. She said that 20 tribes have a tribal tax of 17 cents per gallon, and several tribes have entered into joint powers agreements with the Taxation and Revenue Department to share information on distributors. In addition, she described the revenue-sharing agreement that the Pueblos of Nambe and Santo Domingo have with the state, whereby the state receives about $3 million, or 60 percent of the revenue, and the pueblos receive $2 million, or 40 percent of the revenue. She cautioned that combining the gasoline tax with the special fuel excise tax on diesel would be problematic because diesel is already fully taxed by suppliers and is paid by the tribes.

Regis Pecos, former governor of the Pueblo of Cochiti, described the evolution of federal-tribal relations, beginning with President John F. Kennedy's administration through President Ronald Reagan's administration, and the state-tribal government-to-government relations recognized by Governor Toney Anaya's and Governor Garrey Carruthers' administrations on the state level. These federal- and state-tribal government agreements and relationships were built over 30 years by both Republicans and Democrats on the federal and state level, he explained, and the agreements created a foundation and framework of cooperation and mutual respect. Of all of the states in the country, he stressed, New Mexico stands alone in its tax parity and its agreements between the state and tribes, noting that not a single state has done as well with state-tribal relations over the past 30 years. Repealing one part of the agreement would be like pulling a thread that results in the unraveling of the whole, he explained.

Potential Revenue Effects of a Tax at the Rack System

Mr. Girard provided an overview of House Bill 487, describing its main features. He noted that shifting the payment of the gasoline tax to the rack operators, of which there are 10 or 12 in the state, from the distributors would still require the 200 or so distributors to report any deductions taken by end users to the rack operators. Also, he explained, the state would likely have to honor the gasoline tax revenue-sharing agreements it has already entered into, thus resulting in a $3 million annual loss in gasoline tax revenue to the state until at least 2024 if House Bill 487 had been enacted into law.

Dawn Iglesias, economist, Legislative Finance Committee, summarized a survey of other states that tax gasoline at the rack. She said that 19 states tax gasoline at the rack, with 12 of those states having some sort of revenue-sharing agreement with tribes. Seven, she said, have no such agreements due to there not being a tribal presence in those states. Explaining the overall revenue impact of House Bill 487, she said that, eventually, the state might gain $3 million to $5 million per year at most, not $20 million, as some have claimed. Asked how much the total tribal gasoline tax deduction is per year, Ms. Iglesias stated that it is about $12.8 million. However, $10 million of that amount is from gasoline sold to tribal members, which the state cannot tax. Therefore, eliminating the deduction would result in about $2.8 million per year. Asked if there would only be 10 rack operators that would need to report to the state if New Mexico switched to a tax at the rack system, Ms. Iglesias replied that no, all importers and exporters would still need to report on the 6,500 truckloads per month that enter and leave the state.

Adjournment

There being no further business, the subcommittee adjourned at 3:50 p.m.

Revised: September 21, 2017

TENTATIVE AGENDA
for the
THIRD MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

September 22, 2017
State Capitol, Room 322
Santa Fe

Friday, September 22

9:30 a.m. **Call to Order**
—Representative Roberto "Bobby" J. Gonzales, Chair

9:35 a.m. (1) **Modal Program: Ports of Entry; Transit and Rail; Traffic Safety**
—Franklin Garcia, Bureau Chief, Traffic Safety Bureau, Department of Transportation (DOT)
—David Harris, Director, Transit and Rail Division, DOT

10:30 a.m. (2) **Trucking Super Center I-40 Proposal Update**
—Michael Sage, Deputy Director, Greater Gallup Economic Development Corporation
—Paul Sittig, Technical and Freight Planning Supervisor, Government to Government Unit, Asset Management and Planning Division, DOT
—Johnny R. Johnson, Managing Director, New Mexico Trucking Association

11:30 a.m. (3) **Overview of Municipal Transportation Challenges Statewide**
—William F. Fulginiti, Executive Director, New Mexico Municipal League
—Jim O'Neill, President, O'Neill Consulting, LLC

12:30 p.m. **Lunch**

1:30 p.m. (4) **Roadway Dust Mitigation**
—William Hutchinson, Landscape Architect, DOT

2:30 p.m. (5) **Transportation Challenges Facing County Governments**
—Steve Kopelman, Executive Director, New Mexico Association of Counties
A. Dona Ana County
—Robert Armijo, Interim Assistant County Manager for Operations
—Rene Molina, Interim Director, Engineering/Road Department

B. Taos County
—Leandro Cordova, County Manager
—Brent Jaramillo, Deputy County Manager

3:30 p.m. (6) **Follow-Up to Subcommittee Questions**
—DOT Staff

4:00 p.m. **Adjourn**

MINUTES
of the
THIRD MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

September 22, 2017
State Capitol, Room 322
Santa Fe

The third meeting of the Transportation Infrastructure Revenue Subcommittee was called to order by Representative Roberto "Bobby" J. Gonzales, chair, on September 22, 2017 at 9:25 a.m. in Room 322 of the State Capitol.

Present
Rep. Roberto "Bobby" J. Gonzales, Chair
Sen. John Arthur Smith, Vice Chair
Rep. Jane E. Powdrell-Culbert
Rep. Patricio Ruiloba
Sen. Clemente Sanchez
Sen. Pat Woods

Absent
Rep. David M. Gallegos
Sen. Ron Griggs

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

Guest Legislators
Rep. Patricia A. Lundstrom
Rep. Sarah Maestas Barnes

Staff
Mark Edwards, Drafter, Legislative Council Service (LCS)
Pam Stokes, Staff Attorney, LCS
Maria Alaena Romero, Intern, LCS
Kathleen Dexter, Researcher, LCS
Shawna Casebier, Staff Attorney, LCS

Guests
The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file or posted on the subcommittee's web page.

Friday, September 22

Modal Program: Ports of Entry; Transit and Rail; Traffic Safety

Franklin Garcia, chief, Traffic Safety Bureau, Department of Transportation (DOT), began the presentation with a background of the Traffic Safety Bureau. The bureau was created in statute to continuously reduce motor vehicle-related crashes, injuries and deaths on New Mexico's roadways. Currently, there is a focus on occupant protection, distracted driving, data improvements and reducing incidents of driving while intoxicated (DWI). Funding comes from the National Highway Traffic Safety Administration and various state-designated funds.

The funded programs and projects include public awareness and media campaigns, such as the ENDWI program, supporting law enforcement, ignition interlock devices, DWI drug courts and court monitoring. Mr. Garcia stated that fatalities from alcohol-related crashes in the state have been reduced over time, with more than 400 in 1980 to fewer than 200 in the years 2000 through 2016.

Mr. Garcia continued his presentation with information on ports of entry, including revenue-generating permits, programs for weight distance permits, the weight distance program, trip and fuel tax permits and oversize and overweight permits. These permits and programs generate approximately $100 million annually for the State Road Fund.

Since 2015, the DOT and the Department of Public Safety (DPS) have been working together to overhaul operations at all ports of entry in the state, including a new e-permit system that allows users to get permits electronically, a new telephone call center system that allows calls to be answered in a timely manner, additional staff to handle walk-in customers and updating statutes and rules to allow for more consistent regulation across the state and with other states. Future initiatives include eliminating cash at ports of entry, enforcing temporary fuel permits at the U.S./Mexico border and including the new coil truck units into the rules. A coil truck is a heavier truck that is not currently defined in the rules.

Questions and comments included the following.

- The project in Texico to convert a visitor center to a port of entry, which involves significant construction, is expected to be completed in March.
- The reduction in DWI funds in recent legislative sessions has not affected local efforts because those funds are directed toward drug and alcohol treatment. For enforcement, the DOT uses federal funds and other state funding that is designated for that purpose; however, law enforcement capabilities may be lacking due to a shortage of officers.

- Upon concerns regarding the truck traffic on U.S. Highway 54, Tom Church, secretary, DOT, stated that the highway is becoming more and more congested and needs to be funded and improved, and it should eventually become a four-lane highway. Texas has completed work on the highway, and Kansas has remarkable projects going on now.
- DWI fatalities have declined because of comprehensive efforts toward using ignition interlock devices and enforcement programs, studying the data and addressing high-impact county areas by putting more efforts into those areas. It is a combined effort of education, enforcement and using data.
- When asked about trucks that go past the 11-mile radius from the U.S./Mexico border down N.M. Highway 28, Secretary Church stated that the 11-mile radius is not necessarily being enforced.
- Secretary Church advised that funding for law enforcement includes funding for DWI checkpoints. On a concern that the New Mexico State Police Division of the DPS may not be receiving enough funds to conduct all of the checkpoints it wants to conduct, the secretary advised that the division just needs to reach out, as there are still funds available for that purpose.
- Funding from the federal government will likely be less than in the past. About 90 percent of the $1 trillion being talked about for transportation infrastructure takes the form of tax rebates for public-private partnership investment, which may be helpful in large metropolitan areas with a lot of substantial projects but may not work in New Mexico.
- The Taos County Sheriff's Office and the New Mexico State Police Division are enforcing the law that prohibits vendors from conducting business on highway rights of way, including the site near the Rio Grande Gorge Bridge near Taos. The adjoining land is not available to the vendors because it belongs to the federal Bureau of Land Management (BLM).
- The Governor's Office is reviewing and vetting candidates to replace a recently deceased commissioner in State Transportation Commission District 6.
- Federal grants through the Transportation Investment Generating Economic Recovery (TIGER) program that are available for projects nationwide have ranged from $500 million to $800 million per year in recent years. TIGER funding applications that the DOT is either supporting or considering include those for: 1) a road project in Los Lunas; 2) a project to keep the Amtrak Southwest Chief operating; 3) the U.S. Highway 82 project; and 4) the Paseo del Volcan project in Rio Rancho.

David Harris, director, Transit and Rail Division, DOT, continued the DOT presentation with a report on the Transit and Rail Division's duties, which include oversight of federal transit funding for rural and small urban transit programs in the state. The division also manages the Park and Ride intercity bus service and, in cooperation with the Rio Metro Regional Transit District, the Rail Runner. In addition to its involvement in public transit systems, the division administers the DOT's railroad grade crossing safety improvement program, with permitting oversight of infrastructure projects that cross or use railroad property owned by the DOT.

Mr. Harris noted that public transit in the state in fiscal year (FY) 2016 accounted for more than 16 million trips, reduced vehicle travel by more than 102 million miles, eliminated more than 49,000 tons of carbon dioxide emissions and reduced gasoline consumption by 5.1 million gallons. Rural transit systems accounted for nearly 10 percent of the results in each category and have proven to be safe, with no fatalities since 2000.

Questions and comments included the following.

- The South Central Regional Transit District (SCRTD) system is just now completing its first year of operation, and ridership numbers are not yet available. No state funding goes to the SCRTD; however, if a county provides matching funds, the system qualifies for federal funding. A member expressed concerns that: 1) the ridership he has seen on SCRTD buses has been low; 2) the system might benefit the El Paso region more than southern New Mexico; and 3) the transit system was implemented by the county commission without support from the voters.
- It will cost $50 million to install a positive train control system on the Rail Runner to meet a federal requirement that goes into effect in December 2018. The state is pursuing a temporary waiver from the requirement on the condition that the state must show effort toward compliance, citing the State Transportation Commission's vote to loan the Rio Metro Regional Transit District $15 million for such effort. The transit district must pledge future federal transit funding as repayment for the loan. A member expressed concern that the positive train control system should not apply in New Mexico due to the state's low volume of railroad traffic.
- Local governments are responsible for railroad quiet zones, in which trains cannot blow their horns when approaching grade crossings.
- If the Rail Runner were shut down: 1) there would be no savings to the state because all costs due at this point are infrastructure debt payments; and 2) the Rio Metro Regional Transit District would see savings of approximately $12 million per year in gross receipts tax revenue that would no longer be spent on the Rail Runner, but that revenue could then only be spent on the Albuquerque bus system.

Minutes

On a motion duly made, seconded and unanimously adopted, the minutes from the subcommittee's meetings on July 25, 2017 and August 22, 2017 were approved.

Trucking Super Center Interstate 40 Proposal Update

Paul Sittig, technical and freight planning supervisor, Government to Government Unit, Asset Management and Planning Division, DOT; Michael Sage, deputy director, Greater Gallup Economic Development Corporation; and Johnny R. Johnson, managing director, New Mexico Trucking Association, gave an update on a proposed trucking super center in the Gallup area.

The DOT adopted a state freight plan in 2015 to address the needs of the trucking industry along the corridors that are used most heavily for freight trucking. The plan is under revision now to meet new requirements for federal freight funding and will be submitted for approval by December. The DOT is also participating in the development of a "smart freight corridor" from California to Texas that will support truck shipment "platooning" through the coordination of permits across states and the provision of necessary parking and infrastructure.

In response to House Memorial (HM) 96 of the 2016 legislative session, the DOT conducted a study of trucking industry needs under federal requirements that limit truck drivers to 11 consecutive hours of driving. The study identified seven areas along Interstate 40 and Interstate 10 where these drivers are most likely to reach their 11-hour limit and be forced to stop. The study also included interviews with nearly 100 drivers on what amenities they prefer in a truck stop, with secure truck parking identified as the top priority.

The Greater Gallup Economic Development Corporation and the New Mexico Trucking Association are working to create a trucking super center near Gallup, which falls just within an 11-hour travel radius from the port in Long Beach, California. The super center will accommodate up to 1,000 trucks in a secured area and include a hotel, a theater and many other amenities identified in the HM 96 study, as well as offices for trucking companies. A primary function of the center will be to allow drivers who have reached their 11-hour limit to transfer their freight to other drivers who have completed their required layover time and, thus, keep the freight moving.

New Mexico Gas Company provided $25,000 to develop a site master plan for the super center, and further funding is being sought from investors both in the U.S. and abroad.

Questions and comments included the following.

- There is a concern that the super center will draw business away from smaller, locally financed truck stops in nearby areas that do not fall within the 11-hour radius. There is a parallel concern that a super center might be developed across the state line, undercutting truck stop business in New Mexico.
- Eight percent of truck traffic in the nation goes through Gallup. New Mexico has enough trucking traffic to support two super centers: one on Interstate 40 and one on Interstate 10. The super center will be located near the Gallup Intermodal Industrial Park, which will facilitate freight transfers between rail and truck. The super center is scheduled to open either in late 2018 or in 2019. Construction costs are estimated at $93 million.
- In "platooning", three trucks are interconnected, with the lead truck controlling the throttle and brakes. By taking advantage of the draft generated by the first two trucks, the rear truck uses 40 percent less fuel.

The subcommittee also discussed the possibility of having a meeting with experts from New Mexico State University and elsewhere, who would give briefings on how best to develop

New Mexico as a nexus within the international logistics chain for both rail and truck freight shipments.

Overview of Municipal Transportation Challenges Statewide

William F. Fulginiti, executive director, New Mexico Municipal League, and Jim O'Neill, president of O'Neill Consulting, LLC, reported on transportation improvements necessary in the state's municipalities and the funding needed to complete those projects. Mr. Fulginiti said that funding needs are essentially unchanged, remaining at over $1.2 billion through FY 2021. The panelists noted that municipalities have about one-third of the lane miles of roadway in the state, that repair and replacement of municipal streets is more expensive per mile than highways because of the various utility lines under them and that municipalities receive $0.18 of the state's $0.17-per-gallon gasoline tax through the Local Governments Road Fund, an earmark that totals approximately $23 million per year. The presenters thanked the legislature for its support of legislation that would allow local governments to consider creating their own motor fuel taxes to pay for road projects.

Mr. O'Neill said that the Local Governments Road Fund is distributed according to the reported sales within each community. However, he explained, if sale numbers for a given community are incorrectly tabulated, it can be very difficult to correct the error. The distributions are calculated on a monthly basis, and one error has a cascading effect on the whole system. He said that, historically, the sale numbers had been posted monthly on the Taxation and Revenue Department's (TRD's) website, but those postings have become more sporadic and less timely in recent years.

Roadway Dust Mitigation

Trent Botkin, supervisor, Natural Resource Section, DOT, said that between 1965 and 2017, Lordsburg Playa dust storms caused more than 40 fatalities. Many of those fatalities occurred in recent years, with seven fatalities in 2014 and 10 fatalities so far in 2017. In addition, the dust storms have closed Interstate 10 23 times since the beginning of 2014. Mr. Botkin explained that the DOT has been working with several other entities to mitigate dust storm risks around the state, particularly along Interstate 10.

<u>Driver Education</u>. The DOT's Traffic Safety Bureau driver education campaign has put out radio ads and worked alongside the New Mexico Trucking Association to create and distribute a dust training module to drivers. The DOT has also worked with the University of New Mexico to identify and track driver awareness and with the Motor Vehicle Division of the TRD to incorporate dust storm safety into New Mexico driver education. The DOT has also increased highway signage around the state to inform drivers in dust-prone areas what to do during a dust storm.

<u>Dust Mitigation</u>. The soil in the 25-square-mile Lordsburg Playa has a frangible crust that grazing cattle can break apart, thus making it vulnerable to wind erosion. The DOT is working with the State Land Office and the BLM to mitigate, limit or defer grazing on the playa.

In addition, the Highway Safety Improvement Program run by the Federal Highway Administration has funded dust mitigation through reseeding and revegetation projects along U.S. Highway 180 north of Deming.

Roadway Safety Improvements. The DOT is planning to expand the width of the highway shoulders along Interstate 10 to provide drivers with a safety zone to pull off the roadway during dust storms. In addition, there are plans to incorporate raised pavement markers and high-visibility components to help drivers keep track of the road.

Transportation Challenges Facing County Governments

Steve Kopelman, executive director, New Mexico Association of Counties, said that counties are responsible for the majority (52 percent) of the roadway lane miles in the state and receive $0.018 of the state's $0.17-per-gallon gasoline tax. He noted that many county budgets are decreasing at the same time that road funding from the state and from the federal government is decreasing. He said that in light of decreasing funding from all sources, most counties are simply trying to keep their roads maintained to a level that prevents major deterioration and the need to rebuild the roads.

Robert Armijo, interim assistant county manager for operations, Dona Ana County, and Rene Molina, interim director, Engineering/Road Department, Dona Ana County, presented an overview of the transportation challenges the county has been facing. For a comparison, Mr. Molina noted that while Dona Ana County has about the same population base as Las Cruces, it covers a geographical area almost 50 times larger, contains 37 of the 150 colonias in the state and has three times more land miles of road to maintain but only has about one-half the annual budget. Mr. Armijo said that between FY 2005 and FY 2018, 176 transportation projects were constructed within the county at a cost of nearly $37 million. However, he noted, meeting roadway project needs identified in the strategic plan for the Santa Teresa border area would cost several hundred million dollars. An ensuing discussion with subcommittee members included the potential need to construct a north-south road project to connect the border crossing at Santa Teresa and Las Cruces and an east-west road project connecting the labor pool in the colonia of Chaparral to Santa Teresa and that these project would incur additional costs potentially in excess of $100 million.

Leandro Cordova, county manager, Taos County, and Brent Jaramillo, deputy county manager, Taos County, said that the roadway system in Taos County is vital to the state's tourism industry. They said that because Taos County is a destination location for many tourists, the convenience, safety and aesthetics of the county's road system are all priorities. They particularly noted N.M. Highway 68 through the Rio Grande Gorge and the High Road to Taos Scenic Byway as key arteries both for tourist and local resident traffic. Diminishing state and federal funding is also an issue for Taos County's road program. Funding for bridge repair and for Safe Routes to Schools projects were cited as priorities for the county.

Adjournment

There being no further business, the Transportation Infrastructure Revenue Subcommittee adjourned at 3:30 p.m.

TENTATIVE AGENDA
for the
FOURTH MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

October 10, 2017
State Capitol, Room 317
Santa Fe

Tuesday, October 10

9:30 a.m.		**Call to Order** —Representative Roberto "Bobby" J. Gonzales, Chair
9:35 a.m.	(1)	**Follow-Up to Subcommittee Questions** —Department of Transportation (DOT) Staff
10:00 a.m.	(2)	**DOT Status Update** —Tom Church, Secretary, DOT
10:30 a.m.	(3)	**Central New Mexico Rail Park** —Tim Cummins, Owner and Broker, RIO Real Estate Investment Opportunities, LLC
11:00 a.m.	(4)	**Greater Albuquerque Transportation and Logistics Hub Study** —Randall Trask, Director, Albuquerque-Bernalillo County Trade Alliance
12:00 noon	(5)	**New Mexico Gas Company — Status of Pilar Area Project** —Tom Domme, Vice President and General Counsel, New Mexico Gas Company
12:30 p.m.		**Lunch**
1:30 p.m.	(6)	**New Mexico Transit Association (NMTA) — Update** —Philo Shelton, Public Works Director, Los Alamos County; Treasurer, NMTA —Stan Cooper, Director, NMTA
2:30 p.m.	(7)	**Review of Proposed Legislation** —Mark Edwards, Staff, Legislative Council Service
3:00 p.m.		**Adjourn**

MINUTES
of the
FOURTH MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

October 10, 2017
State Capitol, Room 317
Santa Fe

The fourth meeting of the Transportation Infrastructure Revenue Subcommittee was called to order by Representative Roberto "Bobby" J. Gonzales, chair, on October 10, 2017 at 9:35 a.m. in Room 317 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	
Rep. Jane E. Powdrell-Culbert	
Sen. Clemente Sanchez	
Sen. Pat Woods	

Advisory Members

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

Minutes Approval

Because the subcommittee will not meet again this year, the minutes for this meeting have not been officially approved by the subcommitee.

Staff

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

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file or posted on the subcommittee's web page.

<u>Tuesday, October 10</u>

Follow-up to Subcommittee Questions

Tom Church, secretary, Department of Transportation (DOT); Tamara P. Haas, P.E., director, Asset Management and Planning Division, DOT; and Marcos B. Trujillo, policy director, DOT, presented information in response to questions members posed at previous meetings.

Transportation funding. Congress typically authorizes federal highway funding through legislation covering multiple years that creates a formula for apportioning funds to the various states. Secretary Church said that while this is nonreverting funding, a state may not obligate more than 90% of its apportionment level. He said that, historically, New Mexico has used all of its available apportionments. Ms. Haas noted that as of September 30, 2016, New Mexico had obligated just over 48% of its federal apportionments authorized through the federal Moving Ahead for Progress in the 21st Century Act (MAP-21) and the federal Fixing America's Surface Transportation (FAST) Act. Recent apportionments were $353.5 million in 2015 under MAP-21 and $371.2 million in 2016 under the FAST Act. She listed the following seven programs created under the MAP-21 and the FAST Act and the years in which they were apportioned:

1) National Highway Performance Program (2015 and 2016);
2) Surface Transportation Program (2015 and 2016);
3) Highway Safety Improvement Program (HSIP) (2015 and 2016);
4) Railway-Highway Crossings Program (2015 and 2016);
5) Congestion Mitigation and Air Quality Improvement Program (CMAQ) (2015 and 2016);
6) Metropolitan Planning Program (2015 and 2016); and
7) National Highway Freight Program (NHFP) (2016).

The NHFP is a new program created under the FAST Act. Secretary Church indicated that while the FAST Act moved some funding into a "block grant" process, it did not substantially alter the nature of the federal highway funding program.

Interstate highway traffic counts. Ms. Haas presented a map showing the average daily traffic on interstate highways 10, 25 and 40, with semi-trailer trucks given as a percentage of overall traffic. Semi-trailer trucks account for up to 40% of the traffic on Interstate 40, up to 30% on Interstate 10 and up to 12% on Interstate 25.

Local Governments Road Fund projects. Mr. Trujillo presented a list of Local Governments Road Fund projects for fiscal year (FY) 2017 and FY 2018. Total project allocations for that period came to $41.9 million, an amount that was secured by $13.9 million in local matching funds.

Responding to questions about transit and safety funding, Mr. Trujillo said that funding from the Metropolitan Planning Program has been used as operational funding for some local transit systems; it has not been used for the capital costs of the Albuquerque Rapid Transit project. He also explained that CMAQ funding may be used for road improvements and for connections to alternative transportation that improve air quality; while HSIP funding may be used for items such as roundabouts, guard rails and signage that increase safety. Armando Armendariz, P.E., director, Design and Construction Division, DOT, noted that roundabouts may improve traffic flow, but can create challenges for pedestrians.

Responding to questions about the funding availability for specific projects, Mr. Trujillo noted that New Mexico received only $1 million under the Railway-Highway Crossings Program; a single railroad grade crossing project costs $300,000 to $400,000. In a similar vein, annual funding is limited for the Local Governments Road Fund. Accordingly, project costs tend to range from $50,000 to $150,000, and a $2 million appropriation for a single project is unlikely.

DOT Status Update

Secretary Church stated that the DOT has no major issues at the moment and provided some broad indicators of the state of the department. He said that the department's revenue is flat for the year, and its budget request for FY 2019 is down by $15 million from FY 2018 due to current and anticipated federal funding reductions. On average, the department pays 92% of the invoices it receives within 30 days of receipt. The department's overall inactive obligation rate is less than 1%. The current staff vacancy rate is 15% and rising, in part due to competition from the somewhat-improved economy. In particular, the DOT faces competition for drivers with commercial driver's licenses from the oil and gas industry. The DOT has 99 active projects totaling $732 million, and its on-time, on-budget rate for projects is 95%.

Responding to questions about some of the factors that may affect the DOT's budget, Secretary Church noted that New Mexico receives $1.18 in federal highway funding for every $1.00 the state pays out. He indicated that the department has reduced its liability profile, saying that, while six years ago the DOT faced lawsuits for claims totaling $140 million, the total is now $10 million. Regarding the deterioration of publicly used but privately constructed roads in some counties, Secretary Church said that although the DOT can donate millings to counties, it does not have the resources to take over maintenance on county or private roads. With regard to the potential use of public-private partnerships in New Mexico, he said that for transportation projects, this type of financing tends to be for toll roads. He added that New Mexico does not have the population density to make toll roads feasible.

Central New Mexico Rail Park

Tim Cummins and Lawrence Rael, both of RIO Real Estate Investment Opportunities, LLC, gave a presentation on an industrial park under development in Los Lunas that has received a "certified site" designation from the BNSF Railway (BNSF).

The BNSF transcontinental line passing through central New Mexico services a large portion of the nation's freight shipping. The Central New Mexico Rail Park will take advantage of this traffic by providing transloading facilities and rail spurs to industries in the area, as well as manufacturing, warehousing, distribution and storage space. Because some of BNSF's customers are looking to expand their operations but are located in sites that have limited space for growth, the company plans to encourage those companies to move to the Central New Mexico Rail Park. At full capacity, the industrial park has the potential to provide up to 5,000 jobs. The rail park is financed entirely through local investors and is hiring local contractors.

In response to questions, Mr. Cummins stated that the Central New Mexico Rail Park does not compete with the rail parks in Santa Teresa and Gallup because those parks serve different markets. The Santa Teresa park caters to border businesses, and the Gallup Energy Logistics Park caters to the oil and gas industry. He said the park is not designed as an intermodal facility at this time. He said that, although Los Lunas developed a plan 34 years ago that designated the area for industrial use, most of the Central New Mexico Rail Park land is still zoned for grazing. RIO Real Estate Investment Opportunities held public hearings on the proposed rail park. In those meetings, two people spoke against it; the others spoke in favor. The Pueblo of Isleta, which borders the park, and the Pueblo of Laguna have expressed support for the project.

Greater Albuquerque Transportation and Logistics Hub Study

Randall Trask, director, New Mexico Trade Alliance, reported the findings of a study commissioned by the Mid-Region Council of Governments on transportation and logistic strengths in the Albuquerque area and how they can be leveraged for economic development.

Unlike most other states, where infrastructure was developed to accommodate industry, New Mexico's transportation infrastructure was built in response to military bases, military testing, mining activities and agriculture. It has also been developed for the oil and gas industry, which operates well away from the major population centers along the Rio Grande corridor. With the state's economy so heavily weighted toward the government, energy and agriculture sectors, very few goods are produced in the state for shipment elsewhere.

The Albuquerque area has several transportation and economic development advantages that could be better marketed to industries looking to "nearshore" or "reshore" their operations. Advantages include the intersection of two interstate highways that connect the east and west coasts and connect Canada with Mexico; the BNSF's most heavily traveled rail line; and the BNSF's only rail line into central Mexico. The Albuquerque Sunport's international port of entry and foreign trade zone are also advantages; however, 95% of the export goods produced in the Albuquerque area that are ultimately shipped by air cargo are trucked out of state for loading at other airports. The study concluded that five industries are best suited for increased development in Albuquerque, based on the area's strengths: 1) value-added manufacturing in the automotive sector; 2) aerospace technology; 3) photonics technology; 4) food manufacturing; and 5) plastics.

Mr. Trask said that the Mid-Region Council of Governments has formed a committee to advise on transportation infrastructure planning and is forming subcommittees to focus on three main strategies: 1) air cargo investment; 2) advancements in rail cargo; and 3) industrial investment. It was noted that this sort of planning is needed because the state's economy is not diversified. If one large employer or one strong industry in the state has a bad year, the statistics for the whole state are skewed.

Minutes

On a motion duly made, seconded and unanimously adopted, the minutes from the September 22, 2017 meeting were approved.

New Mexico Gas Company — Status of Pilar Area Project

Tom Domme, vice president and general counsel, New Mexico Gas Company, and LaVanda Jones, governmental affairs, New Mexico Gas Company, gave an update on a gas pipeline project on New Mexico Highway 68 between Pilar and Rinconada in Taos County.

New Mexico Gas Company is moving a six-mile above-ground portion of the natural gas pipeline that serves Taos County from the west side of the Rio Grande south of Pilar to the east side of the river. In its new placement, the pipeline is buried five feet below the shoulder of the road adjacent to the northbound lane. To accommodate the installation crews, a maximum of one mile of road is reduced to a single lane, with pilot cars leading traffic through the construction zone 24 hours a day. Wait time for traffic stopped at the work site averages 10 to 12 minutes. New Mexico Gas Company has a memorandum of understanding with the New Mexico State Police and the Taos County Sheriff's Office for traffic control; it has also contracted with a private company to monitor the hillside for rock slides.

Responding to questions, the presenters provided the following specific information:

- New Mexico Gas Company's service area is the entire state:
- the pipeline section that is being moved is also being upgraded from eight-inch pipe to 12-inch pipe; the remainder of the pipeline will be upgraded to 12-inch pipe later; no blasting is planned for the project; the crews are boring through the rock;
- no emergency shut-off valves are being installed in the section that is being moved; if the pipeline has to be shut off, that is done in the Albuquerque headquarters;
- New Mexico Gas Company is abandoning the pipeline's original right of way; and
- the natural gas supply is abundant enough to absorb more demand. There is no drilling on the Otero Mesa because the cost of removing the tailings is too high.

New Mexico Transit Association (NMTA) — Update

Philo Shelton, treasurer, NMTA; and Stan Cooper, director, NMTA, gave an overview of the NMTA's work to strengthen public and private transportation systems in the state.

The NMTA provides training and technical support for transit providers statewide, both rural and urban. It also hosts annual events to inform members of transportation issues at the state and federal levels, and it represents transportation interests before the legislature and the executive branch. During the 2017 regular session, the NMTA backed a "yield-to-bus" bill that passed both chambers; the bill was later pocket-vetoed by the governor.

The presenters urged subcommittee members to consider allocating General Fund money to transportation for the elderly in the state. They said that the percentage of the population that will be 65 or older is projected to exceed 20% by the year 2030. They said that these services are now primarily funded with federal and local dollars, which are insufficient to meet the growing transportation needs of this age group.

In the ensuing subcommittee discussion, the following points were raised:

- transportation systems need both capital and operational funding: 1) capital funding to replace buses, which are in service for longer than is optimal and which can cost up to $500,000 each; and 2) operational funding to serve as a match for federal dollars;
- the South Central Regional Transit District (RTD) is the only RTD in the state that has not yet imposed a regional transit gross receipts tax; Class A counties are authorized in statute to impose a $0.02-per-gallon tax to fund public transit and roads; and
- the United States Department of Agriculture has funding available for transit systems.

Review of Proposed Legislation

Mr. Edwards and Senator Woods explained a bill that Senator Woods may sponsor in the upcoming legislative session. The bill amends the section of law that specifies the amount of various fines for violations of the Motor Vehicle Code known as penalty assessment misdemeanors. The bill is needed to conform the penalty assessment list to match changes that were made in previous sessions to some of the statutes that establish the violations as misdemeanors. Senator Woods did not request, and the subcommittee did not vote on, endorsement of the bill.

Adjournment

There being no further business, the subcommittee adjourned at 2:30 p.m.

Legislative Council Service
Santa Fe, New Mexico