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

Absent
Sen. John Arthur Smith, Vice Chair
Sen. Timothy M. Keller

Advisory Members
Rep. Cathrynn N. Brown
Sen. Carlos R. Cisneros
Rep. Sharon Clahchischilliage
Rep. Nathan "Nate" Cote
Rep. Anna M. Crook
Rep. Edward C. Sandoval

Sen. Jacob R. Candelaria
Sen. William H. Payne
Sen. William E. Sharer

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.