TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

2014 INTERIM FINAL REPORT

New Mexico Legislative Council Service
Santa Fe, New Mexico
December 2014

TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE
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2014 INTERIM SUMMARY

The Transportation Infrastructure Revenue Subcommittee held five meetings in 2014. Bill endorsements were completed at the subcommittee's final meeting on November 6.

The subcommittee was created by the New Mexico Legislative Council on May 5, 2014 to identify current and new sources of revenue and to develop recommendations to meet the needs of New Mexico's businesses and residents for transportation infrastructure.

Because transportation infrastructure is a foundational element for many governmental and private-sector endeavors, the subcommittee held a joint meeting with the Revenue Stabilization and Tax Policy Committee on August 6 and a joint meeting with the Economic and Rural Development Committee on October 2.

Presentations before the subcommittee generally addressed three topics:

1) the current status of transportation infrastructure in the state, its condition, capacity and the anticipated demand for expanded and improved infrastructure;

2) the costs and funding challenges associated with maintaining and expanding the state's transportation infrastructure system; and

3) potential methods to supplement or prioritize current transportation funding and mechanisms for infrastructure acquisition.

I. Status of Transportation Infrastructure and Anticipated Demand

Conditions in Southeastern New Mexico. In July, prior to the flood events in Eddy County later in the summer, the subcommittee heard presentations from the Department of Transportation (DOT) and Representative Cathrynn N. Brown on the status of the road system in DOT District 2 (Lea, Eddy and Chaves counties). At that time, the DOT reported that it had an unfunded need for $127 million in priority projects primarily required to expand capacity to meet the traffic demand generated by the regional oil boom. Representative Brown presented information showing that, aside from traffic capacity, the constricted design of the road system in Eddy County has become a public safety concern given the large fleet of heavy oil shipment trucks now using the system. In November, officials from Eddy County reported to the subcommittee that the flooding had a serious impact on the road system and entire stretches of roads had been washed out. After two consecutive years of extreme flood events, Eddy County's ability to maintain its road system has been overwhelmed. In addition to the reconstruction and needed expansion of its road system, Eddy County finds itself having to incorporate much more expensive upgrades to existing low-water crossings.

The Bridges of McKinley County. School officials in McKinley County reported that the condition of the bridge system in the county is hampering the school bus system and may impede emergency response services. McKinley County's road system traverses a number of ravines and arroyos. Several years ago, 46 army surplus bridges were purchased and emplaced to connect the road system. A load-rating study is currently being conducted on these bridges, but many will not be load rated for standard-sized school buses or emergency vehicles. Replacement costs will be between $1 million and $2 million per bridge.

Growth in Santa Teresa. In October, the subcommittee held a joint meeting with the Economic and Rural Development Committee in Santa Teresa. Business leaders and planners from Dona Ana County and the DOT presented on the transportation infrastructure required to maintain the phenomenal industrial and commercial shipment growth the area is experiencing. The immediate need is for reconstruction of main access routes connected to the Santa Teresa commercial port of entry and the Union Pacific intermodal facility, Airport Road and Industrial Drive. Reconstruction will cost $10 million. Current access to the area is channeled east to Interstate 10 within the environs of El Paso, Texas. Within the next few years, Dona Ana County will need increased road and transit capacity for commuting traffic and a new highway providing a north-south connection to Las Cruces to meet shipment demands. At present, the cost of capacity expansion and a north-south highway project is unknown.

Southwest Chief – Passenger Rail Service. The subcommittee also heard presentations concerning the requirements for New Mexico to continue receiving passenger rail service to Raton, Las Vegas and the Lamy station that also serves rail passengers traveling to Santa Fe. The Burlington Northern and Santa Fe (BNSF) Railway owns the track that Amtrak uses for the Southwest Chief, its daily train from Chicago, Illinois, to Los Angeles, California. The BNSF has informed Amtrak that it will no longer maintain the track through most of Kansas, Colorado and northeastern New Mexico to passenger train standards. Amtrak's budget is not sufficient to absorb all of the maintenance costs, and Amtrak has proposed that each of the states serviced by the Southwest Chief contribute $4 million annually for 10 years for maintenance and reconstruction of the track.

Art Waskey, an attorney contracted by the Legislative Council Service, presented a legal analysis to the subcommittee in which he concluded that the state has the legal authority to enter into a cost-sharing agreement to maintain the track; provided that the agreement is structured as a contract whereby the state will receive a service it otherwise would not receive (e.g., continued passenger rail service).

DOT staff also made a presentation regarding studies it had contracted for concerning the actual maintenance costs for the Southwest Chief track and the economic benefits of retaining the rail service. Regarding the maintenance costs, the study estimated that the total cost for maintaining the track within New Mexico would be close to $9.4 million per year for the next 10 years, but would rise to over $12 million per year for the following 10-year period. The study results raised the question about the maintenance obligations that the state might incur beyond the 10-year Amtrak proposal. The DOT also reported that a matching federal grant had been awarded to rehabilitate segments of the track in Kansas and Colorado. That grant package requires contributing funds from local and state agencies and from Amtrak and BNSF. The response from BNSF to the federal grant has been very positive with regard to guaranteeing maintenance of the track segments for the next 20 years. However, the dollar amounts attached to the grant package call into question whether the earlier Amtrak proposal over-projects the required cost-sharing by the states.

Regarding the beneficial economic impact of keeping the Southwest Chief service, the DOT study determined that New Mexico would lose $13.3 million in gross regional product and $2.4 million in local, state and property taxes if the service ceases. The study also examined the impact of moving to an alternative route, but an Amtrak representative stated that the alternative is impractical and would cost more than the needed maintenance for the current route.

<u>Traffic Relief Route for Los Lunas.</u> Officials from the Village of Los Lunas and Valencia County reported to the subcommittee on a proposal for a new Interstate 25 (I-25) interchange project to relieve traffic congestion. Los Lunas is currently served by one exit on I-25 that connects it to New Mexico State Highway 6 (NM 6), which becomes the town's main street. After many years of rapid growth, Los Lunas is experiencing traffic jams along NM 6 and needs an alternate traffic route to relieve congestion. The proposed project is estimated to cost $75 million.

<u>Condition of Statewide Road System.</u> Secretary of Transportation Tom Church and his staff reported to the subcommittee that over 80% of existing lane miles are in fair condition or better, and that 96% of the state's bridges are functional or above standards. The DOT's management goal is to keep as many lane miles as possible in fair condition or better because of the exorbitant costs of rehabilitating roads once they deteriorate below that standard.

II. <u>Transportation Infrastructure Funding and Challenges</u>

Secretary Church and his staff gave presentations on varying aspects of DOT funding. Internal DOT funding has experienced slow growth compared to the growing costs for maintenance and construction. Contributing factors to this dynamic are: 1) a major source of funding for the DOT is the tax on motor fuels. Motor fuel consumption has not grown as rapidly in the last decade as projected due to the improving fuel efficiency of modern cars and because the boomer and millennial generations are not driving as much per person as earlier generations; and 2) the costs of construction materials have risen faster over the last 20 years than the Consumer Price Index that is the traditional measure of inflation. On a dollar-for-dollar basis, the DOT's construction funds have approximately 30% of the purchasing power they had 20 years ago. The matching funds that the DOT receives from federal programs are also a concern. In particular, the reserves in the Federal Highway Trust Fund (FHTF) were depleted in August. The United States Congress enacted a temporary measure to keep the fund solvent through April or May 2015. If reserves are not maintained in the FHTF, New Mexico's DOT construction projects would start to experience lengthy delays.

For fiscal year (FY) 2015, the DOT reported a funding gap of $574.4 million between its budget and nominal demand. This includes a $115.8 million shortfall in maintenance programs and a $458.6 million shortfall in construction needs. Contributing to the funding gap are debt service payments that the DOT is required to make, with a total debt obligation of $1.9 billion. A significant portion of that debt has a floating interest rate that would require a $109 million penalty payment to reconfigure into a fixed interest rate. Debt servicing represents 55% of the DOT's construction budget, or 19% of its total budget. Some of the presentations on regional infrastructure needs include projects that have not yet been included in the state transportation improvement program, so the costs of those projects are not included in DOT figures.

The DOT's state funding is primarily supported by four revenue streams: a gasoline tax, vehicle registration fees, a diesel fuel tax and a weight/distance fee. The first two taxes/fees are paid mostly by families, and the last two are paid mostly by the commercial trucking industry in New Mexico. One-cent increases in the gasoline and diesel taxes would increase revenues by $8.7 million and $5 million, respectively. Increasing vehicle registration taxes by 10% would increase revenues by $7.8 million, and increasing the weight/distance tax by 10% would increase revenues by $8 million. Eliminating the weight/distance tax would require raising vehicle registration fees to around $3,000 per year in order to remain revenue-neutral.

III. Alternative Funding, Prioritizing and Acquisition Mechanisms

Wyoming Funding Example. Wyoming State Senator Michael Von Flatern and State Representative Michael K. Madden gave presentations to the subcommittee on why Wyoming chose to raise its motor fuel tax, the public communication effort that assisted the legislature in making its decision and results from Wyoming's legislative action. Wyoming previously had the lowest motor fuel tax in the nation at 14 cents a gallon. Revenues had not kept up with transportation budget needs for several years, but Wyoming had been able to access federal assistance to make up the shortfall. However, federal assistance programs had languished or proved inadequate by the mid-2000s, and the road system was deteriorating. Starting in 2008, the Wyoming legislature debated various proposals to shrink the funding gap, but none of them could gain traction. Prior to the 2013 legislative session, a coalition of business associations and public interest groups formed to work on a public information campaign to help resolve the impasse and engaged legislative leadership (Representative Madden) to work with the coalition.

The Wyoming legislature chose to resolve its road-funding shortfall by raising motor fuel taxes for several reasons: 1) the business community and the public at large came to recognize that the road system was an economic issue and that it was a state responsibility; 2) a motor fuel tax was seen as a user fee: "if you don't drive, you don't pay"; and 3) Wyoming has a constitutional requirement that all motor vehicle-related fees and taxes must be used for its road program.

Wyoming raised its motor fuel taxes by 10 cents, and now has a 24-cent-per-gallon tax. The increase in revenue allowed the Wyoming DOT to begin $40 million in road construction and maintenance projects within a few months of enactment. Both presenters stated that public reception to the fuel tax increase had been subdued, indicating that it was a non-issue in their meetings with constituents.

North Dakota Prioritization. North Dakota State Senator Ray Holmberg gave a presentation to the subcommittee on how North Dakota has handled transportation impacts of the oil boom in its Baaken Shale region. North Dakota experienced many years of low or negative growth prior to 2008. With the sudden and dramatic increase in oil production over the last four or five years, North Dakota has had both large increases in state revenue and in demands for public infrastructure.

North Dakota has divided its oil production revenues into varying accounts, including a state legacy fund that requires a super majority in the legislature to allow appropriations prior to 2017 and several streams that go to counties and municipalities based on population and size formulas, with a dedicated percentage designated for counties with economies at least partially based on mineral extraction. However, the boom in the Baaken Shale oil fields created particular transportation challenges, both in getting North Dakota's product to out-of-state markets and its impact on the road system within the region. In North Dakota's biennial in 2013, the legislature appropriated $1.2 billion over and above its oil revenue formula set-asides to expand and improve the road access to and from the Baaken region.

Alternative Project Acquisition. The Alternative Project Task Force (APDTF), a collaborative effort by engineering and construction firms, gave a presentation on alternative contracting methods for large construction projects. The default contracting method within New Mexico's Procurement Code, called the "design-bid-build" process, divides public infrastructure projects into separate design contracts and building contracts. The Procurement Code is particularly stringent in requiring design-bid-build for transportation projects. The APDTF believes that the design-bid-build process should remain the predominant contracting method for public projects. However, it recommends that the Procurement Code be amended to allow for agencies to have greater authority to issue combined "design-build" contracts when stringent deadlines for project completion warrant them or other considerations make them appropriate. Each contracting method balances costs, service quality and time differently, to some degree.

Bond Revenues as a Source for Transportation Funding. State Board of Finance Director Stephanie Schardin Clarke gave a report on the two main bonding programs used for public infrastructure: general obligation bonds and severance tax bonds (STBs). GO bonds require voter approval, can only be issued every two years and generally require support throughout the state. If a statewide assessment prioritized transportation projects in one region, the bond proposal might not garner adequate support. STB revenues capture the taxes from mineral production, such as oil production. STB revenues are divided as follows: 50% of STB revenues go into senior STBs that are used for a variety of capital projects, and 45% of the revenues go into a supplemental account that has been used for school building construction over the last 10 years. The remaining revenue stays in the Severance Tax Bonding Fund. In July, senior STB revenues available for legislative appropriation for FY 2016 were projected to be over $220 million, and supplemental STB revenues for FY 2016 were projected to be approximately $200 million.

2014 Work Plan and Meeting Schedule

2014 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

Membership

Rep. Roberto "Bobby" J. Gonzales, Chair
Sen. John Arthur Smith, Vice Chair
Rep. Ernest H. Chavez
Sen. Lee S. Cotter
Sen. Ron Griggs
Sen. Timothy M. Keller
Rep. Larry A. Larrañaga
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Clemente Sanchez

Advisory Members

Rep. Cathrynn N. Brown
Sen. Jacob R. Candelaria
Sen. Carlos R. Cisneros
Rep. Sharon Clahchischilliage
Rep. Nathan "Nate" Cote
Rep. Anna M. Crook
Sen. William H. Payne
Rep. Edward C. Sandoval
Sen. William E. Sharer

Work Plan

The New Mexico Legislative Council created the Transportation Infrastructure Revenue Subcommittee on May 5, 2014. Because transportation infrastructure is a foundational element for many public and private sector endeavors, the subcommittee will consider 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 2014 interim, the Transportation Infrastructure Revenue Subcommittee proposes to review and discuss the following topics, as time permits:

A. <u>transportation infrastructure needs within the state and any relevant revenue shortfalls, including a discussion of</u>:

(1) any maintenance, reconstruction and expansion needs for the state highway and road system with examination of:

(a) the structural integrity of New Mexico's highways and bridges;
(b) road and highway infrastructure demands created by the recent growth in oil production;
(c) the condition and safety of rural roads and highways; and
(d) initial findings from the Department of Transportation (DOT) during its development of a long-range road and highway plan;

(2) any secondary infrastructure build-out needs connected to intermodal freight rail centers, including a study of:

(a) the City of Clovis' experience as a freight rail throughpoint;
(b) the anticipated short- and long-term infrastructure needs in Santa Teresa; and
(c) the potential needs and benefits of a proposed intermodal freight rail center in McKinley County;

(3) the feasibility of retaining passenger rail service along Amtrak's Southwest Chief line between Albuquerque and the New Mexico-Colorado border, including review of:

(a) an engineering report from the DOT on the costs of rebuilding, and possible purchase, of the line in New Mexico;
(b) an economic cost-benefit analysis from the DOT regarding the economic impact of retaining or losing this service; and
(c) a legal analysis of how the state may participate in a multi-party agreement to fund continued Southwest Chief service in northern New Mexico;

(4) how the general aging of New Mexico's population is changing transportation demands;

(5) technological advances such as "smart" traffic systems to decrease congestion and commuter times; and

(6) the condition of New Mexico's general aviation airports;

B. <u>options for transportation infrastructure funding and financing, including</u>:

(1) dedication of certain fuel tax and other "user fee" receipts to road maintenance and construction programs;

(2) methods implemented by other states to raise user fee revenues;

(3) use of severance tax bond revenue for transportation and other public infrastructure;

(4) local government apportionments from fuel tax receipts;

(5) public-private partnership financing mechanisms;

(6) New Mexico's weight distance fees; and

(7) industry-government cost-sharing agreements; and

C. <u>any congressional action to address the shortfall in the federal Highway Trust Fund and the ramifications for New Mexico</u>.

Transportation Infrastructure Revenue Subcommittee
2014 Approved Meeting Schedule

Date	Location
June 10	State Capitol, Santa Fe
July 23	State Capitol, Santa Fe
August 5	State Capitol, Santa Fe (Joint Meeting with Revenue Stabilization and Tax Policy Committee)
October 2	Santa Teresa (Joint Meeting with Economic and Rural Development Committee)
November 5	State Capitol, Santa Fe

AGENDAS

Revised June 9, 2014

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

June 10, 2014
Room 309, State Capitol
Santa Fe, New Mexico

Tuesday, June 10

9:30 a.m.		**Call to Order** —Representative Roberto "Bobby" J. Gonzales, Chair
9:35 a.m.	(1)	**Status Report — Department of Transportation** —Tom Church, Secretary, Department of Transportation (DOT) —Clinton Turner, Chief Economist, DOT —Tamara P. Haas, Director, Strategic Planning and Asset Management Division, DOT —David Hadwiger, Staff Manager, Research Bureau, DOT —Ernest D. Archuleta, Director, Operations Support Division, DOT
11:00 a.m.	(2)	**2014 Interim Work Plan, Itinerary and Meeting Schedule** —Subcommittee Members
12:30 p.m.		**Adjourn**

Revised: July 22, 2014

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

July 23, 2014
Room 309, State Capitol
Santa Fe, New Mexico

Wednesday, July 23

9:30 a.m.		**Call to Order** —Representative Roberto "Bobby" J. Gonzales, Chair
9:35 a.m.	(1)	**Wyoming's Approach to Transportation Funding** —Wyoming State Senator Michael Von Flatern, Chair, Transportation, Highways and Military Affairs Committee, Wyoming State Senate
11:00 a.m	(2)	**The Impacts of the Production Boom on Regional Transportation Systems** —Ralph Meeks, P.E., District 2 Engineer, Department of Transportation (DOT) —Miguel Gabaldon, P.E., District 5 Engineer, DOT
11:30 a.m.	(3)	**Road Conditions in Eddy County** —Representative Cathrynn N. Brown
12:00 noon	(4)	**Projections for Severance Tax and Other Revenue Streams** —Stephanie Schardin Clarke, Director, State Board of Finance —Jimmy Rodriguez, Executive Capital Analyst, Capital Outlay Bureau, Department of Finance and Administration
1:00 p.m.		**Adjourn**

Revised: August 4, 2014

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

August 6, 2014
Room 307, State Capitol
Santa Fe, New Mexico

Wednesday, August 6 — Joint Meeting with the Revenue Stabilization and Tax Policy Committee

9:00 a.m.		**Call to Order** —Representative Roberto "Bobby" J. Gonzales, Chair, Transportation Infrastructure Revenue Subcommittee —Representative Edward C. Sandoval, Chair, Revenue Stabilization and Tax Policy Committee
9:05 a.m.	(1)	**Federal Highway Trust Fund — Status of Congressional Action and the Implications for New Mexico's Highway Program Funding** —Tom Church, Secretary, Department of Transportation (DOT)
10:00 a.m.	(2)	**Wyoming: An Approach for Enacting a Comprehensive Response to Transportation Funding** —Wyoming State Representative Michael K. Madden, Chair, House Revenue Committee, Wyoming State House of Representatives
11:00 a.m.	(3)	**North Dakota: Meeting the Highway Funding Needs of an Oil Boom** —North Dakota State Senator Ray Holmberg, Chair, Senate Appropriations Committee, North Dakota State Senate
12:00 noon	(4)	**New Mexico Highway Funding — Comparison Projections with Different Fee Structures** —Clinton Turner, Chief Economist, DOT
1:00 p.m.		**Lunch** **Revenue Stabilization and Tax Policy Committee Adjourns**

1:30 p.m. (5) **McKinley County Bridge Conditions — Impacts on Getting Children to School**

—Jeff Irving, Road Superintendent, McKinley County

—Jeff Bond, Director of Transportation, Gallup-McKinley County School District (GMCSD)

—William D. Noe, Transportation/Bus Barn Supervisor, GMCSD

2:30 p.m. (6) **Alternative Project Delivery Task Force (APDTF)**

—Albert M. Thomas, P.E., Senior Vice President, Bohannan Huston, Inc.; Director, American Council of Engineering Companies

—Adam Triolo, President, AUI, Inc.; President, Associated Contractors of New Mexico

—Robert Ortiz, P.E., Parsons Brinckerhoff; Chair, APDTF

3:30 p.m. **Adjourn**

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

October 2, 2014
Santa Teresa High School
Santa Teresa, New Mexico

Thursday, October 2 — Joint Meeting with the Economic and Rural Development Committee

9:00 a.m. **Call to Order**
—Representative Roberto "Bobby" J. Gonzales, Chair, Transportation Infrastructure Revenue Subcommittee
—Representative Debbie A. Rodella, Chair, Economic and Rural Development Committee

9:15 a.m. (1) **Santa Teresa: A Potential Economic Powerhouse**
—Jerry Pacheco, Founder and Vice President, Border Industrial Association

10:15 a.m. (2) **New Residents, Commuters and Industry: Is the Road System in Dona Ana County Up to the Challenge?**
—Chuck McMahon, Assistant County Manager, Dona Ana County
—Homer Bernal, International Programs Planner, Department of Transportation (DOT)
—Claude Morelli, Advanced Project Manager, 2040 Statewide Long-Range Multimodal Transportation Plan, DOT

11:15 a.m. (3) **Logistics for Community Growth: Public Infrastructure Requirements to Underpin Economic Expansion**
—Dr. Kevin Boberg, Ph.D., Vice President for Economic Development, New Mexico State University

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

1:30 p.m. **Tour of Santa Teresa Road System**

3:30 p.m. **Adjourn**

Revised: November 4, 2014

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

November 6-7, 2014
Room 307, State Capitol
Santa Fe, New Mexico

Thursday, November 6

9:30 a.m.		**Call to Order** —Representative Roberto "Bobby" J. Gonzales, Chair
9:35 a.m.	(1)	**Southwest Chief Rail Service: An Examination of State Authorities and Limitations Pursuant to the Constitution of New Mexico** —Arthur J. Waskey, Contract Staff Attorney, Legislative Council Service
10:30 a.m.	(2)	**Southwest Chief Rail Service: Engineering Cost Estimate Review and Economic Impact Analysis** —Frank Sharpless, Transit and Rail Director, Department of Transportation (DOT)
12:00 noon		**Lunch**
1:00 p.m.	(3)	**Los Lunas I-25 Interchange Proposal** —Charles Griego, Mayor, Los Lunas —Greg Martin, Village Administrator, Los Lunas —Kevin Eades, P.E., Molzen-Corbin
2:00 p.m.	(4)	**Update on Transportation System Needs** —Ernest Archuleta, P.E., Operations Division Director, DOT —Elias Archuleta, P.E., Chief Engineer, DOT
2:30 p.m.	(5)	**Critical Transportation Needs and Issues in Eddy County** —Susan Crockett, Vice Chair, Eddy County Commission —Kenney Rayroux, Assistant County Manager, Eddy County —Ray Romero, Public Works Director, Eddy County —Debra Hicks, President and Chief Executive Officer, Pettigrew & Associates PA
3:30 p.m.		**Recess**

Friday, November 7

9:30 a.m.		**Call to Order** —Representative Roberto "Bobby" J. Gonzales, Chair
9:35 a.m.	(6)	**Review of Proposed Legislation**
12:30 p.m.		**Adjourn**

MINUTES

MINUTES
of the
FIRST MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

June 10, 2014
Room 322, State Capitol
Santa Fe

The first meeting of the Transportation Infrastructure Revenue Subcommittee was called to order at 9:35 a.m. by Representative Roberto "Bobby" J. Gonzales, chair, on Tuesday, June 10, 2014, in Room 309 of the State Capitol.

Present	**Absent**
Rep. Roberto "Bobby" J. Gonzales, Chair	Rep. Patricia A. Lundstrom
Sen. John Arthur Smith, Vice Chair	
Rep. Ernest H. Chavez	
Sen. Lee S. Cotter	
Sen. Ron Griggs	
Sen. Timothy M. Keller	
Rep. Larry A. Larrañaga	
Rep. Jane E. Powdrell-Culbert	
Sen. Clemente Sanchez	

Advisory Members
Rep. Cathrynn N. Brown
Sen. Jacob R. Candelaria
Sen. Carlos R. Cisneros
Rep. Sharon Clahchischilliage
Rep. Nathan "Nate" Cote
Rep. Anna M. Crook
Sen. William H. Payne
Rep. Edward C. Sandoval
Sen. William E. Sharer

Guest Legislator
Rep. Nora Espinoza

Staff
Mark Edwards, Legislative Council Service (LCS)
Peter Kovnat, LCS
Randy Taylor, LCS

Guests
The guest list is in the meeting file.

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

Tuesday, June 10

Representative Gonzales began the meeting by having all subcommittee members, staff and attendees introduce themselves. He then expressed his view of the subcommittee's purpose. Given economic growth in the state and the drop in federal funding for transportation, Representative Gonzales pointed to a need for the subcommittee to develop solutions for New Mexico. He then noted that cooperation between the legislature and the executive would be required for success.

Status Report — Department of Transportation

Tom Church, secretary of transportation, began by introducing himself and his staff to the subcommittee. He then outlined his presentation: a brief overview of the Department of Transportation (DOT), where the federal government stands as far as transportation funding and the current condition of roads in New Mexico.

Secretary Church explained that the DOT, which was renamed in 2003, has shrunk throughout his 21-year career there; the department has reduced its exempt employee positions from 16 to four and has reduced its managerial positions by one-third to give more decision-making authority to rank-and-file employees. Secretary Church stated that about 80% of the DOT's personnel work on the highways themselves and that the DOT has one of best safety ratings for staff in the nation, with no deaths in three years. The department, Secretary Church estimated, has a vacancy rate of 12% to 13% and a 10% attrition rate. The DOT is using a $7 million to $8 million savings created by attrition and vacancies to pay a union settlement and for additional chip seal road maintenance.

Secretary Church then reviewed some of the DOT's finances. The department's fiscal year (FY) 2015 operating budget is $862 million, with $34.9 million in the State Road Fund. Secretary Church explained that the State Road Fund works mainly by paying for projects and then seeking reimbursement from the federal government, and because of that structure, the fund should always have a positive balance. Secretary Church added that the DOT manages three programs under the performance-based budget standard; the largest program manages federal funds. The DOT had a zero-finding audit of its programs last year but has hired a different firm this year to double-check last year's findings.

Secretary Church's next topic was the DOT's strategic plan and vision. He stressed that safety and providing safe roadways for New Mexicans is the DOT's number-one priority. To that end, he stated that the DOT has focused on infrastructure upkeep, rather than new construction. Related to that point, Secretary Church assured the subcommittee that, although bridge safety is a national concern at the moment, 96% of New Mexico bridges are either functional or above standards. The condition of highway rest areas was an area of concern highlighted by Secretary Church. He told the subcommittee that many rest areas are 1950s-era buildings or older, and the DOT is trying to keep them functional. He noted that, faced with a similar problem, Arizona had closed its rest stops and faced a severe public backlash. He stated that the DOT is trying to avoid a similar result in New Mexico.

Secretary Church then outlined some main challenges facing the DOT. The first challenge he mentioned was the limited growth in state highway funds. Funding levels have fallen from their peak in FY 2007, and they are not expected to recover until FY 2018. Secretary Church listed several factors contributing to the low growth of funds, including:

- improved fuel efficiency in cars and trucks; the gas tax's value is projected to drop 27% due to fuel efficiency mandated by the federal corporate average fuel economy standards;

- lower vehicle miles; the boomer and millennial generations are not driving as much as their parents and grandparents did; and

- higher construction costs due to inflation.

Given these developments, Secretary Church said that the DOT is projecting that it will reach a fiscal cliff by FY 2025, unless there is major reinvestment in the State Road Fund.

In addition to the State Road Fund's challenges, Secretary Church stated that receipt of federal funds may be a growing issue. The federal Highway Trust Fund is expected to run out of reserves sometime in August. If that happens, Secretary Church said, the federal government would pay their obligations to states on a rolling basis as they receive revenue. The resulting delay in payments could be anywhere from two to six months, and if that occurs, the DOT will have to radically change the way it manages its finances. In that case, Secretary Church stated, the DOT will have to essentially shut down the road program, resulting in a loss of $300 million to $350 million to the state economy in the next six months.

Beyond funding concerns, Secretary Church highlighted staff recruitment and retention as an ongoing issue faced by the DOT. Remarking on the growth in the oil industry, he cited licensed commercial (CDL) drivers as a particular concern. The DOT's experience is that once it trains CDL drivers, they tend to leave for higher-paying jobs in southeast New Mexico.

As for engineering concerns, Secretary Church also elaborated on how heavy-truck traffic and the climate are affecting New Mexico roads. He stated that an increasing amount of heavy-truck traffic is battering the state's roads. Further, drought conditions are drying out the soils underneath highway infrastructure. This makes highways vulnerable to increased erosion or to shifting during episodic rain and snow events, which happened last year.

At this point, the subcommittee paused for questions. In a general discussion, the following issues were raised.

- The DOT's vacancy rate is currently around 13%, meaning there are about 250 open positions. The DOT is in the process of filling vacancies, although it has budgeted for an 11% vacancy rate and will not go lower than that this fiscal year.

- Of the DOT's $880 million budget, $162 million goes to debt servicing, which is 19% of the DOT's budget; $122 million goes to federal debt servicing; and the remaining $40 million goes to servicing the Rail Runner debt.

- A question was raised about the possibility of selling the Rail Runner. The response was that the DOT has explored the option, but it has not found a buyer.

- Given the concern about the number of suicides committed by people jumping from the Rio Grande Gorge Bridge, the DOT has studied putting up fencing and other measures to limit the ability to jump at the bridge. Unfortunately, fencing the bridge would diminish its attraction as a tourist stop and might just move jumpers to the gorge itself.

- The DOT has not examined suicide prevention with regard to the Rail Runner.

The subcommittee then focused the discussion on ideas related to bringing more funding into DOT programs. It was noted that the current gas tax was established in 1993, and the current excise tax was established in 1987. Further information developed and ideas expressed during this discussion included:

- weight-distance fees: the DOT has formed a group with the Taxation and Revenue Department, the Department of Public Safety and the Motor Transportation Division of the Department of Public Safety to ascertain how effectively these fees are being collected;

- the DOT owns 265 non-right-of-way parcels of land throughout the state. Subcommittee members suggested that the DOT look into the potential for selling the locations that are not serving the DOT's programs; and

- the policy of gas tax exemption payments was discussed, including the costs of lost revenue versus the benefits of reducing tax-exempt competition from potential additional tribal retailers.

Concluding this discussion, a subcommittee member asked Secretary Church what other states are doing to address similar transportation funding problems. The secretary gave the following examples.

- North Dakota is diverting $100 million from its general fund to transportation over four years.

- Wyoming has raised its gas tax 10 cents a gallon.

- Oregon has begun a system of pay-for-use that tracks vehicle mileage.

- Massachusetts recently passed local or regional taxes for respective areas that require construction.

At this point, Representative Gonzales remarked that the subcommittee needed to proceed to the rest of its agenda, so he requested that Secretary Church and his staff return at a later date to complete the DOT report.

Work Plan Review

Mr. Edwards reviewed the tentative work plan for the subcommittee. He noted that the work plan has two major categories:

(1) the current and projected transportation needs for transportation infrastructure around the state and the costs associated with it; and

(2) the potential methods to generate funding for that infrastructure.

A general response from subcommittee members to the work plan was that it was too ambitious, given the limited time available on the subcommittee's schedule for the year. Staff was directed, to the extent possible, to concentrate presentations on various methods to provide funding for transportation. Subcommittee members expressed a need for presentations from policymakers in other states that had implemented various methods. Additionally, subcommittee members noted the value of having presentations from constituencies in need of transportation infrastructure.

Additional suggestions and issues raised by subcommittee members with regard to the work plan included:

- a need for the subcommittee to examine potentially challenging ideas, including considering raising gas and excise taxes;

- looking at temporarily diverting a portion of severance tax funds from capital outlay to the State Road Fund;

- developing a pilot research program to study how infrastructure improvements have affected local economies; and

- looking at the distribution of fuel taxes that are made to local and county road funds and whether they are functioning equitably. It was noted that residential roads in many communities are in bad shape.

It was noted that resolving the funding problem could prove challenging. To this point, a subcommittee member concluded that developing a long-term solution to the issue would be preferable to having to revisit it on a repeated basis.

Adjournment

There being no further business before the subcommittee, the meeting adjourned at 12:35 p.m.

MINUTES
of the
SECOND MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

July 23, 2014
Room 309, State Capitol
Santa Fe

The second meeting of the Transportation Infrastructure Revenue Subcommittee was called to order at 9:35 a.m. by Representative Roberto "Bobby" J. Gonzales, chair, on Wednesday, July 23, 2014, in Room 309 of the State Capitol.

Present	**Absent**
Rep. Roberto "Bobby" J. Gonzales, Chair	Sen. John Arthur Smith, Vice Chair
Rep. Ernest H. Chavez	Sen. Timothy M. Keller
Sen. Lee S. Cotter	
Sen. Ron Griggs	
Rep. Larry A. Larrañaga	
Rep. Patricia A. Lundstrom	
Rep. Jane E. Powdrell-Culbert	
Sen. Clemente Sanchez	

Advisory Members

Rep. Cathrynn N. Brown	Sen. Jacob R. Candelaria
Sen. Carlos R. Cisneros	Sen. William H. Payne
Rep. Sharon Clahchischilliage	Sen. William E. Sharer
Rep. Nathan "Nate" Cote	
Rep. Anna M. Crook	
Rep. Edward C. Sandoval	

Staff
Mark Edwards, Legislative Council Service (LCS)
Peter Kovnat, LCS
Randy Taylor, LCS

Guests
The guest list is in the meeting file.

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

Wednesday, July 23

Representative Gonzales called the meeting to order at 9:35 a.m. and welcomed those in attendance. The agenda was then modified to move the Department of Finance and Administration's presentation to the end of the meeting.

Wyoming's Approach to Transportation Funding

Wyoming State Senator Michael Von Flatern, chair of the Transportation, Highways and Military Affairs Committee in the Wyoming State Senate, introduced himself and explained some of his background as a state senator. Senator Von Flatern explained that Wyoming and New Mexico are very similar, outside of the Albuquerque metropolitan area, in that each state is sparsely populated with long roads connecting small towns. Additionally, he suggested that New Mexico may be a "bridge state" like Wyoming. He said that in a bridge state, most people driving in the state are driving through the state to somewhere else.

Senator Von Flatern next explained that Wyoming had traditionally funded its road programs through fuel taxes. He further noted that prior to 2013, Wyoming had last raised its fuel taxes in 1998 and that inflation had negated the purchasing power of that increase before the issue of road funding was revisited. He stated that Wyoming had been making up the shortfall in road funding through appropriations from its general fund.

Regarding the choice, and Wyoming's recent success in increasing fuel taxes, Senator Von Flatern brought the subcommittee's attention to his second handout listing roadway funding initiatives that had been attempted beginning in 2008. He specifically noted that Wyoming's road system is well-designed for toll roads but that an attempt to implement toll roads had failed in 2010. However, he pointed to toll road legislation as useful in raising awareness of the need for additional road funding.

He said the successful 2013 Wyoming legislative effort benefited from two factors: first, it had the support of the governor and the leadership of the legislature; and second, a coalition of 26 business and industry groups was formed specifically to promote the legislation. He remarked that some of his handouts were educational documents that had been created by this coalition.

Senator Von Flatern proceeded to highlight some issues that were raised during the debate on Wyoming legislation and how they were responded to. As an initial issue, Senator Von Flatern told the subcommittee that a constitutional provision in Wyoming prevents fuel taxes from being spent on anything but road maintenance and administration. He noted that this requirement reduces a concern that these revenues would be channeled to other purposes. Senator Von Flatern also emphasized that supporters of the legislation made a case that market forces play a greater role in determining gasoline and diesel prices than fuel taxes, and he noted a study of fuel prices displayed as a graph in his Fuel Tax Facts handout. However, he indicated that the two most persuasive arguments were:

(1) that transportation infrastructure is necessary for economic development; and

(2) that fuel taxes are essentially user fees — if you do not drive, you do not pay fuel taxes.

At this point, the subcommittee had a number of questions for Senator Von Flatern. Topics raised in general discussion included the following.

- Wyoming's fuel tax increase does not sunset. Although there were concerns that it is difficult to repeal a tax once it has been passed, Wyoming sought a predictable, sustainable source of funding rather than a one-time infusion of funds for its road program.

- Wyoming's system for road funding differs from New Mexico's in many ways: vehicle registrations are treated as local property taxes; counties and municipalities receive distributions for road maintenance based on lane miles and population; and Wyoming does not have a weight-distance tax.

- Wyoming does not issue bonds for road projects; rather, all road maintenance is pay-as-you-go.

Regarding the economic impact of the increase in fuel taxes, Senator Von Flatern stated that the increase in fuel taxes had allowed $40 million of road maintenance and construction projects to start within the last six months. Conversely, he directed the subcommittee's attention to the last page of his handout, which showed, according to his calculations, that the average difference in price per gallon before and after the tax hike was four cents. He then noted that Wyoming will hold its primary election in a few weeks and that the results may provide an indication of the reaction by Wyoming residents to the increase.

Following Senator Von Flatern's presentation, a subcommittee member remarked that New Mexico's system of bonding had benefits compared to a pay-as-you-go system in that it could support projects that would otherwise have long delays.

Road Conditions in Eddy and Lea Counties

Representative Brown began her presentation on road conditions in southeastern New Mexico by telling the subcommittee that traffic fatalities in Eddy and Lea counties this year are already double what they were last year. Further, she stated that fatalities are on a pace to possibly triple for the entire year. She noted that the unsafe road conditions are likely to get worse because local industry plans to increase development in the southeastern part of the state. Given the situation, Representative Brown stated that the roads in southeastern New Mexico desperately need improvement.

Representative Brown then directed the subcommittee's attention to the results of an online survey she had set up for the public to comment on road conditions. She provided the subcommittee with two handouts that showed the comments received and a numerical synopsis of the survey. Representative Brown stated that most respondents had voiced concerns about road safety due to increased traffic congestion, particularly the increase in heavy trucks on state roads, and the disrepair of county roads that drivers are using as an alternative to state roads.

Moving forward, Representative Brown emphasized that the problems with road conditions would require multiple solutions. She stated that some local companies would be willing to participate in public-private partnerships (P3s), and that one potash mining company has already provided funds for acceleration and deceleration lanes in some spots. Representative Brown told the subcommittee that rumble strips, broader road shoulders and simply repainting lane lines would all be welcome safety measures.

In response to a question by a subcommittee member, Representative Brown indicated that the intent of the survey had been to elicit community concerns about road conditions; therefore, it had not included questions about road funding.

Following Representative Brown's presentation, the subcommittee engaged in a general discussion, and the following ideas and questions were raised.

- Roads throughout the state are in critical condition. Traditionally, the Department of Transportation (DOT) is given discretion on how to allocate road funds, instead of having those funds earmarked for certain areas.

- Height and weight restrictions on county roads are not marked or enforced by the state.

- The DOT frequently deals with lawsuits over the safety conditions of its roads. The department's total yearly liability insurance is $15 million.

- It may be time to address the system of funding roads generally. Most of the burden is on gasoline and diesel taxes, and extra funding must either come from increasing taxes and raising fees or diverting funds from other uses.

Impacts of Production Boom on Regional Transportation Systems

Ralph Meeks, P.E., District 2 engineer, DOT, began his presentation by reiterating the conditions described by Representative Brown in southeastern New Mexico. Mr. Meeks testified that he currently has $200 million worth of ongoing projects, including State Transportation Improvement Plan (STIP) projects. Mr. Meeks told the subcommittee that $5 million of his budget goes to chip sealing, which is probably not enough money for maintenance to save the state money in the long run. As far as needs, Mr. Meeks said his district needs lane additions, grade separations and replacement of some of the district's bridges.

The subcommittee then had a short discussion before proceeding to the presentation on DOT District 5 and discussed the following.

- District 2 itself has not investigated P3s heavily. However, if there were clear rules and steps for P3s, industry may be interested in pursuing them. The subcommittee discussed the possibility of engaging with industry representatives at future meetings.

- There have been three successful P3s road projects in New Mexico: in Rio Rancho, at the Pueblo of Acoma and in Albuquerque on Paseo Del Norte. In Rio Rancho, Intel simply donated the money to the city.

- If federal money is involved, the partnership must abide by federal rules.

- P3s fundings may be difficult to secure in oil-producing counties, given how expensive major road projects are and the volatility of natural gas and oil prices.

Miguel Gabaldon, P.E., District 5 engineer, DOT, began by describing District 5's major highways. District 5 includes Santa Fe, parts of central New Mexico east of Albuquerque and the northwestern part of the state where the oil and gas industry is also present. Mr. Gabaldon testified that one of District 5's major issues involves caravans of heavy trucks that tax the capacity of District 5's highways. Most of Mr. Gabaldon's budget goes to preserving roadways rather than increasing capacity.

Looking forward, Mr. Gabaldon concluded that industry and tourism will continue to affect roads in District 5. Although it is currently unknown how much development is planned in the San Juan Basin in northwest New Mexico, oil and natural gas production in the region could potentially triple if the industry improves its takeaway capacity, which is the ability to transfer oil and natural gas to markets.

Motion.

A motion to approve of the minutes from the meeting on June 10 was adopted without objection.

Sources and Uses of State Capital Funding

Stephanie Schardin Clarke, director, State Board of Finance, gave an overview of how two of New Mexico's main bonding programs are used for public infrastructure projects.

- General obligation (GO) bonds are issued by the state subject to voter approval. Projects for these bonds are proposed by the legislature every two years. GO bonds have been used primarily for higher education, libraries and public school projects.

- The Severance Tax Bonding Fund (STBF) captures taxes from the production of oil, natural gas and other minerals. The revenues from this fund currently support two categories of funding streams: senior severance tax bonds (STBs) and supplemental STBs. Between these two categories, up to 95% of the previous year's STBF revenues may be bonded. Senior STB revenues are the source for capital outlay projects approved by the legislature. They are used for all manner of public infrastructure projects, although certain percentages have been set aside for water projects and for the Tribal Infrastructure Trust Fund and Colonias Infrastructure Trust Fund. Supplemental STB revenues are dedicated to public school capital projects.

Ms. Schardin Clarke then discussed how the Infrastructure Capital Improvement Plan (ICIP) program interacts with STB funding. She said that an ICIP establishes planning priorities for future capital outlay projects five years in advance. About 98% of local entities participate in the ICIP program each year. She emphasized that an ICIP is just a list of requests. The requests are not necessarily funded but are used more as a vehicle to assess needs in advance.

Ms. Schardin Clarke then directed the subcommittee's attention to the pie charts on pages 7 and 9 of her handout. These charts show the actual uses for bond funds over the last three years and the ICIP requests for this year. Ms. Schardin Clarke noted that local road and bridge projects had historically received about 4% of bond revenues. She also noted that public schools and higher education capital projects constituted the majority of bond revenue expenditures.

Responding to questions from subcommittee members, Ms. Schardin Clarke raised two additional ideas.

- GO bonds typically necessitate broad support throughout the state to pass. If a statewide assessment of roads prioritized projects in only specific counties, an effort to use GO bonds to fund those projects might not garner adequate support from other counties.

- STB funding has two limitations: the previous year's total revenues and actual cash on hand. The statutory limit is a percentage of the previous year's STBF revenue, but the practical limit is the lesser of the two.

Adjournment

There being no further business before the subcommittee, the meeting adjourned at 1:40 p.m.

MINUTES
of the
THIRD MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

August 6, 2014
Room 307, State Capitol
Santa Fe

The third meeting of the Transportation Infrastructure Revenue Subcommittee (TRANS) was held as a joint meeting with the Revenue Stabilization and Tax Policy Committee (RSTP). The meeting was called to order at 9:03 a.m. on Wednesday, August 6, 2014, in Room 307 of the State Capitol by Representative Roberto "Bobby" J. Gonzales, chair, TRANS.

Present	**Absent**
Rep. Roberto "Bobby" J. Gonzales, Chair	Sen. Timothy M. Keller
Sen. John Arthur Smith, Vice Chair	Rep. Patricia A. Lundstrom
Rep. Ernest H. Chavez	
Sen. Lee S. Cotter	
Sen. Ron Griggs	
Rep. Larry A. Larrañaga	
Rep. Jane E. Powdrell-Culbert	
Sen. Clemente Sanchez	

Advisory Members

Rep. Cathrynn N. Brown	Sen. Jacob R. Candelaria
Sen. Carlos R. Cisneros	Rep. Nathan "Nate" Cote
Rep. Sharon Clahchischilliage	Sen. William H. Payne
Rep. Anna M. Crook	Sen. William E. Sharer
Rep. Edward C. Sandoval	

Staff
Mark Edwards, Legislative Council Service (LCS)
Peter Kovnat, LCS
Randy Taylor, LCS

Guests
The guest list is in the meeting file.

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

__Wednesday, August 6__

Status of Congressional Action on the Federal Highway Trust Fund (HTF) and Implications for New Mexico's Highway Program Funding

Tom Church, secretary, Department of Transportation (DOT), stated that there had been differing House and Senate proposals in Congress for funding the federal HTF. However, Congress had been able to pass a bill that funds the HTF through May 2015. However, he indicated, this is a relatively short-term solution. Secretary Church stated that if Congress does not craft long-term funding legislation before June 2015, New Mexico will have to cut back on its road spending. Secretary Church stated that the DOT has not yet taken any drastic steps regarding reducing spending. Rather, the DOT has been able to move $12 million within DOT programs to use for striping, signage and overlays throughout the state.

In the following discussion, Secretary Church raised two concerns about how the federal process affects DOT programs. First, the DOT uses federal funding to help service debt, and there is a major payment due in June 2015. If Congress has not passed a long-term funding bill for the HTF by that date, a large portion of the DOT's state funding will have to be redirected to debt service. Second, the lack of certainty in federal funding is affecting the DOT's planning process. The DOT may not begin designing projects until funding for the project is identified. The standard planning and design process takes three years, and the funding issue creates a delay in road projects. He noted that one way to shorten the process is to use design-build techniques, but those must be authorized by the legislature on a project-by-project basis.

At this point, Senator Griggs proffered a concept for dedicating additional state funds to New Mexico's road construction and other public infrastructure needs. He suggested that $100 million of annual severance tax bond revenues for each of the next four years could be directed toward statewide construction programs. In the concept he raised, two years of this funding would be dedicated to state roads and one year each would be directed to public building construction and to water projects. In the ensuing discussion, RSTP and TRANS members raised questions about how projects would be prioritized. A separate issue raised by a committee member was whether the proposal was large enough to address the problem. It was noted that the DOT has a much larger shortfall in funding than would be covered by the proposal, including a "debt-cliff" payment due at the end of 2025.

Wyoming: An Approach for Enacting a Comprehensive Response to Transportation Funding

Wyoming State Representative Michael K. Madden, chair, House Revenue Committee, Wyoming State House of Representatives, began by comparing Wyoming's and New Mexico's transportation funding and financing. Representative Madden noted that New Mexico and Wyoming have comparatively low vehicle fuel taxes, which he referred to as user fees. Also, the transportation departments in both states have been rated nationally within the top five for cost efficiency. (See the Reason Foundation report, handout 2A.) Further, both states supplement their fuel tax revenue for road construction programs. Wyoming supplements with mineral royalties and commercial trucking registration fees; New Mexico relies on a weight-distance tax instead.

Representative Madden then described some ideas that were successful in Wyoming for increasing fuel taxes. First, he argued that fuel taxes are fair user fees; if one does not use the roads, one does not pay the fuel tax that pays for their maintenance or construction. Second, well-constructed and well-maintained roads save money in the long run by reducing damage to vehicles. Finally, he noted that fuel tax is typically a set fee per gallon, unlike a sales tax, which is a percentage of the cost. He argued that raising a fuel tax allows competing vendors to adjust the sale cost according to their own business plans. He was of the opinion that the fuel tax increase enacted by Wyoming resulted in a much lower increase in cost to the consumer than if it had been a sales tax.

Representative Madden next explained the process for how fuel tax legislation was promoted in Wyoming. Representative Madden stressed that timing can be very important for a public discussion regarding fuel taxes. The legislative leadership in Wyoming had been supporting a variety of legislation to increase road funding for several years, but without much success. The effort gained momentum when a coalition of taxpayer and industry groups in Wyoming started publicly supporting the idea of raising the fuel tax. Representative Madden believes the coalition's efforts influenced public opinion. (See handouts 2B, 2C and 2D for publications by the Wyoming coalition.)

Representative Madden explained that even with favorable public dialogue, the effort required an intensive communication effort by Wyoming's legislative leadership to keep in contact with the governor and with each individual legislator. Evidently, the effort did not get strong support from Wyoming's governor; Representative Madden stressed that the request to Wyoming's governor was simply not to veto the legislation should it pass the legislature.

Representative Madden then summarized Wyoming's experience over the past year since raising its fuel tax rate. Representative Madden expressed his opinion that the results over the past year have mitigated unfounded fears about raising the rate. Further, revenues from fuel taxes have been higher than projections. He explained that the greater revenues stemmed from two processes: 1) retail businesses with multiple locations across state lines had been internalizing the lower fuel fees in Wyoming but charging similar prices at all their locations; and 2) the fuel tax payment rules for commercial truckers under the International Fuel Tax Agreement, commonly referred to as IFTA, had been depressing commercial fuel sales in Wyoming although its fuel tax was significantly lower than in neighboring states.

During the discussion concluding his presentation, Representative Madden expanded upon two distinctions between Wyoming and New Mexico. Unlike New Mexico, Wyoming does not bond for any road construction or maintenance. This limited some of the options for road financing. Conversely, Wyoming has a constitutional provision requiring that fuel taxes be spent on roads. Representative Madden indicated that this provision was helpful in gaining public support for the fuel tax legislation.

Representative Madden also noted that Wyoming used to have a weight-distance tax as New Mexico currently does. Wyoming's trucking industry lobbied the legislature to switch to higher vehicle registration fees because complying with the weight-distance tax was too cumbersome for truckers. He remarked that New Mexico may have to drastically increase its commercial truck registration fee in order to make the same change and keep it revenue-neutral.

As a final note, Representative Madden remarked that Wyoming's alternative for needed road funds would have been to use general fund money. He argued that using general fund money for roads would have given an unfair benefit to tourists, cross-border commuters and other road users who do not pay taxes into general fund.

North Dakota: Meeting the Highway Funding Needs of an Oil Boom

North Dakota State Senator Ray Holmberg, chair, Senate Appropriations Committee, North Dakota State Senate, began his presentation by describing North Dakota's recent economic growth. North Dakota has ranked first in the United States in personal income growth in three of the last four years. An oil boom in the western part of the state has been responsible for much of the growth. The oil industry accounts for 15% of the work force in North Dakota and about 30% of all wages paid. The state is producing approximately one million barrels of oil a day. Senator Holmberg cited a Moody's analysis that transportation infrastructure health will ultimately decide how long North Dakota can continue to grow.

Senator Holmberg proceeded to explain that North Dakotans are historically averse to raising tax rates and have resisted efforts to raise rates during the recent growth, reasoning that tax revenues are high enough to fund the state's needs already. Rather than raise fuel tax rates, the North Dakota Legislature appropriated $1.2 billion from the state's general fund to the state's highway fund specifically for projects in areas affected by oil and gas development. Senator Holmberg stated that the appropriation was one of the first things the legislature did. He noted that this was important because permafrost conditions impose time limits during North Dakota's construction season.

Senator Holmberg told the RSTP and TRANS members that appropriating from the general fund had been a challenge. The North Dakota Legislature had not diverted funds from the general fund to the highway fund before, so legislators were reluctant to do so for the first time. Legislators were also reluctant to earmark funds for certain geographic areas, thinking that doing so could be a slippery slope toward dictating how the North Dakota transportation department spends its appropriations. Further, there was a concern that appropriating from the general fund would also encourage other groups to lobby for special interest appropriations in the future.

During a general discussion following these remarks, Senator Holmberg explained that, unlike New Mexico, North Dakota does not have a highway commission. It simply has a secretary of transportation, appointed by the governor, who administers North Dakota's transportation department.

Senator Holmberg also expounded on some of the challenges of having an oil boom. On the one hand, North Dakota has had such a large increase in state revenues that the legislature has had to create mechanisms to protect some revenues as a hedge against future downturns. The state has created a Legacy Fund that receives 30% of all tax revenue derived from oil and natural gas extraction. The legislature may not appropriate from the fund until 2017, and it may only do so after that with a two-thirds' vote. On a negative note, the oil boom has created some problems for retirees in oil-producing counties because the cost of living has increased.

Responding to questions from a committee member about oil development, Senator Holmberg explained that North Dakota had developed a compact with one of its oil-producing Native American tribes regarding production regulations and that this helped drive on-reservation oil development. He responded to a question about the proposed Keystone pipeline, saying it would be helpful in getting North Dakota's oil to market. He noted that the alternative is to use freight rail.

New Mexico Highway Funding — Comparison Projections with Different Fee Structures

Secretary Church and Clinton Turner, chief economist, DOT, began by explaining to the RSTP and TRANS that the State Road Fund is supported by four revenue streams: (1) a gasoline tax; (2) vehicle registration fees; (3) a diesel fuel tax; and (4) a weight-distance fee. The first two taxes/fees are paid mostly by families, and the last two are paid mostly by the commercial trucking industry in New Mexico.

Secretary Church and Mr. Turner then directed the members' attention to the handout they provided, which shows how increases in different tax rates and fees would affect the State Road Fund. Mr. Turner stated that one-cent increases in the gasoline and diesel taxes would increase revenues by $8.7 million and $5 million, respectively. Increasing vehicle registration taxes by 10% would increase revenues by $7.8 million, and increasing the weight-distance tax by 10% would increase revenues by $8 million. Additionally, Secretary Church pointed out that abolishing the weight-distance tax would require raising vehicle registration fees to around $3,000 a year in order to remain revenue-neutral.

After these opening remarks, Secretary Church gave an overview of the DOT's financial status. He said the indications are that federal funding will remain flat and that state road revenues will increase 2% in the current fiscal year. With those funding limits in mind, he pointed out that 19% of the DOT's annual budget is dedicated to debt service. Therefore, the DOT's focus has of necessity been on maintaining roads rather than building new ones. It would require major new funding to allow for new construction.

Delving into the debt issue, Secretary Church explained that the DOT's total debt is $1.9 billion, including principal and interest. A complicating issue is that a significant portion of the debt is in the form of a floating interest rate on the bonds issued for the Rail Runner, he noted. He said it would require a $109 penalty payment to reconfigure the floating rate into a fixed rate.

Regarding the weight-distance fees, Secretary Church reported that the DOT has formed a working group with the Department of Public Safety and the Taxation and Revenue Department to investigate compliance issues with the weight-distance and oversize-truck payments. The group plans on bringing a recommendation to the next legislative session.

After Secretary Church and Mr. Turner made their presentation, the RSTP adjourned at 12:48 p.m.

Motion

A motion to approve the minutes from the TRANS meeting on July 23, 2014 was adopted without objection.

McKinley County Bridge Conditions — Impacts on Getting Children to School

Jeff Irving, road superintendent, McKinley County; Jeff Bond, director of transportation, Gallup-McKinley County School District (GMCSD); and William D. Noe, transportation/bus barn supervisor, GMCSD, gave a brief history of the bridges in McKinley County. Many of the bridges in McKinley County were bought as military surplus many years ago and were installed without engineering drawings. Although the county has maintained the bridges since they were purchased, more than 50 bridges now have load ratings lower than 10 tons, which means that most of the county's school buses cannot cross those bridges.

McKinley County negotiated with the Public Education Department for the replacement of five standard buses with smaller buses that are able to cross low-load-rated bridges, but they are not enough to completely address the problem. Mr. Irving directed the subcommittee's attention to a bridge inventory in the presenters' handout. The list shows the location and priority ranking of bridges in McKinley County. Sixteen bridges ranked "A" cannot carry buses or emergency vehicles; seven bridges ranked "B" cannot carry buses and have no alternate routes around the bridges; and other bridges cannot carry school buses but have an alternate route to avoid the bridge. Mr. Irving also referred to cost estimates at the back of the handout. Mr. Irving estimates the cost of an analysis of each bridge to be $150,000 to $250,000 and the actual cost of constructing the bridges to be $1 million to $2 million dollars.

The TRANS members then engaged in a general discussion in which three issues were examined. First, concerns were raised about whether the replacement of the five buses was enough to assure that students are getting to school and about the additional burdens on the school system to provide bus service. The presenters explained that the standard buses could carry up to 71 passengers, but the smaller replacements can only carry 34 passengers. For full bus loads, that would mean doubling the number of bus routes to carry the same number of students. They voiced concerns about whether the number of replacements was adequate to meet the demand. It was also noted by a TRANS member that the school system would have to pay for additional drivers if each route had to be driven twice.

A second issue raised was about jurisdiction. The presenters stated that a majority of the bridges and affected students are on tribal land. They noted that the Navajo transportation department has cooperated with the county to study the bridges and to determine the legal status of rights of way for the bridges. Responding to a question from a subcommittee member, the presenters said that the Navajo transportation department has not offered any funds to improve or construct bridges.

Responding to a question about whether many of these bridges simply need reinforcing additions instead of full replacement, Mr. Irving stated that this might very well be true. However, without an engineering analysis, it is not possible to determine where that would be feasible. At this point, Ray Trujillo, bureau chief, Bridge Design Bureau, DOT, informed the subcommittee that the DOT maintains two contracts for bridge assessment load rating, one with the University of New Mexico and one with New Mexico State University, for $150,000 each per year.

Motion

A motion was made and approved without objection to draft a committee funding bill to provide for an engineering evaluation for safety reinforcement of McKinley County bridges.

Alternative Project Delivery Task Force (APDTF)

Albert M. Thomas, director, American Council of Engineering Companies, and senior vice president, Bohannan Huston, Inc., greeted the subcommittee and explained that his goal was to introduce alternatives to the design-bid-build process and asked the subcommittee to amend the Procurement Code to include those alternative delivery methods. Mr. Thomas stated that the APDTF proposes adding three alternative project-delivery methods to the Procurement Code: (1) design-build; (2) construction manager general contractor (CMGC); and (3) job-order contracting (JOC).

Mr. Thomas stated that alternative project-delivery methods should be included in the Procurement Code because of increased public demand that roads be improved and that they be improved quickly. Mr. Thomas also stated that alternative project-delivery methods will improve quality, cost-effectiveness and safety in the long run. On a national level, alternative project-delivery methods are being used more widely, and all but 12 states allow design-build.

Mr. Thomas next explained the process of design-build. Design-build differs from traditional project delivery in that one contract is awarded to one bidder to both design and complete the project. In this way, risk is shifted to the bidder and the process is more efficient, allowing for one round of bidding. Mr. Thomas stated that design-build may be used for some projects in New Mexico but must be authorized by the legislature for road maintenance or construction. Four road construction or maintenance projects in New Mexico have used design-build, and each one was completed ahead of schedule.

Adam Triolo, president, AUI, Inc., and president, Associated Contractors of New Mexico, next described CMGC and a method related to it called construction manager at risk (CMR). Under CMR, subcontractors complete most of the project work. Under CMGC, the prime contractor completes most of the work. The benefits of CMGC are that the designer and contractor work and plan together early in the process, leading to greater cooperation between the contractor and designer, early risk identification and mitigation and transparent estimating. Mr. Triolo cited a project in Phoenix, Arizona, as an example of successful CMGC contracting. In that instance, the U.S. Environmental Protection Agency had declared that Phoenix's sewage system was inadequate. The city was given two years to bring the system in line with federal regulations, and it was able to meet the deadline by using CMGC.

Mr. Thomas then explained JOC, the last contracting alternative. Under JOC, an owner creates a base contract with one or more subcontractors for small, routine projects that can be completed relatively easily. The subcontractors are then "on call" on an as-needed basis by the owner for a certain number of jobs. This method increases flexibility in the procurement process and reduces project completion times. Currently, JOC is used primarily for water or wastewater projects.

In an ensuing general discussion, some concerns were raised by TRANS members regarding how much weight the price of a project is given within the three alternative project delivery methods. Each method prioritizes qualifications and value, separate from the final price to some degree. The presenters explained that national data collected so far show that alternative delivery methods cost as much or less than traditional procurement methods. The presenters further clarified that the APDTF intends for design-bid-build to remain the predominant method of project delivery, but it asks that the Procurement Code allow agencies to choose an alternative delivery method if the circumstances call for it.

A second concern raised by subcommittee members was whether smaller companies can compete for design-build contracts. The response from the presenters was that smaller companies may subcontract with a larger contractor to complete some of the work. The presenters further stated that the APDTF is currently compiling data on the four design-build contracts used by the DOT so far to determine exactly how much of the contracted work was done by small businesses.

Adjournment

There being no further business before the TRANS, the meeting adjourned at 3:34 p.m.

MINUTES
of the
FOURTH MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

October 2, 2014
Santa Teresa High School
Santa Teresa

The fourth meeting of the Transportation Infrastructure Revenue Subcommittee for the 2014 interim was held as a joint meeting with the Economic and Rural Development Committee and was called to order by Representative Roberto "Bobby" J. Gonzales, chair, on Thursday, October 2, 2014, at 9:14 a.m. at Santa Teresa High School in Santa Teresa.

Present	**Absent**
Rep. Roberto "Bobby" J. Gonzales, Chair	Sen. Timothy M. Keller
Sen. John Arthur Smith, Vice Chair	Sen. Clemente Sanchez
Rep. Ernest H. Chavez	
Sen. Lee S. Cotter	
Sen. Ron Griggs	
Rep. Larry A. Larrañaga	
Rep. Patricia A. Lundstrom	
Rep. Jane E. Powdrell-Culbert	

Advisory Members

Rep. Nathan "Nate" Cote	Rep. Cathrynn N. Brown
Rep. Anna M. Crook	Sen. Jacob R. Candelaria
	Sen. Carlos R. Cisneros
	Rep. Sharon Clahchischilliage
	Sen. William H. Payne
	Rep. Edward C. Sandoval
	Sen. William E. Sharer

Guest Legislators
Sen. Joseph Cervantes
Rep. Dona G. Irwin

Staff
Mark Edwards, Legislative Council Service (LCS)
Carolyn Ice, LCS

Guests
The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's web site.

Thursday, October 2

Representative Gonzales called the meeting to order at 9:14 a.m., and the meeting began with introductions from members of the subcommittee.

Santa Teresa: A Potential Economic Powerhouse

Jerry Pacheco, founder and vice president, Border Industrial Association (BIA), provided an overview of the industrial growth and development in the Santa Teresa area and a brief history of the association and its role in the area's economic development. He told the members that the BIA mission is to recruit companies to New Mexico's port-of-entry areas with Mexico. The BIA was formed in 2009 and is composed of more than 100 members involved in industrial operations. He stated that the association's member businesses have invested millions of dollars, which has resulted in billions of dollars in annual production and approximately 3,000 jobs for New Mexico residents.

Mr. Pacheco went on to explain that Mexico is one of the United States' largest trading partners and is New Mexico's largest trading partner. He stated that in 2012, New Mexico led the nation in percentage growth of exports. Emphasizing the importance of trade with Mexico, Mr. Pacheco noted that while the state experienced a net decrease in total exports in 2013, New Mexico's exports to Mexico alone grew by 33%. He said that over half of all of New Mexico exports to Mexico originate in southern Doña Ana County. Expanding on the potential for this market, he stated that two international investment firms, Goldman Sachs and Nomura, predict that the Mexican economy will enter the top 10 largest economies in the world by 2020.

Mr. Pacheco said that Santa Teresa is considered a part of the El Paso metropolitan area, with more than $1 billion to $1.5 billion of products crossing the Santa Teresa port of entry every month. He emphasized that there is still room for improvement concerning trade between the United States and Mexico. He suggested that the state focus on developing a stronger supplier base to the Mexican maquiladora industry, which in turn would create more production jobs within the state. Maquiladoras are primarily plants that assemble pre-made components, referred to as "production inputs". Maquiladoras import approximately 95% of the production inputs of Mexico's manufacturing industry. Production inputs, such as plastic injection components, metal parts, resin and packaging, are already supplied by U.S. firms primarily located in the Midwest. However, component manufacturers are under some pressure to place their firms closer to Mexican buyers. The demand to be closer to the border presents an opportunity for New Mexico to recruit maquiladora suppliers to the state.

Highlighting the Union Pacific Railroad's (UP) role in the economic growth in Santa Teresa, Mr. Pacheco stated that the UP railyard has added $500 million to the New Mexico economy. The facility provided 3,000 jobs during the construction phase, and 600 additional jobs are projected in the future.

Turning to New Mexico's ability to meet expected demand, Mr. Pacheco referred to two key elements, industrial space and transportation. With regard to industrial space, he said that the current industrial parks in Santa Teresa have a 99% occupancy rate, and he indicated that new park space is planned. However, Mr. Pacheco expressed concerns for the road system in Santa Teresa and its possible hindrance of further economic development. In addition, he asked for an extension of the current overweight border commercial zone. The overweight zone currently allows carriers to carry up to 96,000 pounds of a reducible load within a six-mile radius of the Santa Teresa and Columbus ports of entry. The overweight zone in Santa Teresa extends from the port of entry to the Santa Teresa Intermodal Park. He said that the BIA is requesting the legislature to extend the overweight zone to accommodate industrial space up to 12 miles from the port of entry.

Finally, Mr. Pacheco noted the initiative for a binational community composed of Santa Teresa, New Mexico, and San Jerónimo and Ciudad Juárez in Chihuahua, Mexico. A joint initiative between Governor Susana Martinez and Chihuahua Governor César Duarte contemplates a master-planned community around the border crossing. In 2013, Governors Martinez and Duarte signed a bilateral agreement to begin promotion of the concept. This project would be the first of its kind. The Santa Teresa-San Jerónimo area has more than 70,000 acres of land available for industrial, commercial and residential development with 2,000 acres of rail-served industrial land.

Motion

Representative Lundstrom made a motion to have staff draft a bill to extend the overweight zone. The motion was approved without objection.

The members then moved into a general discussion about economic development factors in the Santa Teresa region. Topics raised included the labor force needed for business growth, the real estate market in the area and the balance of property tax rates versus amenities that the area offers. A particular concern was raised by a member concerning the cross-border used car market. That market often results in abandoned cars being left along the roadside leading to the port of entry, creating a hindrance to trucking shipments and to recruitment of new businesses to the area. Staff was requested to research whether additional law enforcement authority at the state level would be needed to alleviate the problem.

New Residents, Commuters and Industry: Is the Road System in Doña Ana County up to the Challenge?

Chuck McMahon, assistant county manager, Doña Ana County, Homer Bernal, international programs planner, New Mexico Department of Transportation (DOT), and Claude Morelli, advanced project manager, 2040 Statewide Long-Range Multimodal Transportation Plan (SLRP), DOT, gave a presentation on growth in the border communities in Doña Ana County and the state of the road system serving those communities.

Mr. McMahon said that there is room for Santa Teresa to grow and develop. Noting that some of the area's labor force currently lives in El Paso, he said that an affordable housing plan is expected to allow more workers to become New Mexico residents. He also emphasized the advantage of the foreign trade zone (FTZ), which was established by the Foreign Trade Zones Board of the U.S. Department of Commerce in 1993. The FTZ allows delayed or reduced duty payments on foreign merchandise as an incentive for local economic development and business opportunities.

Mr. McMahon then went on to provide a brief overview of the Doña Ana County International Jetport at Santa Teresa. The airport was originally constructed to relieve business at the El Paso International Airport as well as to support the commercial and industrial growth of southern Doña Ana County. Currently, the airport is constructing a facility to allow for direct international flights. It is also remodeling the entrance road to accommodate larger fuel and delivery trucks. The airport will also serve as the home to the Amigo AirSho, an annual air show that attracts tens of thousands of people. It is anticipated that the Amigo AirSho will foster additional growth for the airport.

Mr. McMahon also discussed future plans for Airport Road and Industrial Drive. Airport Road provides access to the Santa Teresa Industrial Park, the Doña Ana County International Jetport, the UP facility and the National Weather Service station. The complete reconstruction of Airport Road to accommodate current and future projected traffic is expected to cost approximately $7.2 million. Industrial Drive connects Airport Road to Strauss Road and serves as a critical connection between railroad tracks and two major industrial parks. The proposed plan is to completely reconstruct the roadway and provide more extensive road structure, wider lanes, storm drains and lighting. The approximate cost to reconstruct Industrial Drive is $2.3 million. Mr. McMahon also spoke about the need to extend the overweight zone. He noted that the overweight zone serves to connect the intermodal yards to the main highways.

Mr. Bernal spoke about the infrastructure planning for the Santa Teresa region. He elaborated on the current condition of Airport Road and emphasized the importance of New Mexico Highway 136 ("Pete Domenici Highway"), which is vital for international trade and industrial development. He also highlighted a need to improve access to Interstate 10 in order to accommodate growing industrial, commercial and residential development and international traffic. He also noted that infrastructure projects must be approved and included within the SLRP and by the local metropolitan planning organizations or rural transportation planning organizations.

Mr. Bernal stated that the Santa Teresa port of entry may need to seek an expansion. If the local economy continues to grow, the proposal is to construct a "sub-port" that will include new inspection facilities, connecting roads and support infrastructure with an estimated cost of $60 million. The DOT is currently developing a border master plan and a priority projects list for each of the New Mexico ports of entry.

Mr. Morelli gave a presentation on multimodal transportation issues in Doña Ana County. Mr. Morelli gave background information on statewide and other planning processes. The SLRP is the key framework for the DOT to prioritize projects and programs on a statewide basis. The ranking is performance-based. The DOT must be able to show how projects and programs contribute to meet federal and state transportation goals.

Mr. Morelli also listed other interrelated planning processes currently under way, including the following: development of a New Mexico-Chihuahua border master plan; a localized Santa Teresa border strategic plan; a cross-border rail feasibility study; and the El Paso and Mesilla Valley metropolitan transportation plans.

Mr. Morelli stated that the DOT has received proposals for several commerce corridors in the border region, including: the reconstruction of New Mexico Highway 136 and Airport Road that serve Santa Teresa; the reconstruction of New Mexico Highway 9 that serves the port of entry at Columbus; and enhancements to Interstate 10. He noted that the DOT received a large number of comments from residents regarding public transportation and the environmental impact of transportation additions. He said there was a high public demand for a commuter rail and bus transit in the southern part of the state between Las Cruces and El Paso. Mr. Morelli noted that in addition to road improvements, the DOT has also considered non-motorized "active" transportation modes and air transportation opportunities in the area. Mr. Morelli gave an opinion that Santa Teresa has strong potential for expanded air freight and executive travel.

Mr. Morelli testified that the key challenge to all of these projects is funding. He suggested that shifting toward a "life cycle" approach to estimating and reporting project costs may help alleviate some of the funding challenges. The life cycle approach takes into account not only initial costs to construct the road, but also includes costs for ongoing maintenance, operation and eventual replacement.

Members then entered into a general discussion. Topics raised during the discussion included:

- the availability and use of federal Transportation Investment Generating Economic Recovery (TIGER) grants;
- how New Mexico should approach the binational transportation infrastructure needs of the Santa Teresa-San Jerónimo-Ciudad Juárez area, including whether there would need to be a formal international agreement on infrastructure repairs and whether a memorial by the New Mexico Legislature encouraging joint funding would help promote the binational community; and
- road construction questions, including the need for an additional access point to Interstate 10 and the balance of benefits and costs of building concrete roads, which last longer than asphalt roads.

Logistics for Community Growth: Public Infrastructure Requirements to Underpin Economic Expansion

Dr. Kevin Boberg, vice president for economic development, New Mexico State University, gave a presentation on inland ports, production to market logistics and economic development. In the early 1990s, Dr. Boberg toured inland ports in Laredo, Texas, Otay Mesa, California, and Alliance, Texas. His study of these communities helped inform the legislature when it adopted the Border Development Act in 1992, which authorized the creation of the Border Authority.

Dr. Boberg then defined the characteristics of an inland port as including:

- market proximity to at least three million people within 200 miles;
- a major, direct connection to an American seaport via a Class I railroad;
- FTZ status and privileges;
- an abundance of reasonably priced labor and commercial real estate;
- an overall governing body; and
- support from state and local governments.

Dr. Boberg talked more extensively about the town of Alliance, which he called a pioneer in the history of inland ports. Alliance is located between the juncture of rail lines and Interstate 35 in an area served by industrial aviation. Alliance has attracted more than 243 companies, which include 50 Fortune 500 firms. It is also considered the fastest growing area of the nation's fastest growing metropolitan city.

Using Alliance as a model and referring to the definition of an inland port, Dr. Boberg argued that the entire state of New Mexico should be viewed as an inland port and not simply a location for various ports of entry. He further argued that New Mexico's export trade qualifies it as a global port and that the state's policies should be channeled to maximize its potential as such. Dr. Boberg then went on to emphasize the importance of academics and the role of academics in capturing the economic potential of being a global port. He explained that the long logistic chains required by the global marketplace create an unique opportunity for port locations, noting that these long chains create a delay between product development and production on one end and the end user or sale on the other. He stated that this often means that market demand has changed before the product reaches the market.

Dr. Boberg said that being in the mid-point of the supply chain gives New Mexico an opportunity. If the state can provide technical and production abilities to modify products in transit, Dr. Boberg believes the state can market that ability to numerous companies, thus creating a local product adaptation industry. He indicated that a foundational element to create this industry would be to develop and promote an adaptive and technically flexible education sector at academic institutions.

Members then entered into a general discussion in which they delved into particular aspects of Dr. Boberg's argument. Two intertwined aspects that garnered the most attention were the definition of "added value" and relative importance of locally initiated production versus adding value to products initially produced elsewhere.

Adjournment

There being no further business, the meeting adjourned at 1:25 p.m.

Tour of Santa Teresa Road System

Following the meeting, members toured the road system of Santa Teresa. The tour ended at 4:30 p.m.

MINUTES
of the
FIFTH MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

November 6-7, 2014
State Capitol, Room 307
Santa Fe

The fifth meeting of the Transportation Infrastructure Revenue Subcommittee for the 2014 interim was called to order by Representative Roberto "Bobby" J. Gonzales, chair, on Thursday, November 6, 2014, at 9:32 a.m. at the State Capitol in Santa Fe.

Present	**Absent**
Rep. Roberto "Bobby" J. Gonzales, Chair	Sen. Timothy M. Keller
Sen. John Arthur Smith, Vice Chair	
Rep. Ernest H. Chavez	
Sen. Lee S. Cotter	
Sen. Ron Griggs (11/7)	
Rep. Larry A. Larrañaga	
Rep. Patricia A. Lundstrom	
Rep. Jane E. Powdrell-Culbert	
Sen. Clemente Sanchez	

Advisory Members	
Rep. Cathrynn N. Brown	Sen. William H. Payne
Sen. Jacob R. Candelaria (11/7)	Sen. William E. Sharer
Sen. Carlos R. Cisneros (11/7)	
Rep. Sharon Clahchischilliage	
Rep. Nathan "Nate" Cote	
Rep. Anna M. Crook	
Rep. Edward C. Sandoval	

Guest Legislators
Rep. Alonzo Baldonado
Rep. Kelly K. Fajardo
Sen. Gay G. Kernan
Sen. Carroll H. Leavell
Sen. Howie C. Morales
Sen. Michael S. Sanchez

(Attendance dates are noted for members not present for the entire meeting.)

Staff
Mark Edwards, Legislative Council Service (LCS)
Peter Kovnat, LCS
Carolyn Ice, LCS

Minutes Approval

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

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's web site.

<u>Thursday, November 6</u>

The meeting began with a motion to adopt the minutes from the August and October meetings.

Southwest Chief Rail Service: An Examination of State Authorities and Limitations Pursuant to the Constitution of New Mexico

Burlington Northern Santa Fe Railway (BNSF) owns and maintains a railroad track that runs from Hutchinson, Kansas, to Albuquerque, New Mexico. This BNSF railroad track is a major segment of the track used by the Southwest Chief, an Amtrak passenger train that provides daily service between Chicago, Illinois, and Los Angeles, California. Amtrak uses the BNSF track pursuant to a contract that expires at the end of 2015. At the November 12, 2013 meeting of the Transportation Infrastructure Revenue Subcommittee, Amtrak stated that BNSF had decided that maintaining the track to passenger train standards was too costly, and, therefore, did not intend to continue maintenance of this track segment beyond the lower freight standard after 2015. To continue Southwest Chief rail service, Amtrak proposed that New Mexico join in a five-way partnership with Amtrak, BNSF and the states of Colorado and Kansas to divide the costs of rebuilding and maintaining the track. At that meeting, several members of the subcommittee raised questions about whether the Anti-Donation Clause, Article 9, Section 14 of the Constitution of New Mexico, would be an obstacle to New Mexico participating in such a partnership.

Arthur Waskey, contract staff attorney, LCS, addressed the Anti-Donation Clause issue. Mr. Waskey's full analysis is provided in an information memorandum included in the subcommittee handout materials.

Mr. Waskey began by providing some background information on Amtrak and the rail service. Passenger rail service on the Southwest Chief route was provided by a private company from 1936 to 1971. In 1971, Amtrak, a federal corporation, took over the operation of this service pursuant to the Rail Passenger Service Act of 1970. Stipulating that his testimony was based on his own interpretations of the clause and that his conclusions were only a prediction of how the court may rule, Mr. Waskey indicated that there are two separate questions that must be asked to determine if the Anti-Donation Clause would apply to Amtrak's proposed cost-sharing agreement:

1) whether New Mexico's obligation under the agreement would be considered a donation; and

2) whether Amtrak is defined as a private enterprise or a government entity.

With regard to the first question, Mr. Waskey noted that the Southwest Chief route is anticipated to disappear without some sort of cost-sharing arrangement for refurbishment and maintenance of the track. Therefore, New Mexico's participation in the agreement could be better defined as a contract for service rather than a donation. He noted that the authorizing statutes for the New Mexico Department of Transportation (DOT) state that construction and maintenance of transportation projects are an essential governmental function. With that in mind, he stated an opinion that a cost-sharing instrument obligating Amtrak to continue Southwest Chief service for a specified time period would render this first element of the Anti-Donation Clause inapplicable.

With regard to the second question, Mr. Waskey stated that Amtrak is analogous to the New Mexico Finance Authority or New Mexico State Fair as a government instrumentality rather than a private enterprise. He noted that Amtrak had been created by Congress and receives yearly federal appropriations to subsidize its budget. Further, Mr. Waskey cited a 2004 United States Supreme Court opinion, *Hebron v. National Railroad Passenger Corporation*, wherein the court determined that Amtrak is "an agency or instrumentality of the United States" in situations where individual rights are protected from government action. Based on these facts, Mr. Waskey stated his opinion that the second, private enterprise element of the Anti-Donation Clause would not apply to New Mexico's participation in the Amtrak cost-sharing proposal.

In an ensuing general discussion, subcommittee members raised concerns about whether the Southwest Chief rail service is an essential government function, whether the state would be subsidizing a federal service and whether the service is required to continue the property taxes that BNSF currently pays into county budgets for its rail line properties.

A subcommittee member raised a question about the practicality of Amtrak rerouting the Southwest Chief train through Clovis, New Mexico, and bypassing the communities on its current route. Ray Lang, director of government relations, Amtrak, responded that it was not practical. He noted that the rail line through Clovis, known as the TransCon, is congested with freight trains that move 20 or more miles per hour slower than passenger trains. He then stated that the cost of track sidings and additional signals that would need to be installed to accommodate the Southwest Chief on the TransCon would be more costly than rehabilitating and maintaining the track on the current route.

Southwest Chief Rail Service: Engineering Cost Estimate Review and Economic Impact Analysis

Frank Sharpless, transit and rail director, DOT, began with a brief background on Amtrak and the Southwest Chief. Congress created Amtrak in 1970 as a corporation to take over and independently operate the nation's intercity rail passenger services. In fiscal year (FY) 2014, Amtrak generated $2.2 billion in ticket revenues. Amtrak's total FY 2015 budget request to Congress is $1.62 billion in operating and capital funds. Total funding requested for long-distance routes is $913 million. The Southwest Chief is one of 15 long-distance routes operated by Amtrak. However, the track is owned by the BNSF freight rail carrier. Due to declining freight traffic, BNSF no longer uses major segments of the Southwest Chief route through northeast New Mexico, Colorado and Kansas on a regular basis, and plans to reduce it maintenance operations accordingly. Therefore, to maintain the Southwest Chief service, Amtrak must absorb the costs of maintaining the line to the class 4, passenger rail service standard of 79 miles per hour. However, Amtrak's foreseeable funding is insufficient to absorb these costs.

Mr. Sharpless told members of the subcommittee that Amtrak met separately with Colorado, Kansas and New Mexico in 2011 and proposed a cost-sharing proposal for capital costs and operation of the BNSF rail line. BNSF requested that Amtrak and the three states each provide $4 million every year for 10 years starting in 2016. He noted that the request did not include any maintenance costs or estimates after 10 years. In 2012, the three states sent a joint letter to Amtrak stating that they support the Southwest Chief and would be seeking congressional delegation support, but could not commit to funding the Southwest Chief due to budget restraints.

Mr. Sharpless then turned the subcommittee's attention to reports from a maintenance costs analysis of the Southwest Chief rail track by Wilson and Company and an economic impact analysis of the Southwest Chief passenger service by Cambridge Systematics. The cost study was conducted using data provided by BNSF and other available data sets, but no physical inspections. Within the parameters of the cost study, "maintenance costs" include anticipated reconstruction of track segments. The cost study estimates that yearly maintenance for the whole line would be $28,668,000 per year from 2016 through 2025, and New Mexico's portion of those costs would be $9,373,000. The study predicts that ridership of the Southwest Chief will increase at a uniform 2% annual rate on its current route. However, the study estimates that 40% to 50% of the passengers destined for Lamy, Las Vegas or Raton would not make the trip if the route is changed and would have to find alternative modes of travel. The economic impact study also examined the potential gains in other towns if the Southwest Chief is moved to the TransCon route through Clovis. In aggregate, the study estimates that New Mexico would lose $13.3 million in gross regional product and $2.4 million in local, state and property taxes annually if the train service is completely lost. Conversely, the estimated annual losses would be reduced to $3.3 million in gross regional product and $1.4 million in local, state and property taxes if the Southwest Chief is rerouted onto the TransCon.

Mr. Sharpless and Loren Hatch, general counsel, DOT, highlighted two other factors to consider in determining the benefits and costs of entering into a cost-sharing agreement for the

Southwest Chief at this time. Mr. Sharpless noted that while the maintenance cost study was being done, Garden City, Kansas, received a federal Transportation Investment Generating Economic Recovery (TIGER) grant for rehabilitation work on various track segments in Kansas and Colorado. This is a matching grant with $12.5 million in federal funds being matched by $9.3 million in contributions from local governments in Kansas and Colorado, the State of Kansas, Amtrak and BNSF. The funding will be used to restore 54.9 miles of track to the class 4 passenger train standard. As a result, BNSF has pledged to maintain this track for 20 years. He indicated that while this was very good news for retaining the Southwest Chief, it raised a question regarding the accuracy of the figures in the Amtrak proposal.

Mr. Hatch drew the subcommittee's attention to a difference between short-distance in-state trains and long-distance multi-state trains. He noted that while states have had a history of supplementing the costs for short-distance trains, long-distance trains have traditionally been thought of as a federal responsibility. He suggested that not only would state and local government cost-sharing for the Southwest Chief create a new precedent, but that it might likely result in a permanent shifting of responsibility for costs away from the federal government.

A subcommittee member then asked what the prospects were for adding freight service to the Southwest Chief route to distribute the cost burdens. Mr. Lang answered that he did not have immediate information and that the national boom in oil production is rapidly changing freight patterns. He indicated that there is potential for opportunities for increased freight traffic on the route.

The subcommittee then entered into a general discussion in which the following concerns were raised: a need to have a definitive figure for the cost of ensuring a 20-year service agreement; a need for a strong estimate of the ongoing maintenance costs extending beyond the 10- and 20-year time frames; and whether switching the Southwest Chief route to the TransCon would disrupt the growth of freight service on that line.

Update of Transportation System Needs

Ernest Archuleta, operation divisions director, DOT, and Elias Archuleta, chief engineer, DOT, presented an update on the state of the DOT system. Currently, the DOT is facing several challenges. Departmental resources have not kept pace with demand. Current staffing levels are equivalent to 1999 levels although lane miles have increased by 2,737 miles since 1999. Also, two sectors of economic growth, the port of entry and Union Pacific intermodal facility at Santa Teresa, and the oil industry have greatly increased heavy truck shipments in their areas. This has increased the demand for paved roads and extended lanes able to sustain heavy loads and reduce traffic congestion. An ongoing concern is that 55% of the DOT's project construction budget must be dedicated to servicing long-term debt obligations.

Elias Archuleta noted that the DOT rates road conditions as "good", "fair" and "poor". He stated that the cost difference for maintaining or improving a road in good or fair condition is marginal compared to the costs of rehabilitating a road in poor condition. Therefore, he remarked that his primary management rule for maintaining the state's road system is to maximize the percentage of lane miles rated fair. An automated, statewide, full-coverage survey was conducted in 2013, and about 80% of the roads were rated fair. He stated that approximately $115.8 million is needed to cover the gap between what is needed to maintain the road system and what is available in the state's budget. The funding gap between construction demand and the budget is approximately $458.6 million.

The subcommittee then entered into a general discussion in which the following issues were raised: a concern about the DOT having the funding needed to buy down the interest rates on outstanding general obligation bonds; a concern that DOT funding is only meeting about 50% of the need; and a concern that local and county road programs are facing similar funding gaps.

Los Lunas I-25 Interchange Proposal

Charles Griego, mayor, Village of Los Lunas, and Alicia Aguilar, commissioner, Valencia County, testified on the traffic congestion in Los Lunas and its impact on daily life for members of the community. Mayor Griego stated that Los Lunas has been the fastest-growing city in New Mexico since 1960, yet New Mexico Highway 6 (NM 6) remains the only exit on Interstate 25 (I-25) for Los Lunas. The presenters emphasized that there is a great need for a new interchange on the interstate and for an east-west corridor to improve traffic flow in the city. They stated that the current traffic congestion on NM 6, which becomes Los Lunas's Main Street, results in traffic snarls that block emergency response providers, greatly stretch commuting time and adversely affect area businesses and schools.

Kevin Eades, P.E., Molzen Corbin, told the subcommittee that recent studies conducted by Los Lunas show that a new interchange on I-25 south of NM 6, with a road extending across the Rio Grande to NM 47, would decrease eastbound traffic by approximately 43%. He said the funding needed for the complete project is $75 million. Los Lunas's engineering plan contemplates that the project will be constructed in two phases, with the first phase including an I-25 exit that extends to NM 314 west of the river at a cost of $30 million. Phase two would extend the traffic corridor from NM 314 across the river to NM 47 at a cost of $45 million.

Commissioner Aguilar noted that, although local businesses were initially reluctant to support an interchange, general public acceptance of the project is high, and businesses now agree that congestion is more detrimental than beneficial.

A legislator noted that Los Lunas's Main Street has several historic properties, such as the Luna Mansion, that prohibit widening the road, which exacerbates the current traffic congestion and heightens the need for an alternative route. Conversely, while acknowledging the need for a traffic relief route, a legislator noted that during negotiations on an earlier traffic relief plan several years ago, the Pueblo of Isleta was promised an I-25 interchange on the east side of the river and that building one on the west side might be considered a broken promise.

Finally, a legislator asked whether the $75 million for the complete project would include a bridge across the Rio Grande. Mr. Eades acknowledged that this was uncertain. He stated that the $75 million project estimate was considered accurate based on a 30% design.

Critical Transportation Needs and Issues in Eddy County

Ray Romero, public works director, Eddy County, began the presentation by expressing his concerns about increased traffic and its implications on public safety in Eddy County. He noted that Eddy County is directly responsible for 1,232 miles of roads, and that of these miles, 797 miles are paved and 435 miles are unpaved. However, Eddy County's budget has the financial capabilities to improve only 25 to 30 miles a year. Susan Crockett, commissioner, Eddy County, explained that Eddy County had been keeping up with its road needs but that two major challenges have impacted its ability to keep up. The first challenge has been the oil industry boom. Not only has the boom created a big jump in traffic volume, much of that new traffic comes from heavy shipment trucks. The resulting wear and tear has caused a significant decrease in the engineering life of the county's roads. The second challenge was the severe flooding events in 2013 and in 2014.

The presenters included several pictures in their handout that show large road segments and drainage culverts that have been completely washed out by the flooding. Kenney Rayroux, assistant county manager, Eddy County, noted that the most recent flood event stranded several oil rigs and their crews. This created tens of thousands of dollars in lost production per rig, and retrieving the oil crews represented a public health challenge. He credited various oil companies for volunteering equipment, materials and employees to make the most critical roads passable.

Mr. Romero then stated that Eddy County is requesting road funding assistance to meet both the increased traffic demand and for reconstruction of several roads damaged by the flooding. In particular, he cited a need for a loop road around Carlsbad. The first phase of this project is estimated to cost $54 million. With regard to flood damage, the Federal Emergency Management Agency (FEMA) has estimated that it will take $13 million to $15 million to restore the roads to their pre-flood condition, and an additional $20 million to upgrade the road system's low-water crossings.

Eddy County has already submitted a request for a loan from the DOT and has applied for a federal TIGER grant. Eddy County is also in the process of integrating the master transportation plans from the state and the City of Carlsbad into a county-wide plan. Specialists have been contacted to assist in the maintenance of roads to avoid future instances of similar problems faced by the county today.

The subcommittee then entered into a discussion wherein the following concerns were raised: Eddy County is now first in the state in traffic fatalities per 1,000 people; the pre-oil boom roads do not have adequate shoulders for safety; and a large percentage of the state's budget comes from the oil-producing counties, and production is dependent on adequate roads.

Recess

There being no further business before the subcommittee, the meeting recessed at 3:59 p.m.

Friday, November 7

Representative Gonzales reconvened the meeting at 9:14 a.m.

Review of Proposed Legislation

The first of four bills considered by the subcommittee for endorsement, 202.197825.2, would extend the overweight zone for vehicles at ports of entry from Mexico from six to 12 miles. Upon a proper motion and second, and without opposition, the subcommittee voted to endorse the bill, which Senator Mary Kay Papen will carry.

The second of four bills considered by the subcommittee for endorsement, 202.197966.2, would appropriate $200,000 for a repair or replace engineering design assessment for bridges in McKinley County that are not load rated for emergency vehicles and standard-sized school buses. The bill was drafted as a general fund appropriation. Upon a proper motion and second, the subcommittee voted to endorse the bill with a direction to staff to redraft it as a severance tax bond revenue appropriation bill, which Representative Lundstrom will carry.

The third of four bills considered by the subcommittee for endorsement, 202.197715.2, would give municipalities and counties the ability to impose a tax on special fuel. For the tax to be levied, the local population must vote to do so, and the proceeds could only be used for road, highway and bridge construction and repairs.

Subcommittee members asked questions about how the tax would be collected and how much money would be raised. The requester, Senator Griggs, said that those details would emerge when the law is implemented, but that it is critical to give local governments the ability to raise money for transportation infrastructure. Upon a proper motion and second, and without opposition, the subcommittee voted to endorse the bill, which Senator Griggs will carry.

The fourth of four bills considered by the subcommittee for endorsement, 202.197843.1, would authorize the issuance of $100 million of supplemental severance tax bonds each year for six years. Each year, the funding from this authorization would be to a different DOT engineering district for road projects, until all six districts had received funds. The sequence in which the DOT engineering districts would receive the funds would start with the district with the highest traffic fatality ratio in FY 2015 and proceed in descending order, district to district, for six years. Subcommittee members expressed concerns about the process for choosing projects, questioned whether they would have to be shovel-ready to qualify for funding and asked what other state-funded projects would lose out on funding. One subcommittee member noted that redirecting funds is just a temporary solution and that it would be wiser to use any extra money available to pay off the state's debt. Tom Church, secretary, DOT, said that the department currently pays $162 million a year in debt service.

Upon a proper motion and second, and with opposition from Representative Powdrell-Culbert and Senator Sanchez, the subcommittee voted to endorse the bill, which Senator Griggs will carry.

Adjournment

There being no further business, the meeting adjourned at 1:25 p.m.

ENDORSED LEGISLATION

SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

FOR THE TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; EXTENDING THE OVERWEIGHT ZONE AT PORTS OF ENTRY ON THE BORDER WITH MEXICO TO TWELVE MILES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 66-7-413 NMSA 1978 (being Laws 1978, Chapter 35, Section 484, as amended) is amended to read:

"66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

A. The department of public safety and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a highway under the jurisdiction of the state transportation

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commission or local authorities. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route to be traversed, the type of load to be transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection to any peace officer. It is a misdemeanor for a person to violate a condition or term of the special permit.

B. The department of public safety shall promulgate rules in accordance with the State Rules Act pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier and for escort vehicles provided by a private business in this state.

(1) The department of public safety shall provide the escort personnel with a copy of applicable rules and shall inspect the escort vehicles for the safety equipment required by the rules. If the escort vehicles and personnel meet the requirements set forth in the rules, the department of

public safety shall issue the special permit.

(2) The movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraph (1) of this subsection is subject to department of public safety authority and inspection at all times.

(3) The department of transportation shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of manufactured homes without an escort. After making that determination, the department of transportation shall hold public hearings in the area of the state affected by the determination, after which it may adopt rules designating those four-lane highways as being safe for the operation or movement of manufactured homes without an escort. If a portion of such a four-lane highway lies within the boundaries of a municipality, the department of transportation, after obtaining the approval of the municipal governing body, shall include such portions in its rules.

C. Except for the movement of manufactured homes, special permits may be issued for a single vehicle or combination of vehicles by the department of public safety for a period not to exceed one year for a fee of two hundred fifty dollars ($250). The special permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon and may include a provision for excessive weight if the weight of the vehicle or combination of vehicles is not greater than one hundred forty thousand pounds. Utility service vehicles, operating with special permits pursuant to this subsection, shall be exempt from prohibitions or restrictions relating to hours or days of operation or restrictions on movement because of poor weather conditions.

D. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued by the department of public safety for a single vehicle for a fee of twenty-five dollars ($25.00) plus the product of two and one-half cents ($.025) for each two thousand pounds in excess of eighty-six thousand four hundred pounds or major fraction thereof multiplied by the number of miles to be traveled by the vehicle or combination of vehicles on the highways of this state.

E. If a vehicle for which a permit is issued pursuant to this section is a manufactured home, the department of public safety or local highway authority issuing the permit shall furnish the following information to the property tax division of the taxation and revenue department, which shall forward the information:

(1) to the county assessor of a county from which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being

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moved to if within the same county, the name of the owner of the manufactured home and the identification and registration numbers of the manufactured home;

(2) to the county assessor of any county in this state to which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home and the registration and identification numbers of the manufactured home; and

(3) to the owner of a manufactured home having a destination in this state, notification that the information required in Paragraphs (1) and (2) of this subsection is being given to the respective county assessors and that manufactured homes are subject to property taxation.

F. Except as provided in Subsection G of this section, if the movement of a manufactured home originates in this state, a permit shall not be issued pursuant to Subsection E of this section until the owner of the manufactured home or the authorized agent of the owner obtains and presents to the department of public safety proof that a certificate has been issued by the county assessor or treasurer of the county in which the manufactured home movement originates showing that either:

(1) all property taxes due or to become due on the manufactured home for the current tax year or any past tax

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years have been paid, except for manufactured homes located on an Indian reservation; or

(2) liability for property taxes on the manufactured home does not exist for the current tax year or a past tax year, except for manufactured homes located on an Indian reservation.

G. The movement of a manufactured home from the lot or business location of a manufactured home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection F of this section if the manufactured home movement originates from the lot or business location of the dealer and the manufactured home was part of the dealer's inventory prior to the sale to the owner-purchaser; however, the movement of a manufactured home by a dealer or the dealer's authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to the requirements of Subsection F of this section whether the destination is the business location of a dealer or some other destination.

H. A permit shall not be issued pursuant to this section for movement of a manufactured home whose width exceeds eighteen feet with no more than a six-inch roof overhang on the left side or twelve inches on the right side in addition to the eighteen-foot width of the manufactured home. Manufactured homes exceeding the limitations of this section shall only be moved on dollies placed on the front and the rear of the structure.

I. The secretary of public safety may by rule provide for movers of manufactured homes to self-issue permits for certain sizes of manufactured homes over specific routes. The cost of a permit shall not be less than twenty-five dollars ($25.00).

J. The secretary of public safety may provide by rule for dealers of implements of husbandry to self-issue permits for the movement of certain sizes of implements of husbandry from the lot or business location of the dealer over specific routes with specific escort requirements, if necessary, to a destination designated by an owner-purchaser or for purposes of a working demonstration on the property of a proposed owner-purchaser. The department of public safety shall charge a fee for each self-issued permit not to exceed fifteen dollars ($15.00).

K. A private motor carrier requesting an oversize or overweight permit shall provide proof of insurance in at least the following amounts:

(1) bodily injury liability, providing:

(a) fifty thousand dollars ($50,000) for each person; and

(b) one hundred thousand dollars ($100,000) for each accident; and

(2) property damage liability, providing twenty-five thousand dollars ($25,000) for each accident.

L. A motor carrier requesting an oversize permit shall produce a copy of a warrant or a single state registration receipt as evidence that the motor carrier maintains the insurance minimums prescribed by the public regulation commission.

M. The department of public safety may provide by rule the time periods during which a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 may be operated or moved by a motor carrier on a highway under the jurisdiction of the state transportation commission or local authorities.

N. An applicant for a special permit to operate a vehicle or combination of vehicles with a gross weight not exceeding ninety-six thousand pounds within [~~six~~] twelve miles of a port of entry on the border with Mexico shall not be required to demonstrate to the department of public safety that the load cannot be reduced as a condition of the issuance of the permit.

O. Revenue from fees for special permits authorizing vehicles and loads of excessive size or weight to operate or move upon a highway under the jurisdiction of the state transportation commission or local authorities shall be collected for the department of transportation and transferred

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to the state road fund."

.197825.3

HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS FOR A REPAIR OR REPLACE ASSESSMENT OF MCKINLEY COUNTY BRIDGES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SEVERANCE TAX BONDS--PURPOSE FOR WHICH ISSUED--APPROPRIATION OF PROCEEDS.--The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not exceeding two hundred thousand dollars ($200,000) when the department of transportation certifies the need for the issuance of the bonds. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by

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the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended. The proceeds from the sale of the bonds are appropriated to the department of transportation to plan and design improvements for bridges that are not load rated for standard-sized school buses and emergency vehicles located in McKinley county. Any unexpended or unencumbered balance remaining at the end of fiscal year 2019 shall revert to the severance tax bonding fund. If the department of transportation has not certified the need for the issuance of the bonds by the end of fiscal year 2017, the authorization in this section shall be void.

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

FOR THE TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

AN ACT

RELATING TO TAXATION; AUTHORIZING A MUNICIPALITY OR COUNTY TO IMPOSE A TAX ON SPECIAL FUEL; REPEALING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

"7-24A-1. SHORT TITLE.--Chapter 7, Article 24A NMSA 1978 may be cited as the "County and Municipal Gasoline and Special Fuel Tax Act"."

SECTION 2. Section 7-24A-2 NMSA 1978 (being Laws 1991, Chapter 156, Section 2) is amended to read:

"7-24A-2. DEFINITIONS.--As used in the County and Municipal Gasoline and Special Fuel Tax Act:

[~~A. "county" means a class A county or an H class~~

~~county;~~

[~~B.~~] A. "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets the American society for testing and materials specifications for biodiesel fuel, B100 or B99 blend stock for distillate fuels;

B. "blended biodiesel" means a diesel engine fuel that contains at least two percent biodiesel;

C. "gallon" means the quantity of liquid necessary to fill a standard United States gallon liquid measure or that same quantity adjusted to a temperature of sixty degrees Fahrenheit at the election of any distributor, but a distributor shall report on the same basis for a period of at least one year;

D. "gasoline" means any flammable liquid hydrocarbon used primarily as fuel for the propulsion of motor vehicles, motorboats or aircraft except for diesel-engine fuel, kerosene, liquefied petroleum gas, compressed or liquefied natural gas and products specially prepared and sold for use in aircraft propelled by turbo-prop or jet-type engines;

E. "governing body" means the city council or city commission of a city, the board of trustees of a town or village or the board of county commissioners of a [~~class A county or an H class~~] county;

[~~C. "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter, located within a class A county or an H class county;~~

~~D.~~] F. "highway" means every road, highway, thoroughfare, street or way, including toll roads, generally open to the use of the public as a matter of right for the purpose of motor vehicle travel regardless of whether it is temporarily closed for the purpose of construction, reconstruction, maintenance or repair;

G. "motor vehicle" means any self-propelled vehicle or device that is either subject to registration under Section 66-3-1 NMSA 1978 or used or that may be used on the public highways in whole or in part for the purpose of transporting persons or property and includes any connected trailer or semitrailer;

H. "person" means:

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

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

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I. "special fuel" means any diesel-engine fuel, biodiesel, blended biodiesel or kerosene used for the generation of power to propel a motor vehicle, except for gasoline, liquefied petroleum gas, compressed or liquefied natural gas and products specially prepared and sold for use in aircraft propelled by turbo-prop or jet engines;

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

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

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

"7-24A-3. USE OF PROCEEDS.--

A. The proceeds of a county or municipal gasoline tax shall be used for bridge and road projects or public transportation related trails and for expenses of purchasing, maintaining and operating transit operations and facilities, for the operation of a transit authority established by the Municipal Transit Law or as provided in the County and Municipal Gasoline and Special Fuel Tax Act, for operation of a vehicle emission inspection program or for road, street or highway construction, repair or maintenance in the county or municipality. The proceeds of a county or municipal gasoline tax may be pledged for the payment of bonds issued pursuant to the County and Municipal Gasoline and Special Fuel Tax Act.

B. The proceeds of a county or municipal special fuel tax shall be used for bridge and road projects or for road, street or highway construction, repair or maintenance in the county or municipality. The proceeds of a county or municipal special fuel tax may be pledged for the payment of bonds issued pursuant to the County and Municipal Gasoline and Special Fuel Tax Act; provided that the bonds were issued to enable the county or municipality to acquire land, buildings or other equipment required for bridge, road, street or highway construction, repair or maintenance or for refunding bonds previously issued for such purposes.

C. A county or municipality may engage in the business of transportation of passengers and property within the political subdivision by whatever means it may decide and may acquire cars, motor buses and other equipment necessary for carrying on the business. It may acquire land and erect buildings and equip them with all necessary machinery and facilities for operation, maintenance, modification, repair and storage of any buses, cars, trucks or other equipment needed. It may do all things necessary for the acquisition and conduct of the business of public transportation.

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

[~~C. Any~~] E. A county or municipality engaging in the business of transportation may extend any system of transportation to points outside its boundaries where necessary and incidental to furnishing efficient transportation to points within the county or municipality.

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

[~~E. Any~~] G. A county or municipality may furnish transportation service to areas located outside its boundaries, provided that prior contracts have been entered into with the county or municipality in which the areas are located covering the schedules, rates, service and other pertinent matters before initiation of such service.

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

[~~G.~~] I. A county or municipality, as an operating

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entity, may enter into contracts for special transportation service, charter buses, advertising and any other function that a private enterprise operating a public transit facility could do or perform for revenue.

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

[~~I.~~] K. A county or municipality is authorized to enter into binding agreements with the United States or any of its officers or agencies or the state or any of its officers or agencies or any combination of agencies, departments or officers of both the United States and the state for planning, developing, modernizing, studying, improving, financing, operating or otherwise affecting public transit; to accept any loans, grants or payments from any of these agencies; and to make any commitments or assume any obligations required by any of these agencies as a condition of receiving the benefits thereof."

SECTION 4. A new section of the County and Municipal Gasoline and Special Fuel Tax Act is enacted to read:

"[NEW MATERIAL] COUNTY SPECIAL FUEL TAX--AUTHORIZATION--IMPOSITION--RATE.--

A. The majority of the members of the governing body of a county may adopt an ordinance imposing a tax of up to

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two cents ($.02) per gallon on special fuel sold at retail within the boundaries of the county on all property not lying within the boundaries of a municipality and upon which taxes are imposed in accordance with the Special Fuels Supplier Tax Act. The tax imposed by this section is to be referred to as the "county special fuel tax".

B. If the governing body of a county adopts an ordinance imposing a county special fuel tax, the governing body shall submit the question of levying the tax to the qualified electors in the county residing outside the boundaries of a municipality.

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

SECTION 5. Section 7-24A-6 NMSA 1978 (being Laws 1978, Chapter 182, Section 6, as amended) is amended to read:

"7-24A-6. COUNTY GASOLINE TAX OR SPECIAL FUEL TAX--PROCEDURE FOR ADOPTION OF ORDINANCE--ELECTION.--

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

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

SECTION 6. Section 7-24A-6.1 NMSA 1978 (being Laws 1986, Chapter 74, Section 1, as amended) is amended to read:

"7-24A-6.1. COUNTY-WIDE GASOLINE TAX--AUTHORIZATION--IMPOSITION--RATE--ELECTION.--

A. A county-wide gasoline tax may be imposed on each gallon of gasoline sold at retail within the county in increments of one cent ($.01) per gallon up to a maximum of two cents ($.02) per gallon for the purpose of funding a vehicle

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emissions inspection program and other programs as specified in Subsection D of this section when the governing bodies of a county and a municipality adopt identical ordinances submitting the question to the qualified electors in the county in a joint election.

B. The procedures of the County and Municipal Gasoline <u>and Special Fuel</u> Tax Act shall apply unless otherwise provided in this section.

C. The ordinance shall not go into effect until after a joint election is held pursuant to Section 7-24A-21 NMSA 1978 and a simple majority of the qualified electors of the county voting on the issue vote in favor of imposing a county-wide gasoline tax. If the ordinance is approved by a majority of the qualified electors of the county voting on the issue, the gasoline tax shall be imposed county-wide, both within and outside the boundaries of any municipality within the county.

D. If the qualified electors of the county vote in favor of an ordinance imposing a county-wide gasoline tax pursuant to Subsection C of Section 7-24A-21 NMSA 1978 and any proceeds of the tax are dedicated by the ordinance to a vehicle emissions inspection program, then the proceeds of the tax imposed shall be used first for the vehicle emissions inspection program and the balance shall be used for other environmental programs such as water quality or air quality

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programs. That balance shall be distributed to the municipality and the county based on the proportions that the population of the municipality and the population of the county outside the boundaries of the municipality bear to the total population of the county. The municipality and county shall reimburse the motor vehicle division of the taxation and revenue department for actual costs incurred in administering any plan that involves the motor vehicle division in the enforcement of denial of motor vehicle registration for noncompliance with a vehicle emissions inspection program. The costs reimbursed are appropriated to the motor vehicle division for that purpose."

SECTION 7. Section 7-24A-7.1 NMSA 1978 (being Laws 1990, Chapter 88, Section 8) is amended to read:

"7-24A-7.1. REGISTRATION REQUIRED.--Each person selling gasoline or special fuel at retail in a county [~~which imposes a county or county-wide gasoline tax~~] or in a municipality [~~which~~] that imposes a [~~municipal gasoline~~] tax pursuant to the County and Municipal Gasoline and Special Fuel Tax Act shall register with the county or the municipality, as appropriate, as a seller of gasoline at retail or a seller of special fuel at retail, or both, as appropriate."

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

"7-24A-8. COLLECTION OF COUNTY GASOLINE TAX AND COUNTY

<u>SPECIAL FUEL TAX</u>.--The county shall collect the county gasoline tax <u>and county special fuel tax</u> imposed by the County and Municipal Gasoline <u>and Special Fuel</u> Tax Act. Every person subject to the imposition of the county gasoline tax <u>or county special fuel tax</u> shall file a return on forms provided by and with the information required by the county and shall pay the tax due on or before the twenty-fifth day of the month following the month in which the gasoline <u>or special fuel</u> is sold at retail within the boundaries of the county."

SECTION 9. A new section of the County and Municipal Gasoline and Special Fuel Tax Act is enacted to read:

"[<u>NEW MATERIAL</u>] MUNICIPAL SPECIAL FUEL TAX--AUTHORIZATION--IMPOSITION--RATE.--

A. The majority of the members of the governing body of a municipality may adopt an ordinance imposing a tax of up to two cents ($.02) per gallon on special fuel sold at retail within the boundaries of the municipality and upon which taxes are imposed in accordance with the Special Fuels Supplier Tax Act. The tax imposed by this section is to be referred to as the "municipal special fuel tax".

B. If the governing body of a municipality adopts an ordinance imposing a municipal special fuel tax, the governing body shall submit the question of levying the tax to the qualified electors in the municipality.

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

SECTION 10. Section 7-24A-11 NMSA 1978 (being Laws 1978, Chapter 182, Section 11, as amended) is amended to read:

"7-24A-11. MUNICIPAL GASOLINE TAX <u>OR SPECIAL FUEL TAX</u>--PROCEDURE FOR ADOPTION OF ORDINANCE--ELECTION.--

A. The ordinance imposing a municipal gasoline tax <u>or municipal special fuel tax</u> shall not go into effect until after an election is held and a simple majority of the qualified electors of the municipality voting on the question [~~vote~~] <u>votes</u> in favor of imposing the [~~municipal gasoline~~] tax. The governing body of the municipality shall provide for an election on the question of imposing the [~~municipal gasoline~~] tax within sixty days after the day the ordinance is adopted. Such question may be submitted to the electors and voted upon as a separate question at any regular or special election or at any special election called for that purpose by the governing body. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for special municipal elections as provided in the Municipal Election Code. If the question of imposing [~~a municipal gasoline~~] <u>the</u> tax fails, the governing body shall not

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again propose [~~a municipal gasoline tax~~] an ordinance for that tax for a period of one year after the election.

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

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

"7-24A-12. COLLECTION OF MUNICIPAL GASOLINE TAX AND MUNICIPAL SPECIAL FUEL TAX.--The municipality shall collect the municipal gasoline tax and municipal special fuel tax imposed by the County and Municipal Gasoline and Special Fuel Tax Act. Every person subject to the imposition of the municipal gasoline tax or municipal special fuel tax shall file a return on forms provided by and with the information required by the municipality and shall pay the tax due on or before the twenty-fifth day of the month following the month in which the gasoline or special fuel is sold at retail within the boundaries of the municipality."

SECTION 12. Section 7-24A-14 NMSA 1978 (being Laws 1978, Chapter 182, Section 14, as amended) is amended to read:

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

A. The governing body may adopt an ordinance providing for issuance of bonds to enable the county or municipality to acquire land, buildings, buses or other equipment required for public transit, a vehicle emission inspection program or for road, street or highway construction, repair or maintenance or for refunding bonds previously issued for such purpose or any such purposes.

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

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

(2) income derived from franchises granted by the governing body of a county or municipality;

(3) contributions, grants or other financial assistance from the state or federal government or any other source;

(4) county or municipal gasoline tax or special fuel tax revenue; or

(5) any one or a combination of these sources.

C. The ordinance is irrepealable as long as any indebtedness on the bonds is unpaid by the county or municipality."

SECTION 13. Section 7-24A-17 NMSA 1978 (being Laws 1978, Chapter 182, Section 17) is amended to read:

"7-24A-17. CONSTRUCTION.--The County and Municipal Gasoline and Special Fuel Tax Act is full authority for authorization and issuance of bonds. If any proceeding involving the validity and enforceability of any bond or its security, any bond reciting in substance that it was issued by the county or municipality to aid in financing public transit or transportation projects or any other purpose authorized by the County and Municipal Gasoline and Special Fuel Tax Act is conclusively presumed to have been issued for a county or municipal transit or transportation project or other purpose in accordance with that act."

SECTION 14. Section 7-24A-21 NMSA 1978 (being Laws 1978, Chapter 182, Section 21, as amended) is amended to read:

"7-24A-21. JOINT ELECTION.--

A. If an election is held by one or more municipalities within a county or a municipality and the county concerning adoption of the county and municipal gasoline or special fuel taxes, such election may be held jointly by such county and municipality, or municipalities, and may be held at any election except a primary election.

B. The election may be conducted using paper ballots. Consolidated voter precincts may be used if the board of county commissioners determines that such a consolidation would provide for a cost-effective and efficient election process and such consolidation would [~~insure~~] ensure the integrity of the election process.

C. If a joint election is held by a municipality and a county pursuant to Section 7-24A-6.1 NMSA 1978 and a simple majority of the qualified electors of the county voting on the issue [~~vote~~] votes in favor of imposing the county-wide gasoline tax, the tax shall be [~~imposed by the division and~~] collected pursuant to the County and Municipal Gasoline and Special Fuel Tax Act."

SECTION 15. Section 7-24B-4 NMSA 1978 (being Laws 1987, Chapter 45, Section 13, as amended) is amended to read:

"7-24B-4. SPECIAL COUNTY HOSPITAL GASOLINE TAX--AUTHORIZATION--IMPOSITION--RATE.--

A. The majority of the members of the governing body of a county may adopt an ordinance imposing a tax of up to two cents ($.02) a gallon on all gasoline sold at retail in the county and upon which gasoline taxes are imposed in accordance with the Gasoline Tax Act. The tax imposed by this section is to be referred to as the "special county hospital gasoline tax" and is in addition to the tax imposed in the Gasoline Tax Act.

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B. The special county hospital gasoline tax may be imposed by the governing body of a county regardless of whether the county has imposed a tax on gasoline pursuant to the County and Municipal Gasoline and Special Fuel Tax Act.

C. The special county hospital gasoline tax may be imposed in increments of one cent ($.01) per gallon up to a maximum of two cents ($.02) per gallon. The amount of the tax and the specific purposes for which the proceeds shall be used shall be stated in the ordinance adopted by the governing body of the county.

D. The special county hospital gasoline tax shall be imposed for a period of not more than five years from the effective date of the ordinance imposing the tax. This authorization may be extended for additional five-year periods provided all requirements for enactment of the first ordinance are met."

SECTION 16. Section 66-6-25 NMSA 1978 (being Laws 1978, Chapter 35, Section 360, as amended) is amended to read:

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

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

B. Notwithstanding the provisions of Subsection A of this section, a county or municipality designated as an

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agent pursuant to Section 66-2-14.1 NMSA 1978 may impose a fee in an amount not to exceed five dollars ($5.00) per year in addition to any other registration fee required. This fee shall not be imposed if the county or municipality has imposed a gasoline tax pursuant to the County and Municipal Gasoline <u>and Special Fuel</u> Tax Act, the proceeds of which are used to fund a vehicle emission inspection program. Any money collected as a result of the imposition of an additional fee pursuant to this subsection shall be used only to fund a vehicle emission inspection program."

SECTION 17. REPEAL.--Section 7-24A-7 NMSA 1978 (being Laws 1978, Chapter 182, Section 7, as amended) is repealed.

SECTION 18. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

FOR THE TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

AN ACT

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SUPPLEMENTAL SEVERANCE TAX BONDS FOR PROJECTS CERTIFIED BY THE DEPARTMENT OF TRANSPORTATION; REPEALING LAWS 2001, CHAPTER 37, SECTION 1; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-27-12 NMSA 1978 (being Laws 1961, Chapter 5, Section 10, as amended by Laws 2001, Chapter 37, Section 1 and by Laws 2001, Chapter 338, Section 1) is amended to read:

"7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED.--

A. The state board of finance shall issue and sell all severance tax bonds when authorized to do so by any law that sets out the amount of the issue and the recipient of the money.

B. The state board of finance shall also issue and sell severance tax bonds authorized by Sections 72-14-36 through 72-14-42 NMSA 1978, and such authority as has been given to the interstate stream commission to issue and sell such bonds is transferred to the state board of finance. The state board of finance shall issue and sell all severance tax bonds only when so instructed by resolution of the governing body or by written direction from an authorized officer of the recipient of the bond money.

C. Except as provided in Subsection D of this section, proceeds from supplemental severance tax bonds shall be used only for public school capital outlay projects pursuant to the Public School Capital Outlay Act or the Public School Capital Improvements Act.

D. Proceeds from supplemental severance tax bonds issued pursuant to:

(1) Paragraph (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.) shall be used for the purposes specified in that paragraph; and

(2) Section 3 of this 2015 act shall be used for the purposes specified in that section.

E. Except as provided in Subsection F of this section, the state board of finance shall issue and sell all supplemental severance tax bonds when so instructed by resolution of the public school capital outlay council pursuant to Section 7-27-12.2 NMSA 1978.

F. The state board of finance shall issue and sell supplemental severance tax bonds authorized by:

(1) Paragraph (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.) when so instructed by resolution of the [~~commission on~~] higher education department; and

(2) Section 3 of this 2015 act when certified by the department of transportation."

SECTION 2. Section 7-27-12.2 NMSA 1978 (being Laws 2001, Chapter 338, Section 2, as amended) is amended to read:

"7-27-12.2. SUPPLEMENTAL SEVERANCE TAX BONDS--PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS.--

A. The public school capital outlay council is authorized to certify by resolution that proceeds of supplemental severance tax bonds are needed for expenditures relating to public school capital outlay projects pursuant to the Public School Capital Outlay Act or for the state distribution for public school capital improvements pursuant to the Public School Capital Improvements Act. The resolution shall specify the total amount needed.

B. The state board of finance may issue and sell supplemental severance tax bonds in compliance with the Severance Tax Bonding Act when the public school capital outlay council certifies by resolution the need for the issuance of the bonds. The amount of the supplemental severance tax bonds sold pursuant to this section at each sale shall not exceed the lesser of:

(1) the amount certified by the council; or

(2) the amount that may be issued pursuant to the restrictions of Section 7-27-14 NMSA 1978 less the amount that may be issued pursuant to Section 3 of this 2015 act.

C. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible.

D. The proceeds from the sale of the bonds are appropriated as follows:

(1) the amount certified by the secretary of public education as necessary to make the distribution pursuant to Section 22-25-9 NMSA 1978 is appropriated to the public school capital improvements fund for the purpose of carrying out the provisions of the Public School Capital Improvements Act; and

(2) the remainder of the proceeds is appropriated to the public school capital outlay fund for the purpose of carrying out the provisions of the Public School Capital Outlay Act."

SECTION 3. A new section of the Severance Tax Bonding Act is enacted to read:

"[NEW MATERIAL] SUPPLEMENTAL SEVERANCE TAX BONDS--STATE

ROAD FUND.--

A. The traffic safety bureau of the department of transportation shall develop a report on the number of traffic fatalities per one thousand residents for each state transportation commission district. The department of transportation shall use the report to establish a schedule by which state transportation projects for each state transportation commission district may be certified for fiscal years 2016 to 2021. The schedule shall be established by July 1, 2015.

B. For fiscal years 2016 through 2021, the department of transportation is authorized to certify that proceeds from supplemental severance tax bonds are needed for expenditures for the maintenance, construction and improvement of state highways and bridges within a state transportation commission district consistent with the schedule established pursuant to this section. The certification shall specify the amount needed for each fiscal year.

C. In fiscal years 2016 through 2021, the state board of finance may issue and sell supplemental severance tax bonds, in compliance with the Severance Tax Bonding Act, in an aggregate principal amount not to exceed six hundred million dollars ($600,000,000) when the department of transportation certifies the need for issuance of the bonds; provided that the amount of supplemental severance tax bonds issued in a fiscal year pursuant to this subsection shall not exceed one hundred million dollars ($100,000,000). The amount of supplemental severance tax bonds sold at each sale pursuant to this subsection shall not exceed the lesser of the amount certified by the department of transportation or the amount that may be issued pursuant to Section 7-27-14 NMSA 1978.

D. The state board of finance shall schedule the issuance and sale of the supplemental severance tax bonds as expeditiously and economically as possible. The state board of finance shall take appropriate steps to comply with the Internal Revenue Code of 1986, as amended.

E. The proceeds from the sale of the bonds are appropriated to the state road fund for the construction, improvement or maintenance of state highways and bridges, consistent with the certification made pursuant to Subsection A of this section.

F. Money from the supplemental severance tax bonds provided for in this section shall not be used to pay indirect costs."

SECTION 4. REPEAL.--Laws 2001, Chapter 37, Section 1 is repealed.