F I S C A L I M P A C T R E P O R T

SPONSOR: Lujan DATE TYPED: 11/5/03 HB CS/CS/HB15/ahfl/aSCW

SHORT TITLE: Tax Relief and Highway Projects SB

ANALYST: Taylor, Neel, Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	700.0			Recurring	Weight Distance Tax Identification Permit Administrative Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
5,600.0	60,300.0	60,300.0	Recurring	State Road Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

NM Taxation and Revenue Department (TRD)
NM Department of Transportation (DOT)
NM Finance Authority (NMFA)

SUMMARY

Summary of Bill Amendments

The Senate Committee of the Whole adopted the following four amendments:

1. Amendment one changes the distance provision on oversize and overweight permits from within a 75 mile radius of trip origin to 125 miles.

2. Amendment two requires the department of public safety to issue special permits for excessive weight, width, length and height within 24 hours of receiving a completed application for such a permit.
3. Amendment three requires the department of transportation to adopt and enforce rules with the goal that no less than 70 percent of the work force shall be New Mexico residents on projects that are 100 percent state funded.
4. Amendment four amends the language on the I-25 reconstruction and improvement project. The I-25 corridor project is changed from Albuquerque to Santa Fe to Belen to Santa Fe.

House Floor Amendment No. 1: The amendment allows a "design and build" process to be used for the project reconstructing the interchange at Coors Boulevard and Interstate 40 in Albuquerque.

HAFC Amendment: The HAFC amendment adds an emergency clause to the bill. An emergency clause requires a two-thirds vote, which was not achieved on House final passage.

Summary of the Bill

The HTRC Substitute for HB 15 proposes increases in taxes and fees that support the state road fund. This reflects concerns expressed by the State Department of Transportation, the Governor's Office and the Blue Ribbon Tax Commission that current road fund revenue sources are not adequate to meet the state highway financing needs. The overall fiscal impact on the road fund is a revenue increase of $60.3 million in FY05, the first full year of changes.

SYNOPSIS OF BILL

Distribution to State Road Fund. Section 1 strikes the distribution of the weight distance tax administrative fee to the road fund. These fees are later directed to TRD, a step necessary for the administration of the weight distance identification card (a.k.a. cab card). Effective date: July 1, 2004.

Special Fuel Excise Tax Distribution. Section 2 reduces the percentage of special fuel excise taxes distributed to the local government road fund from 11.11 percent to 9.52 percent. Distributions are changed to direct additional special fuel tax revenues to the state road fund; local distributions are held harmless by the change in rates. Effective Date: July 1, 2004.

Weight Distance Tax Identification Permits Defined. Section 3 defines a new "weight distance tax identification permit" that is issued by TRD and identifies a vehicle as subject to the weight distance tax. Effective date: July 1, 2004.

Weight Distance Tax Rates. Section 4 increases weight distance tax rates for vehicles other than buses. Rates, which are established on a mills per mile basis for different gross vehicle weight ranges (a mill is one thousandth of one dollar), are increased by 38 percent. Effective date: July 1, 2004.

Bus Tax Rates. Section 5 increases the weight distance tax rates for buses. Rates, which are established on a mills per mile basis for different gross vehicle weights, are increased by 38 percent. Effective date: July 1, 2004.

Weight Distance Tax Identification Permits. Sections 6 through 8 deal with weight distance tax permit issues. Vehicles subject to the weight distance tax are required to display and produce on demand a weight distance tax identification permit upon passing a port of entry. An administrative fee for the weight distance tax identification permits is established. A non-reverting Weight Distance Tax Identification Permit Administration Fund for depositing associated revenues is created. Money in the fund is earmarked to TRD to pay for the cost of issuing and administering the permits. Effective date for these sections: July 1, 2004.

Special Fuels Tax Rate. Section 9 increases the special fuels tax from $0.18 per gallon to $0.21 per gallon. Effective date: July 1, 2004.

Tax I.D. Cards. Section 10 changes TRD's administration of trucker identification cards to promote better revenue collection and enforcement. July 1, 2004.

Motorcycle Registration Fees. Section 11 increases the twelve-month motorcycle registration fees from $11 to $15. Effective date: March 1, 2004.

Passenger Vehicle Registration Fees. Section 12 raises passenger vehicle registration fees. The fee for a vehicle weighing less than 2,000 pounds that has been registered for five years or less is increased from $20 to $27; registration fees on vehicles registered for more than five years in this weight class increase from $16 to $21. The fee for vehicles that weigh between 2,000 and 3,000 pounds and are five years old or less is increased from $29 to $39; the registration fees on vehicles in this weight category that have been registered for more than five years is increased from $23 to $31. The registration fee for vehicles that weigh more than 3,000 pounds and have been registered for five years or less is increased from $42 to $56; the registration fees on vehicles in this weight category that have been registered for more than five years is increased from $34 to $45. Effective date: March 1, 2004.

Trailer Registration Fees. Section 13 increases the registration for freight trailers from $10 to $13. The fee for utility trailers not permanently registered is increased from $5 plus one dollar for each 100 pounds in excess of 500 pounds to $7 plus one dollar for each 100 pounds in excess of 500 pounds. The permanent registration fee for utility vehicles not used in commerce is raised from $25 plus $5 for every 100 pounds above 500 pounds to $33 plus $7 for every 100 pounds above 500 pounds. Effective date: March 1, 2004.

Truck, Truck Tractor, Road Tractor and Bus Registration Fees. Fees for these vehicles vary by weight. Section 14 increases fees on vehicles weighing less than 4,000 pounds from $30 to $40. Registration fees on heavier vehicles are also increased by 33 percent. The rate on the heaviest vehicle—those over 48,000 pounds—is increased from $129.50 to $172. The percentage of truck fee revenues flowing to the tire recycling fund are reduced such that the fund continues to receive the same amount of money it would have prior to the change. Effective date: March 1, 2004.

Bus Registration Fees. Buses other than school buses and buses operated by religious and non-profit organizations pay the same registration fee as trucks. Section 15 increases the bus registration fee for school buses and religious and non-profits from $5 to $7. Effective date: March 1, 2004.

<u>Registration Fees for Buses Used to Transport Agricultural Workers</u>. Section 16 increases the registration for buses used exclusively to transport agricultural workers from $25 to $33. Effective date: March 1, 2004.

<u>Fertilizer Trailers</u>. Section 17 increases the registration fee for fertilizer trailers $5 to $7. Effective date: March 1, 2004.

<u>Manufactured Home Fees</u>. Section 18 increases the fee for the registration of manufactured homes from $5 to $7. Effective date: March 1, 2004.

<u>School Bus Fees</u>. Section 19 increases the registration fee for school buses from $5 to $7. Effective date: March 1, 2004.

<u>Distribution of Registration Fees</u>. Section 20 adjusts fee revenue distributions so that incremental road fund revenue flows to the road fund and other beneficiaries are held harmless. Effective date: March 1, 2004.

<u>Overweight and Oversized Permit Fees</u>. Sections 21-22 increases oversize and overweight permit fees. Oversize permit fees increase from $60 to $250 per year. Overweight permit fees, which are imposed on vehicles weighing more than 86,400 pounds, are raised from $15 for a single trip to $25 plus 2.5 cents for each ton mile. The Department of Public Safety is allowed to provide rules governing the times during which oversized and overweight vehicles or loads may be operated. The fee for annual special permits other than for mobile homes is increased fro $60 to $250. Language governing allowable distances for excessive weight vehicles is changed from operations in the vicinity of a municipality to specify a maximum distance of 75 miles between the origin and destination for a single trip. Oversized and overweight permit revenues are distributed to the state road fund. Effective date for these sections: July 1, 2004.

<u>Highway Projects Infrastructure</u>. Sections 23 through 28 of the legislation provides the legislative intent to authorize the New Mexico Finance Authority (NMFA) to issue $1.585 billion of bonds, on behalf of the State Transportation Commission, to fund construction of 37 highways projects throughout the state, called Governor Richardson's Investment Partnership (GRIP).

The Substitute bill makes several changes to address legislative concerns.

<u>Highway Infrastructure Fund</u>. Section 23 amends the statute creating the highway infrastructure fund by including authority to use its dedicated revenue for GRIP projects.

<u>Transportation Bonds</u>. Section 24 defines the financing strategy for GRIP projects.

Section 24a authorizes the State Transportation Commission to direct NMFA to issue bonds on its behalf, payable from unobligated federal funds and state revenues in either the state road fund or the highway infrastructure fund.

Section 24b authorizes NMFA to restructure existing bonds by exchange or current or advance refunding options.

Section 24c authorizes NMFA to define the terms, conditions and covenants of bond issue and provides discretion to NMFA to enter into financing strategies in addition to traditional fixedrate structures. It also requires project design life to meet or exceed bond maturities, and exempts NMFA issued bonds from Board of Finance approval.

Sections 24d, 24e, 24f, 24g provide standard language for issuance of tax-exempt bonds with a non-impairment clause to ensure the executive or legislature will not divert revenues in state road fund or highway infrastructure fund to other obligations until debt service is paid off, and allows bond proceeds to be used to pay bonds issuance costs.

Section 24h requires NMDOT to acquire highway construction materials from state lands, if feasible.

Section 24i requires bonds to be repaid from unobligated federal or state transportation revenues.

Section 24j defines state transportation project bonds by excluding those defined under Section 67-3-72, which includes revenue bonds payable solely out of the net income to be derived from the operation of the project, such as toll roads or bridges.

State Road Fund Distribution. Section 25 authorizes state treasurer to divert road revenue for payment of debt service on new transportation bonds prior to deposit in the road fund.

Appropriation of Bond Proceeds. Section 26 provides the legislative intent to authorize issuance of $1.585 billion of bond proceeds to be used to construct 37 projects and to improve NMDOT facilities.

The bill authorizes the New Mexico Finance Authority to issue upon the effective date up to $350 million in bonds to construct highway projects prioritized by NMDOT. Thereafter annually, beginning with the 2004 legislative session, NMDOT can request bond authorization and appropriation of up to $350 million, up to a maximum amount of $1.585 billion.

NMDOT will be required to submit an annual report to the Legislative Finance Committee and the Department of Finance and Administration detailing its bond program. In this report, the department shall highlight the progress of the current major construction projects, a new annual list of projects planned for construction with the incremental bond funding, explanation of project priorities for several criteria (traffic counts, accident rates, pavement serviceability ranking, etc.), and substructure conditions, and financial projections (5-yr and 20-yr outlooks) of the NMDOT operating budget ability to afford the outstanding and proposed bond program within the constraint of its operating budget.

It requires unexpended or unencumbered amounts to revert to the state road fund.

Project Authorization. Section 27 authorizes the projects.

Appropriation of Bond Proceeds—Matching Funds. Section 28 authorizes issuance of $12 million of bonds for two projects in the Albuquerque area, but requires a local funding match (from those local governments who benefit from the projects) to cover the remaining construction cost of these projects. The commission will be required to promulgate rules defining how the local match will be apportioned among the several entities impacted.

Temporary Provisions. Section 29 provides language to ensure existing bond debt is not impaired by the new issuance. Effective date: emergency clause.

Repeals. Section 30 repeals requirement for each power unit to pay a $5.00 annual administrative fee. Effective date: July 1, 2004.

Emergency Clause. An emergency clause was added to bill by an HAFC amendment. The act takes effect immediately.

FISCAL IMPACTS TO THE ROAD FUND

The fiscal impacts of the bill are summarized in the following table provided by the Taxation and Revenue Department.

HTRC Substitute for
HTRC Substitute for House Bill 15*
State Road Fund Revenue Impacts
(Fiscal year impacts in thousand dollars)

Description	Eff. Date	2004	2005	Full Year
Weight distance tax identification card	7/1/2004	-	-	-
Increase special fuels tax by 3 cents	7/1/2004	-	13,910	13,910
Increase weight distance tax by 38%	7/1/2004	-	21,200	21,200
Increase vehicle registration fees	3/1/2004	5,600	22,200	22,200
Increase oversize/overweight permit fees	7/1/2004	-	3,000	3,000
Total Road Fund Impacts		**5,600**	**60,310**	**60,310**

SIGNIFICANT REVENUE ISSUES

Weight Distance Tax Rates. NMDOT notes that these taxes have not been adjusted in twenty-years, and while the proposal is to increase the tax by 38 percent, inflation over that period eroded the purchasing power of the tax by more than 70 percent. They also note that 75 to 80 percent of the tax is exported to out-of-state businesses. It should be noted, however, that many states don’t impose a weight distance tax. NMDOT reports that tax increases are scored at current collection levels, and that increased enforcement and collection will result in additional revenue.

Weight Distance Tax Identification Permits. Reform of the permitting process is critical to TRD ability to successfully administer the associated tax. Increased weight distance taxes are unlikely to provide additional revenue without better enforcement.

Motor Vehicle Registration Fees. NM DOT reports that New Mexico registration fees are relatively low compared with other states. Compared to seventeen western states, New Mexico has the fifth lowest registration fee for passenger vehicles. The average registration fee for this group of states is $33.74.

SIGNIFICANT TRANSPORTATION, ROAD FUND AND BOND FINANCE ISSUES.

House Floor Amendment #1 amends the Procurement Code to allow NMDOT to enter into a “design and build” contract for the Coors/I-40 interchange projects. NMDOT reports that design/build provides quicker construction time and improved quality. However, based on its experiences, it does not necessarily reduce construction cost. The department and the U.S. General Accounting Office note that design and build is not appropriate for all construction projects. Based on the unique construction challenges and heavy traffic volumes at this interchange, design and build could provide flexibility appropriate to this project.

Based on bonding authority and new revenues in the Substitute bill, the NMDOT proposes to allocate approximately $40 million per year to debt service (principal and interest payments) for GRIP with the balance to the state road fund operating budget. The proposal raises the following issues, which are reviewed more completely in the fiscal implications section:

1. Operating budget may fall behind as debt obligates larger share of operating revenue.
2. New revenue may not be sufficient to pay for GRIP spending under higher interest rate scenarios.
3. GRIP requires restructuring of existing debt by lengthening maturities of bonds.
4. The full GRIP funding increases total principal and interest payments from $1.3 billion to almost $4 billion.
5. Without additional revenues, financing the full GRIP package will eliminate additional bond capacity for the next 15-20 years. NMFA reports that under alternative scenarios, it may be able to free up capacity for future bond issuances, however.

New Revenue Sources. Incremental revenue in the Substitute is targeted at heavy road users. According to NMDOT, 75 percent of the diesel truck traffic originates outside of and passes through New Mexico; one commercial vehicle weighing 80,000 pounds has as much impact on highways as does 38,000 motor vehicles.

Operating Budget Needs. The department typically holds as many as 400 staff positions vacant. Since FY03, the state-supported construction program, reflecting 1,200 miles of road, has not been funded. Meanwhile, according to agency officials, construction costs increase at a 4.5 percent inflation factor and the unit-based gasoline tax continues to lose its value when adjusted for inflation. The incremental road fund revenue would allow the department to boost maintenance and construction activities and fill needed positions.

Bonding Capacity Based on New Revenue. The department proposes two financing strategies, along with the new revenue, to achieve its $1.585 billion goal to fund GRIP:

1. Restructure existing 12-yr debt into longer maturities.
2. As bonds are paid off, use freed up cash for additional leverage.

Under these conditions, it is feasible to finance the debt proposed by GRIP. To support this conclusion, NMFA ran several scenarios for the LFC, as shown in the following table:

Borrowing Amount Based on New Revenue (000s)

New Revenues	12-yr Maturity	16-yr Maturity	18-yr Maturity	20-yr Maturity
No new money	-	800,000.0	815,000.0	875,000.0
$25 million	625,000.0	1,100,000.0	1,260,000.0	1,350,000.0
$40 million	1,030,000.0	1,390,000.0	1,490,000.0	1,590,000.0
$45 million	1,160,000.0	1,470,000.0	1,578,000.0	1,670,000.0

The Substitute allows NMDOT and the Legislature to adjust and balance its commitment to new debt and its use of new revenues for the ongoing operations.

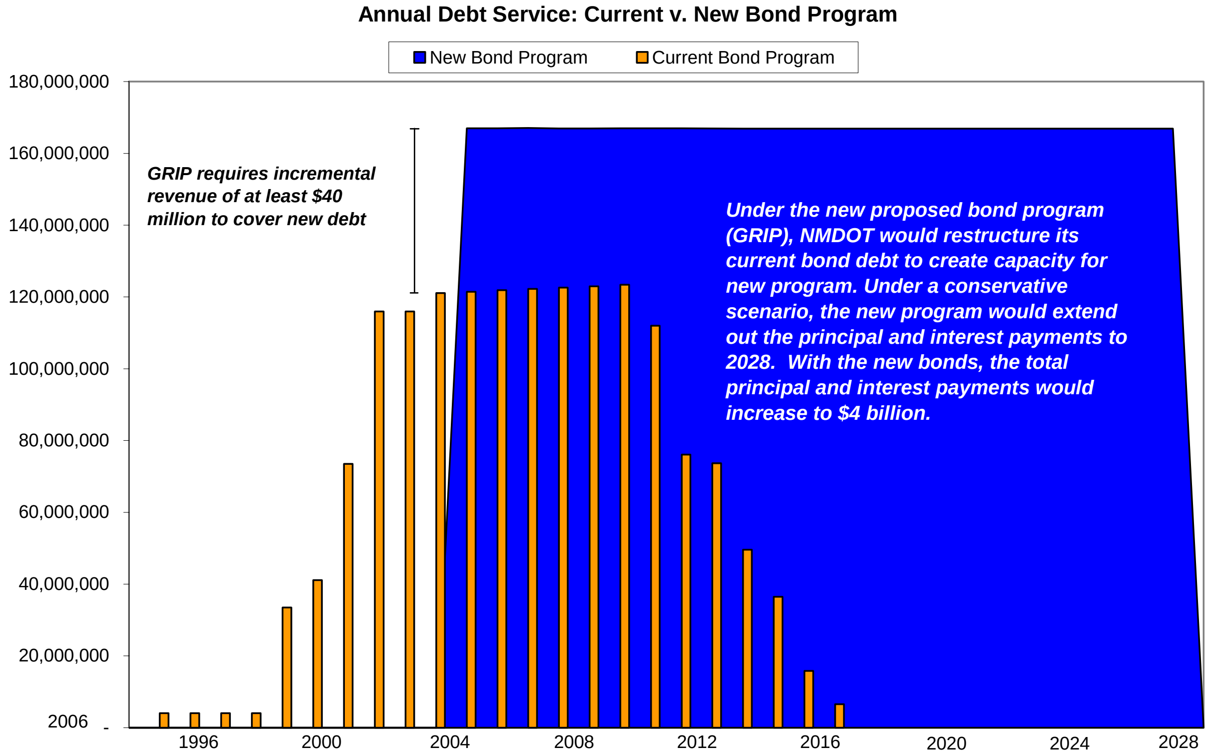
According to NMDOT, bonds would be sold over the next seven years to accommodate project preparation, construction schedules and capacity. According to NMFA, this scenario would increase total debt to $4 billion, as shown in a similar table below.

Total Principal and Interest Payments for GRIP (Highway Construction)
Existing Principal and Interest Payments is $1.3 billion

New Revenues	12-yr Maturity	16-yr Maturity	18-yr Maturity	20-yr Maturity
No new money	$2.2 billion	$2.7 billion	$2.9 billion	$3.2 billion
$25 million	$2.1 billion	$3.2 billion	$3.5 billion	$3.8 billion
$40 million	$2.7 billion	$3.6 billion	$3.9 billion	$4.2 billion
$45 million	$2.9 billion	$3.7 billion	$4.0 billion	$4.3 billion

The following graphic compares the principal and interest proposed in GRIP with the current bond program payments under a conservative financing scenario, which assumes all debt is issued in FY04. This scenario shows that annual payments would increase to a steady level of $160 to $170 million through the next two decades. The capacity to take on new debt without additional revenues would likely be eliminated for the next 15-20 years.

The LFC requested NMFA to provide a debt issuance plan that could be used to develop an alternative scenario. On November 4th NMFA provided LFC with a new financial forecast. That forecast is extracted and attached as appendix 2. The main difference to LFC's scenario is a higher outlook for federal revenues—up to $70 million in 15 years or so.



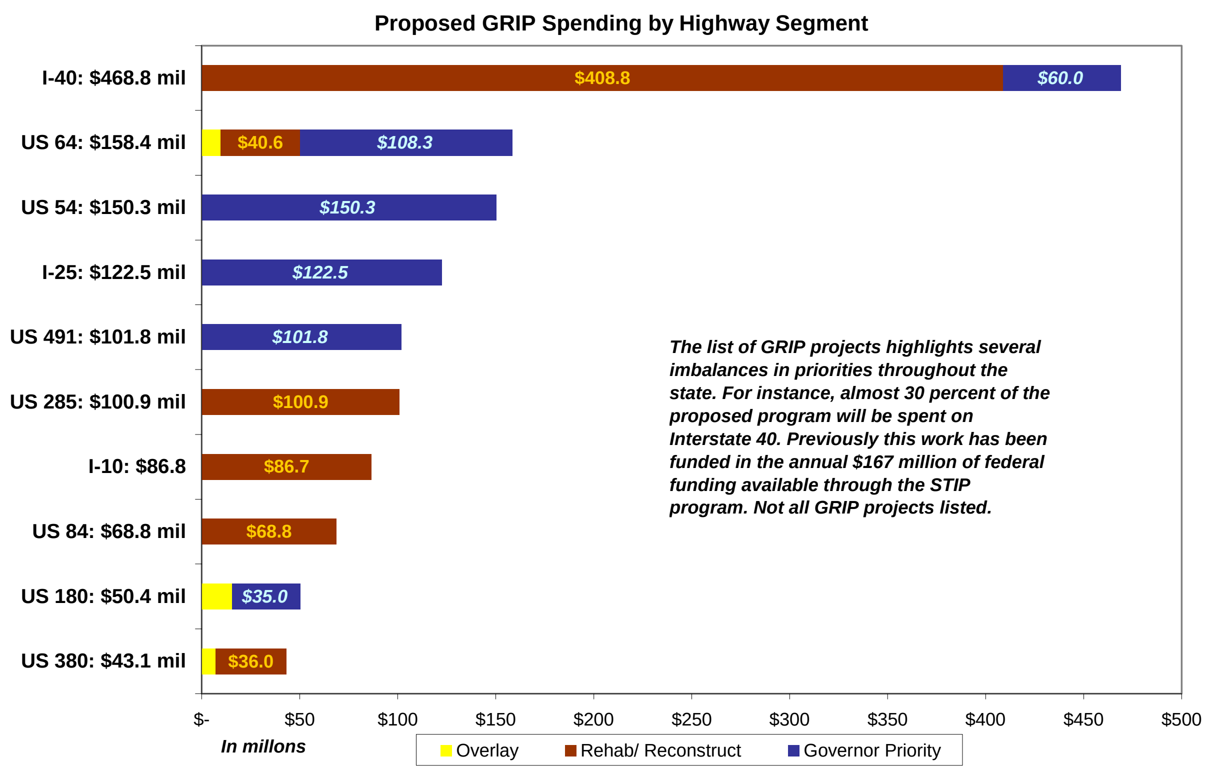
__Operating Budget Condition with GRIP__. **Appendix 1** shows an LFC scenario of the NMDOT operating budget over the next 10 years with the full GRIP funding. Using a 2 percent growth factor for revenues and expenditures, the simulation indicates, within two years, the annual debt service payments will force a reduction in the rest of the operating budget. Based on this admittedly conservative simulation, the projected deficit compounds for the remaining years to levels that may impair the operating budget. However, if debt issuance is phased over several years, NMDOT may be able to cash finance some GRIP projects and reduce borrowing requirements or shorten required maturities.

__GRIP Project Selection and Prioritization__. In collaboration with its District Engineers, NMDOT formulated the GRIP list from more than of $11.4 billion of unfunded transportation needs throughout the state. GRIP reflects the immediate, critical priorities, according to NMDOT. The methodology used by LFC to analyze the proposed project list was first to categorize these projects into the following three groups:

Governor’s Top Priorities:	$	577.8 million
Reconstruct/Rehabilitation:	$	901.9 million
Overlay Projects:	$	63.6 million

The graphic, which follows, displays the total amount of GRIP funding dedicated to each highway segment. As shown, GRIP proposes spending almost 30 percent of the funding for Interstate 40. The need is unquestioned. However, NMDOT is funded by the federal government to manage interstate maintenance and rehabilitation through an annual program called the statewide transportation improvement plan (STIP). STIP, a 6-yr plan, is funded from dedicated federal funds of $167 million/year. NMDOT reports that a total of $1.2 billion will be spent for the

STIP program over the next six years (note: the money in the STIP program is in addition to that available for GRIP). Thus, moving projects from STIP funding to the GRIP program implies room for additional for projects in the STIP.

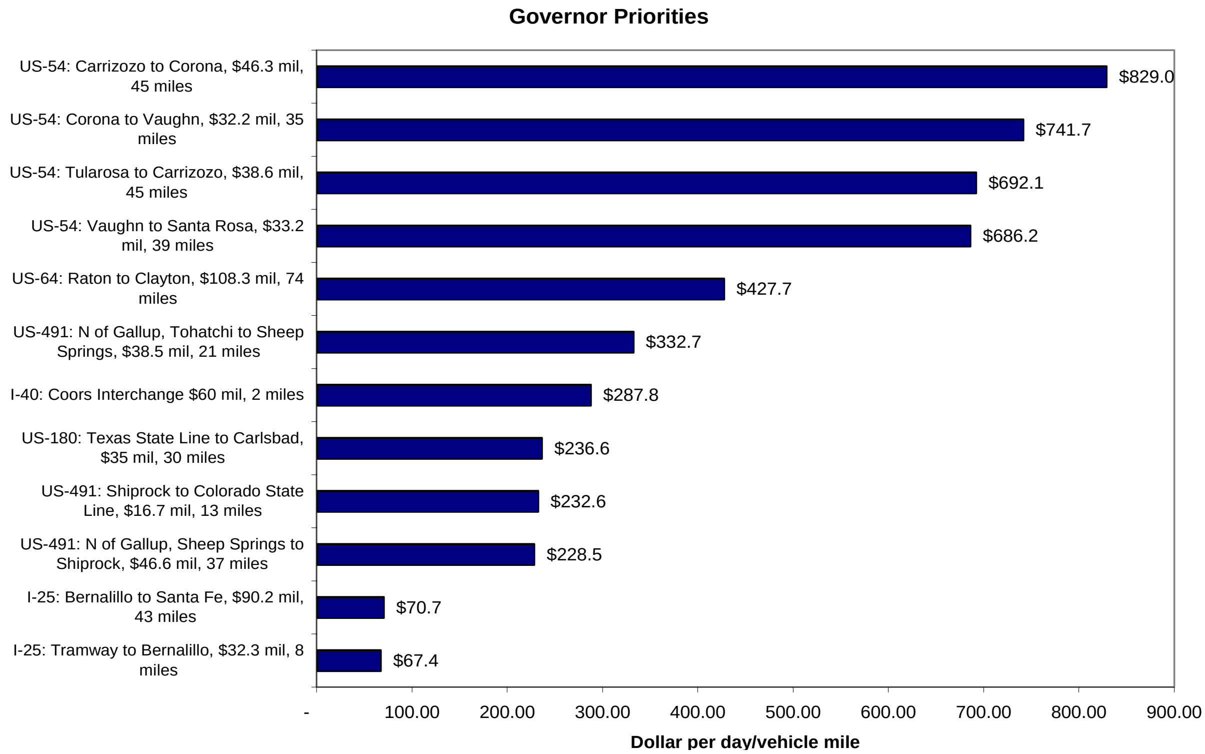


The descriptions of the GRIP projects in the legislation may not provide enough information for legislators to make appropriation decisions. This is particularly important for the I-25 project. As originally proposed, GRIP included two critical projects for the Albuquerque/Santa Fe transportation corridor. These projects, totaling $122.5 million, would reconstruct from 4-lanes to 6-lanes from Tramway to Bernalillo and would add a 3rd high-occupancy vehicle (HOV) lane between Bernalillo and Santa Fe. In the substitute bill, the language expands the project scope as "reconstruction and improvement of I-25 to accommodate public transportation elements including commuter rail from Albuquerque to Santa Fe". This expansion of scope with the insertion of "commuter rail" is a significant policy issue, one in which the Legislature should debate and approve. As written, the Substitute provides NMDOT discretion in making this important policy decision.

Some GRIP projects duplicate planned STIP projects. As an example, one GRIP project would reconstruct US54 from Tularosa to Santa Rosa for $150 million. The project duplicates three stretches already programmed under the STIP. Thus, STIP funding could cover some portion of the project's cost. If GRIP is used to finance some current STIP projects, the STIP would need to be revised to add new projects to replace those funded by GRIP. The Substitute requires, in the annual report to the Legislature, an analysis of the STIP program in relation to the bond program.

GRIP includes both high and low-volume roads. The rationale as to the financing needs for these is not always evident. For example, compare the $150 million US 54 and $101 million for US 491. As the following graphic shows, US 491 has significantly higher traffic volumes and a lower construction cost. This highway is also one of New Mexico's most dangerous.

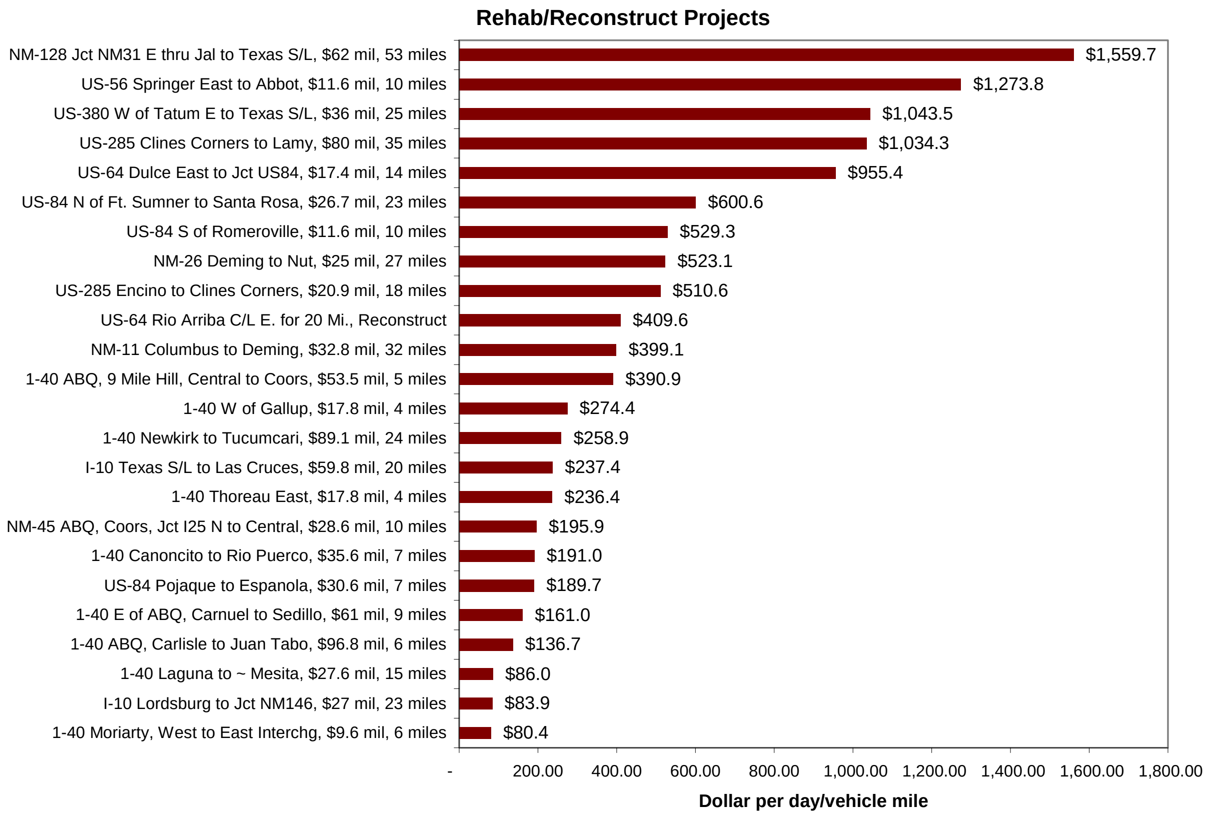
GRIP proposes to rebuild US 54 to a 4-lane highway. It initially proposed an enhanced 2-lane road for US 491. However, Secretary Faught testified at an HAFC hearing that NMDOT is committed to making US 491 a four lane road.

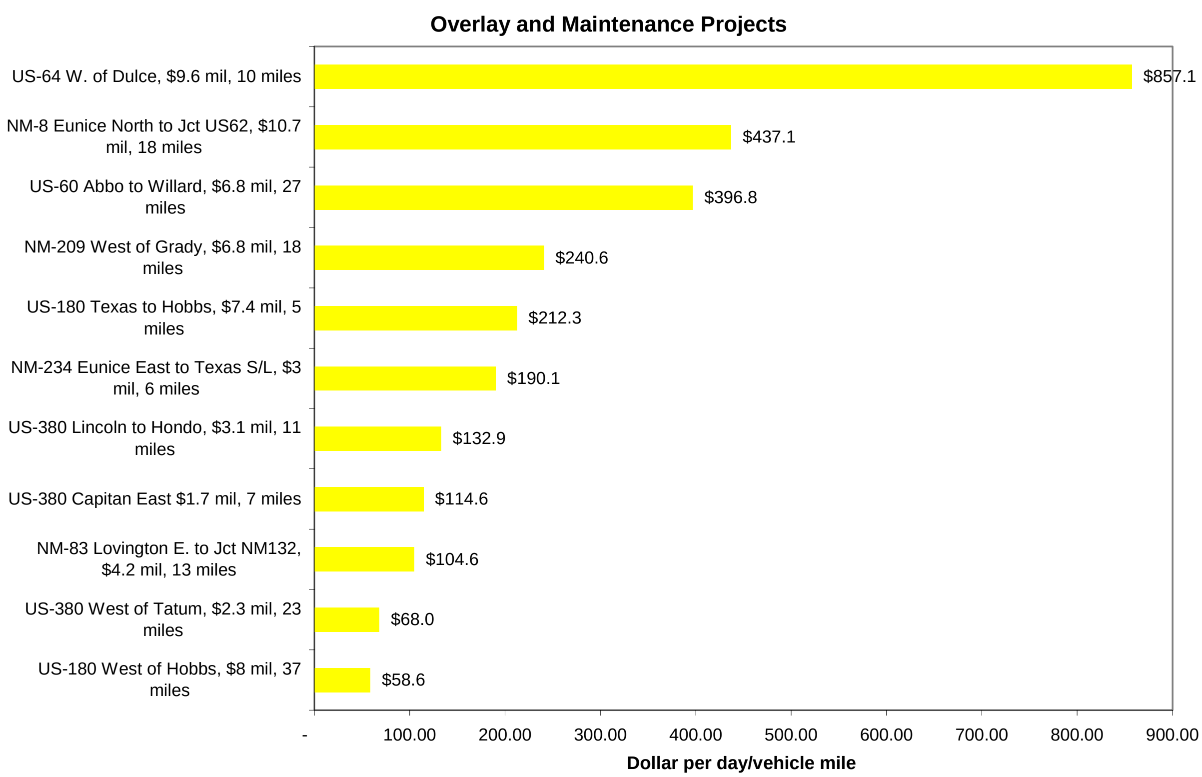


Two additional graphics, shown below, display the results of this analysis for the rehabilitation and overlay projects. **Appendix** 3 details the GRIP project list and estimated costs. The total cost of projects, $1.646 billion, exceeds the authorized bonding capacity of $1.585 billion.

Finally, GRIP currently includes bonding for low-volume maintenance work. This third category of GRIP projects, overlays, represents 11 pavement preservation projects, i.e., projects traditionally with useful lives of 5 to 7 years. Typically, NMDOT has managed these types of project through an annual maintenance or construction program. However, as noted earlier, the state construction program has not been funded since FY03. While issuing long-term debt for shorter-term maintenance projects is problematic, the Substitute contains language requiring NMDOT to design the project life to meet or exceed the bond maturity, and thus may address this issue.

The NMDOT FIR notes that GRIP investments targeted at road failure may achieve significant long-term savings.





TECHNICAL ISSUES

LFC notes a technical issue in Section 25. The section refers to “state transportation revenue bonds,” which is contrary to the specific term of “state transportation project bonds” used in the previous section. In fact, state transportation revenue bonds have a specific meaning, which refers to bonds financed from the net income of transportation projects.

OTHER SUBSTANTIVE ISSUES

The HTRC Substitute provides substantial flexibility to NMDOT and NMFA in specifying priorities and allocating bond proceeds for these projects. Furthermore, NMFA has considerable discretion in designing the financing strategy for the bond sales and is not required to receive Board of Finance approval. One provision of the bill requires NMFA and NMDOT to present details of the bond sale to the NMFA Oversight and Legislative Finance Committees. However, these committees have no approval authority over the details. As an option, the Legislature may want to consider tying bond proceeds to specific projects.

Due to accounting changes impacting the timing of revenue recognition (i.e., GASB 34 issue), general fund reserves are now estimated to be more than $500 million, or 12 percent of recurring expenditures in FY04. This may provide an opportunity to partially draw down on those reserves for non-recurring expenditures, such as state road infrastructure projects.

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