

**MINUTES
of the
SECOND MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE**

**July 9, 2018
State Capitol, Room 322
Santa Fe**

The second meeting of the Transportation Infrastructure Revenue Subcommittee was called to order by Representative Roberto "Bobby" J. Gonzales, chair, on July 9, 2018 at 10:00 a.m. in Room 322 of the State Capitol.

Present

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

Absent

Rep. David M. Gallegos

Advisory Members

Sen. Carlos R. Cisneros
Rep. Sharon Clahchischilliage
Rep. Harry Garcia
Rep. Bealquin Bill Gomez
Rep. Rick Little
Rep. Patricia A. Lundstrom

Sen. Stuart Ingle
Sen. Carroll H. Leavell
Rep. Antonio Maestas
Sen. William H. Payne

Staff

Mark Edwards, Drafter, Legislative Council Service (LCS)
Tessa Ryan, Staff Attorney, LCS
Felicia Garcia, Intern, 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 website.

Monday, July 9

Approval of Minutes

On a motion made and seconded, the subcommittee approved the minutes of the June meeting.

State of the State System Overview

State Road Fund. Laura Bianchini, chief economist, Department of Transportation (DOT), and Tom Church, secretary of transportation, reported on department revenue as follows. The year-over-year growth rate in State Road Fund revenue is higher than expected. The increase is driven primarily by collections from the gasoline and special fuels taxes, which, in turn, are rising largely because of high oil production activity. Given the reason for that swell, the revenue stream ahead is marked by volatility. For fiscal years (FYs) 2019 and 2020, it is expected that the current forecast for State Road Fund revenue will be revised upward, partly due to recent legislation that earmarks a portion of motor vehicle excise tax revenue for the State Road Fund. A portion of that earmark, however, is pledged to the Carlsbad Brine Well Remediation Fund. Meanwhile, revenue levels from most sources other than the gasoline and special fuels taxes align closely with expectations.

Questions and Discussion

Ms. Bianchini and Secretary Church addressed subcommittee members' questions and comments as follows.

- At present, the Taxation and Revenue Department (TRD) has no way to access information from electronic logging devices used by the trucking industry for purposes of administering the weight distance tax. Even if it did, more information would be needed to calculate the tax.
- Compliance with the weight distance tax has improved due to implementation of the new port-of-entry permit program and closer working relationship with the TRD's audit section. It is expected that the new program, which began on July 1, will raise \$400,000 in revenue annually.
- The increase in gasoline tax revenue is particularly remarkable because of the trend toward higher motor vehicle fuel efficiency. Therefore, the revenue increase also signifies an increase in vehicle miles traveled.
- Seventy-four percent of revenue categorized as "MVD Miscellaneous" goes to the State Road Fund. The remainder goes to local governments.
- About .4% of vehicles sold in the state last year, or 369, were electric vehicles.
- The dominant sources of revenue to the State Road Fund are the gasoline, special fuels and weight distance taxes and fees from vehicle registrations.
- Compared to other states, New Mexico's vehicle registration fees are low. In part, the state's weight distance tax evens out the difference between it and other states' vehicle-related charges.

- Should lawmakers transfer the functions currently performed by the Motor Vehicle Division of the TRD to the DOT — a measure that would not necessarily improve efficiencies — they should ensure that the mandate is adequately funded.
- The DOT's revenues are highly sensitive to the state of the nation's economy.
- The Energy, Minerals and Natural Resources Department, through a memorandum of understanding with the DOT, is overseeing efforts to fix the Carlsbad brine well.
- About 22% of the DOT's total budget is dedicated to repaying debt. A State Transportation Commission policy adopted during the Richardson Administration caps the annual debt that the DOT incurs at \$162 million in state and federal funds. If the state wished to exceed that level, it would have to increase revenue capacity.

Subcommittee members remarked as follows.

- Policymakers should explore the possibility of enforcing the weight distance tax through the use of electronic logging devices.
- A higher percentage of motor vehicle excise tax revenue should go to the State Road Fund.
- The legislature should consider repaying to the State Road Fund funding that was diverted to other purposes during the period in which the legislature had to take extraordinary measures for state fiscal solvency.
- Information on the scope of work and reporting requirements in the contract to fix the Carlsbad brine well should be shared with the legislature and the DOT.

DOT budget. Mallery Manzanares, budget director, DOT, reported on the department's FY 2019 approved budget as follows. The budget totals \$886.4 million. Certain of the DOT's programs' budgets have increased, including the budget for the port-of-entry initiative. Much of that increase corresponds to an increase in State Road Fund revenue of \$13.1 million.

Questions and Discussion

Secretary Church and members of his staff who were in the audience addressed subcommittee members' questions and comments as follows.

- The DOT has an 18% vacancy rate. The recent transition to a new state recruiting system has presented challenges, which the DOT is working to overcome, in filling vacancies.
- If a new federal infrastructure program is advanced, New Mexico, in its current fiscal state, will have very little capacity to take advantage of funding made available under it.
- The State Personnel Office's recent adoption of a more centralized human resources (HR) system resulted in the reduction from about 50 to about 15 HR employees at the DOT.

- Under a current DOT policy, funding for vacant positions does not revert to the State Road Fund until the end of the fiscal year. Once it does, it is put to use for other purposes.
- The DOT currently relies on some of its employees volunteering their time to perform department-related functions, often not part of their assigned duties, as a way to manage needs otherwise left unmet because of vacancies.
- The Department of Public Safety motor transportation police, not DOT employees, conduct inspections at the ports of entry.

Subcommittee members remarked as follows.

- Funding road projects creates and sustains jobs and stimulates economic development.
- The new administration should make it a priority to reverse the recent HR changes and return to the former, more localized approach of providing HR services.

Bonds. Secretary Church reported that the state recently entered into a rate swap agreement in which \$420 million in variable-rate debt assumed to pay the cost of the Rail Runner was replaced with fixed-rate bonds. The move, he said, avoids large "cliff payments" that would have come due in FYs 2025 and 2026 and provides more budget consistency. It also eases the DOT's reliance on the New Mexico Finance Authority for managing the debt. He added that the transaction amounts to essentially a break-even cost to the state.

Questions and Discussion

Secretary Church clarified that the transaction's effect on the DOT's current budget is minimal. A member remarked that the state finds itself in the position of having to make such debt payments and engage in such transactions because of the actions of past administrations and the complacency of past legislatures with those actions.

Project design and construction; roadway maintenance; asset management and planning. Anthony Lujan, deputy secretary for highway operations, DOT, introduced Armando Armendariz, director, Design and Construction Division, DOT; Rick Padilla, state maintenance manager, DOT; and Tamara Haas, director, Asset Management and Planning Division, DOT, to deliver the following portions of the presentation.

Mr. Armendariz highlighted graphs in the presentation handout showing project completion, budget and costs. The graphs illustrate that the DOT has steadily improved the percentage, now at about 100%, of projects completed on budget. They also illustrate that the department is closing more inactive projects to free up money for other projects, completing about 95% of projects on time and, generally, improving its fiscal management.

Mr. Armendariz also highlighted a map in the handout showing active and completed projects in the state from 2015 through 2017 and accompanying text outlining the value and number of projects the DOT is currently involved in, including those paid with federal, local

government or capital outlay funds. He noted that the capital outlay-funded projects, more than the other types, present challenges.

Mr. Padilla, who addressed roadway maintenance, continued as follows. The DOT maintains about \$15.4 billion in roadway assets. For FY 2018, the department spent about \$5.5 million of the approximately \$9 million budgeted for snow and ice removal. Meanwhile, it spent about \$3.3 million in litter operations carried out by state forces and inmate labor. Despite increases in the budget for litter removal, the department struggles to make net gains in that area. Elsewhere, in the contract maintenance program, the department was able to spend an additional \$33 million in FY 2018, which it targeted at projects with great need.

Mr. Padilla also reported on projects related to Los Alamos National Laboratory and on projects in the southeastern part of the state related to the Waste Isolation Pilot Plant. The federal Department of Energy contributes funding to both projects.

Mr. Padilla then discussed the DOT's new venture into wildfire mitigation as follows. The state forester, citing relevant statutory authority, approached the DOT to assist with his office's wildland firefighting efforts, to which the DOT agreed. As part of its participation in the firefighting effort, the DOT has spent a considerable amount of money, which was not budgeted for the purpose, and will need more funding if it is to continue that participation.

Deputy Secretary Lujan added that the DOT responded cautiously to the state forester's solicitation and negotiated with the state forester for the provision of training, equipment and protection for DOT staff, who are otherwise not trained in firefighting.

Ms. Haas reported on the DOT's assets and maintenance as follows. Recently enacted federal law requires that the DOT develop a transportation asset management plan, which the Federal Highway Administration (FHWA) recently certified and which is posted on the DOT website. The plan is divided into three sections: conditions of pavement and bridge assets; goals related to those assets; and what is needed to reach those goals. Together, they show that if funding remains constant, the condition of bridges will remain approximately the same but the condition of pavement will worsen. Tables in the presentation handout show the amounts of new investment needed to improve bridge, interstate pavement and non-interstate pavement conditions. Graphs in the handout show pavement and bridge conditions based on Legislative Finance Committee (LFC)-established metrics, which differ from FHWA metrics. Lastly, the analysis shows that, though money currently directed toward bridge maintenance could be diverted toward pavement maintenance, that measure alone would not result in an appreciable improvement in pavement conditions; rather, additional investment is needed.

Questions and Discussion

Secretary Church, Deputy Secretary Lujan, Mr. Padilla and Ms. Haas addressed subcommittee members' questions and comments as follows.

- The direct costs incurred by the DOT for firefighting services, which do not include the cost of wear and tear to department equipment, are paid with money budgeted for road maintenance. The state forester has said that his office will reimburse the DOT for its direct costs, but not all of that reimbursement has materialized, and that office is stressed for wildfire-fighting funding. The DOT suggests that, going forward, the legislature establish a contingency fund or allow for budget adjustments for such purposes.
- Members of the state's congressional delegation have been involved in discussions on firefighting services and costs.
- The \$44 million in General Fund money appropriated to the DOT was allotted in equal proportion to the districts for shovel-ready, needed projects. The DOT will provide a list of those projects.
- The life expectancy of pavement resurfacing varies depending on use.
- It is most affordable for the DOT to buy, not lease, its equipment. The department auctions its used equipment to local governments and the public and sells scrap metal from some of its used assets.
- The LFC-established metrics for measuring pavement conditions predate, and are more advanced than, the federally established metrics.
- The DOT analyzes the use of roads when it decides on pavement design. It also keeps abreast of new technologies in that area.

Subcommittee members remarked as follows.

- The state cannot sustain its practice of funding road infrastructure at the current level without detrimental results. Policymakers should approach the issue of road funding with a holistic, not local-centric or self-serving, view.
- It is commendable that the state forester and the DOT are cooperating in the effort to fight fires.
- Public agencies should achieve efficiencies by collaborating more with each other.
- More money should be made available for firefighting efforts.
- Lawmakers should increase the penalties and enforcement associated with littering.

Multi-modal; ports of entry. Michael Sandoval, director, Modal Division, DOT, introduced David Harris, director, Transit and Rail Division, DOT, who reported on programs of that division as follows. Transit ridership is down statewide, as it is in the rest of the country. Largely, that is due to the relatively low price of gasoline. Concerning the Rail Runner and the federal requirement that, by December 31, 2018, a positive train control braking system be installed, the DOT and partner agencies are seeking a two-year extension of the deadline. The Rio Metro Regional Transit District, meanwhile, is negotiating a contract for the design and implementation of the system. Involved agencies are also seeking a federal grant to help fund the project, which, aside from a loan from a state infrastructure bank, would receive no state funding. Concerning Amtrak and its Southwest Chief line that runs through the state, efforts to maintain the line have resulted in a \$16 million Transportation Investment Generating Economic Recovery

(TIGER) grant conditioned on contributions from other entities, including Amtrak. Recently, the DOT learned that Amtrak's contribution was conditioned on the funding partners' production of a long-term financial commitment to maintain the line. The state's congressional delegation is involved in a discussion with Amtrak on the issue.

Mr. Sandoval summarized updates related to the Ports of Entry Division of the DOT as follows. In response to requests related to recent increases in oil extraction activity, the DOT has increased the limit for tractor-trailer weight from 22,000 to 30,000 pounds per axle. In response to complaints about the difficulty associated with securing state police escorts, the DOT also eliminated the requirement that certain oversize vehicles travel only with such an escort. Elsewhere, New Mexico State University is in the draft phase of a study comparing New Mexico's transportation-related fees and fines to those of other states. Initial results suggest that New Mexico's are much lower in comparison. Lastly, several of the state's ports of entry are undergoing renovations, and the increased resources directed to the weight distance tax audit program are returning positive results.

Questions and Discussion

James "Landon" Newton, vice chair, Colfax County Commission, who was in the audience, testified that Colfax County has pledged \$25,000 in matching funds toward a TIGER grant the county applied for and received and said that the county is prepared to move forward with carrying out the terms of the grant. He also expressed gratitude to the DOT for its help fighting the recent fires in Colfax County.

Mr. Harris and Mr. Sandoval addressed subcommittee members' questions and comments as follows.

- Amtrak and the state have different unofficial estimates of the cost of ongoing maintenance of the portion of the Southwest Chief line in and near New Mexico.
- In previous years, other local entities have applied for and received TIGER grants for the line's continuance; this year's grant was pursued by Colfax County.
- The portion of the line from Lamy to Trinidad is owned by BNSF, which does not use it. It is possible that Amtrak anticipates that BNSF will, in the future, want to charge Amtrak the cost of maintenance of that portion of the line. It is possible that lack of BNSF use has prompted Amtrak's insistence that a maintenance funding plan be developed.
- There is talk of a proposal for Amtrak to convert a portion of the line from Kansas to Albuquerque from train to bus service.
- The calculation of savings that a Rail Runner passenger achieves is based in part on the costs of wear and tear to a car.
- The cost of rights of way owned by the state and associated with the Rail Runner is not known.
- The DOT is considering increasing fees to correspond with its increase in tractor-trailer weight allowances.

- Certain curfew restrictions apply to the movement of oversize vehicles throughout the state.

Subcommittee members remarked on the high subsidization of the public rail and bus transit services available and questioned whether there are more affordable ways of offering those services. A member suggested that the value of the rights of way owned by the state and associated with the Rail Runner is high and that those rights of way could be used to satisfy future transportation needs.

District 1 Update

Harold Love, District 1 engineer support manager, DOT, gave an overview of District 1 as follows. The district occupies the southwestern part of the state, includes three international ports of entry and parts of two interstates, has a \$21 million annual operating budget and has almost \$150 million in ongoing construction contracts. Its maintenance challenges arise largely from occurrences of flooding and dust storms. Mr. Love highlighted major current and recently completed projects and others in development.

Questions and Discussion

Mr. Love clarified that the Department of Game and Fish is responsible for handling the removal of wildlife carcasses near roadways. A subcommittee member stressed the great statewide need for additional resources to fund road infrastructure projects, including in District 1.

District 2 Update

Timothy L. Parker, District 2 engineer, DOT, gave an overview of District 2 as follows. The district occupies the southeastern part of the state; includes 10 counties and one tribal entity, the Mescalero Apache Tribe; has a \$23 million annual operating budget; and has about \$126 million in ongoing construction contracts. The district's critical project needs are associated with issues arising from the recent increase in oil extraction activity and from the Carlsbad brine well. There are several outstanding, unfunded needs in the district.

Questions and Discussion

Mr. Parker addressed subcommittee members' questions and comments as follows.

- The traffic activity related to oil extraction has picked up markedly in the past six months.
- Sometimes perceptions of road conditions and safety do not align with information derived from data, but better decisions are made when based on reliable data.

Subcommittee members remarked as follows.

- The state's limited resources should be parceled out equitably throughout the state.

- Legislators often receive poor-quality data in the context of tax revenue levels and have corresponding difficulty making prudent appropriation-related decisions.
- The district performs commendably.

District 3 Update

Kenneth Murphy, District 3 engineer, DOT, gave an overview of District 3 as follows. The district serves a population of almost one million and includes 16 communities and eight tribal governments. Its main office is in Albuquerque. The district has a \$15 million annual operating budget and has about \$90 million in current construction contracts. Most of the roads in the district are interstate highways, are in urban areas or both. Recent challenges of the district include flooding and night work. In the last year, the district preserved a high number, above target, of its lane miles. A table in the presentation handout shows the district's FY 2018 projects, including bridge maintenance projects. A chart shows the number of calls received by the district's courtesy patrol personnel: most of those calls are classified as motorist aid. In the past year, the district completed two bridge rehabilitation projects and was actively involved in seven ongoing projects. Lastly, tables in the handout show projects in the engineering and development state, critical needs of the district and local government projects. Mr. Murphy elaborated on several of those needs and projects.

Questions and Discussion

Mr. Murphy and other DOT staff addressed subcommittee members' questions about specific projects in District 3. Some subcommittee members raised concerns about safety issues and traffic issues associated with specific portions of roadways and raised concerns about some of the transportation infrastructure funding-related decisions made by previous lawmakers. A member stressed the need for elected officials and the public to come to terms with the need for large-scale, adequate revenue generation to meet the transportation infrastructure needs of the state.

Adjournment

There being no further business before the subcommittee, the subcommittee adjourned at 3:48 p.m.