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

SPONSOR: Leavell | DATE TYPED: 10/30/03 | HB

SHORT TITLE: Road Projects & Funding Increases | SB 15

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**			
	20,650	Similar to FY05	Recurring	State General Fund
5,600	85,167	Similar to FY05	Recurring	State Road Fund
	(3)	Similar to FY05	Recurring	Local Government Road Fund
5,600	**105,864**	Similar to FY05	Recurring	**TOTAL - All Funds**

(Parenthesis ( ) Indicate Revenue Decreases)

The State Road Fund fiscal impact in FY2005 includes: $13,917 thousand of special fuel excise tax; $20,650 thousand of motor vehicle excise tax; $23,400 thousand of weight distance tax; $22,200 thousand of vehicle registration fees; and $5,000 thousand of oversize and overweight permit fees. The State General Fund fiscal impact includes $20,650 thousand of motor vehicle excise tax.

SOURCES OF INFORMATION

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

SUMMARY

Senate Bill 15 proposes several changes to the New Mexico tax system. The proposed changes have significant fiscal implications for the state road fund. This reflects the interest in providing additional resources to that fund, reflecting the New Mexico Department of Transportation (NMDOT), the Governor's Office and the Blue Ribbon Tax Commission reports that road fund revenue sources are insufficient to meet the state highway financing needs.

The overall fiscal impact on the road fund is an increase of slightly more than $85 million in FY05, with an increase to the General Fund of $20.7 million.

Finally, the numbers reported in this analysis should be considered preliminary. All impacts are reported on a full year basis on the assumption that the Department of Finance and Administration will have implemented accounting changes affecting the timing of revenue recognition (GASB 34).

SYNOPSIS OF BILL

<u>Special Fuel Excise Tax Distribution</u>. Section 1 & 2 reduces the percentage of special fuel excise taxes distributed to the local government road fund from 11.11 percent to 9.59 percent**.** Distributions are changed to direct additional special fuel tax revenues to the state road fund; local distributions are held harmless. Effective Date: July 1, 2004.

<u>Motor Vehicle Excise Tax Rate</u>. Section 3 & 4 increases the motor vehicle excise tax rate from three percent to four percent. Distributions for FY05 and beyond are change to direct 87.5 percent to the General Fund with the remaining 12.5 percent deposited in the road fund. In FY04, 100 percent is deposited in the general fund. Effective date: March 1, 2004.

<u>Weight Distance Tax Identification Permits Defined</u>. Section 5 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.

<u>Weight Distance Tax Rates</u>. Section 6 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 42 percent. Effective date: July 1, 2004.

<u>Bus Tax Rates</u>. Section 7 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 42 percent. Effective date: July 1, 2004.

<u>Weight Distance Tax Identification Permits</u>. Sections 8 through 10 deal with weight distance tax permit issues. Section 52 requires vehicles subject to the weight distance tax to display and produce on demand a weight distance tax identification permit upon passing a port of entry. Section 53 establishes an administrative fee for the weight distance tax identification permit. Section 54 establishes a non-reverting Weight Distance Tax Identification Permit Administration Fund for depositing associated revenues. Money in the fund is earmarked to TRD to pay for the cost of issuing and administering the permits. Effective date: July 1, 2004.

<u>Special Fuels Tax Rate</u>. Section 11 increases the special fuels tax from $0.18 per gallon to

$0.21 per gallon. Effective date: July 1, 2004.

Tax Identification Cards. Section 12 modifies the tax identification card system by requiring TRD to issue annually original tax identification cards in sufficient for the number of motor vehicles specified by each motor carrier. Issuance of the card is contingent upon the motor carrier being in compliance with weight distance tax and special fuel user permit requirements. Effective date: July 1, 2004.

Motorcycle Registration Fees. Section 13 increases the twelve-month motorcycle registration fees from $11 to $15. Effective date: March 1, 2004.

Passenger Vehicle Registration Fees. Section 14 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 15 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 16 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 17 increases the bus registration fee for school buses and religious and non-profits from $5 to $7. Effective date: March 1, 2004.

Registration Fees for Buses Used to Transport Agricultural Workers. Section 18 increases the registration for buses used exclusively to transport agricultural workers from $25 to $33. Effective date: March 1, 2004.

Fertilizer Trailers. Section 19 increases the registration fee for fertilizer trailers $5 to $7. Effective date: March 1, 2004.

Manufactured Home Fees. Section 20 increases the fee for the registration of manufactured homes from $5 to $7. Effective date: March 1, 2004.

School Bus Fees. Section 21 increases the registration fee for school buses from $5 to $7. Effective date: March 1, 2004.

Distribution of Registration Fees. Section 22 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.

Overweight and Oversized Permit Fees. Section 23 & 24 increases oversize permit fees from $60 to $300 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 4 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. Oversized and overweight permit revenues are distributed to the state road fund. Effective date: July 1, 2004.

Highway Projects Infrastructure. Sections 25 through 29 of the legislation 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). Effective date: February 2004.

Highway Infrastructure Fund. Section 25 amends the statute creating the highway infrastructure fund by including authority to use its dedicated revenue for GRIP projects, as identified in Sections 28 and 29 of this bill.

Transportation Bonds. Section 26 defines the financing strategy for GRIP projects.

Section 26a authorizes the State Transportation Commission to direct and pay NMFA to issue bonds on its behalf.

Section 26b provides a $1.585 billion limit on bond issuance for GRIP.

Section 26c authorizes NMFA to restructure existing bonds by exchange or current or advance refunding options.

Section 26d 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 fixed-rate structures. Requires project design life to meet or exceed bond maturities. It exempts NMFA issued bonds from Board of Finance approval.

Sections 26e, 26f, 26g, 26h 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 26i requires NMDOT to acquire highway construction materials from state lands, if feasible.

Section 26j requires bonds to be repaid from unobligated federal or state transportation revenues.

Section 26k 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 27 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 28 authorizes issuance of $1.585 billion of bond proceeds to be used to construct 37 projects and to improve NMDOT facilities. It requires the NMDOT and NMFA to present the detail of the proposed bond issuance to joint hearing of the NMFA Oversight and Legislative Finance Committees within 30 days of commission authorization for a bond sale. It requires unexpended or unencumbered amounts to revert to the state road fund.

Appropriation of Bond Proceeds—Matching Funds. Section 29 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 30 provides language to ensure existing bond debt is not impaired by the new issuance.

Repeals. Section 31 repeals the requirement for each power unit to pay a $5.00 annual administrative fee.

SIGNIFICANT REVENUE ISSUES

Weight Distance Tax Rates. NM DOT notes that these taxes have not been adjusted in twenty-years, and while the proposal is to increase the tax by 42 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.

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.

Based on bonding authority and new revenues in SB15, the NMDOT proposes to allocate approximately $45 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. Several revenue options were eliminated from consideration at administration's direction.
2. Operating budget is falling behind as debt obligates larger share of operating revenue.
3. New revenue may not be sufficient to pay for GRIP spending.
4. GRIP requires restructuring of existing debt by lengthening maturities of bonds.
5. GRIP increases total debt from $1.3 billion to almost $4 billion.
6. GRIP eliminates bond capacity for the next 20 years.
7. GRIP bonds for rehabilitation projects and low-volume overlays.

FISCAL IMPLICATIONS

Based on its current revenue, NMDOT faces severe fiscal constraints as operating and construction costs have increased and revenues into the state road fund have stayed relatively flat. The current fiscal picture requires the administration and Legislature to consider new revenue options for NMDOT. According to the department, new revenue requirements total $75 million annually, at a minimum:

Debt Service for GRIP	$50 million
Fortify Operational Budget	$25 million

Revenue Options Eliminated. The Executive created a working group to assess the impact of the Native American gasoline tax exemption, while a Blue Ribbon Tax Commission assessed opportunities for increases to transportation-related taxes. The Native American gasoline tax exemption, which according to NMDOT represents a $15 million loss annually to the road fund, was recommended by the Executive working group to remain unchanged. In addition, the Executive spoke publicly about its unwillingness to support any increase in the gasoline tax[1], despite New Mexico's lower-than-surrounding-states rate (Appendix):

State	Gas	Diesel
Arizona	$0.18	$0.26
Colorado	0.22	0.205
New Mexico	**0.185**	**0.195**
Texas	0.20	0.20
Utah	0.245	0.245

Incremental revenue in SB15 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 3,000 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. Bond experts typically use a 1-to-10 rule-of-thumb

[1] The gas tax represents 35 percent of revenue in the state road fund. A one-cent increase reflects $8.4 million in new revenue, of which NMDOT receives approximately $6.5 million.

to determine bond capacity. Given incremental revenue in SB15, NMDOT could acquire approximately $500 million in principal. The department proposes two additional financing strategies to achieve its $1.585 billion goal to fund GRIP:

1. Restructure existing 12-yr debt into 20-yr maturities, providing $122 million for new debt.
2. As bonds are paid off, use freed up cash for additional leverage.

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

Borrowing Amount Based on New Revenue (000s)

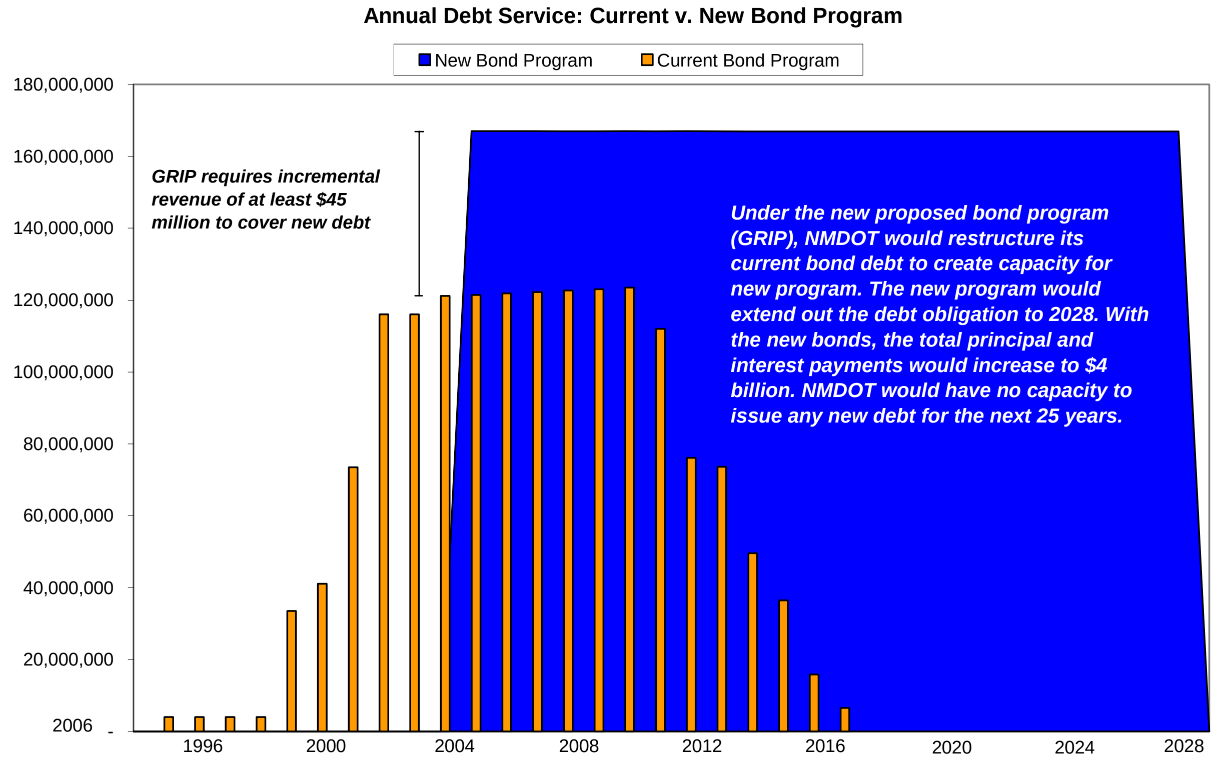
New Revenues	12-yr Maturity	16-yr Maturity	18-yr Maturity	20-yr Maturity
No new money	-	800,000.0	815,000.0	875,000.0
$25 million	625,000.0	1,100,000.0	1,260,000.0	1,350,000.0
$40 million	1,030,000.0	1,390,000.0	1,490,000.0	1,590,000.0
$45 million	1,160,000.0	1,470,000.0	1,578,000.0	1,670,000.0

These scenarios portray the total bond capacity, based on a given revenue source and maturity period. Given the SB15 revenue, NMFA would issue bonds with 18-year maturities because the scenario meets the GRIP debt goal. 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. The annual payments would increase to a steady level of $170 million at least through the next two decades. The capacity to take on new debt would be virtually eliminated for the next 25 years.



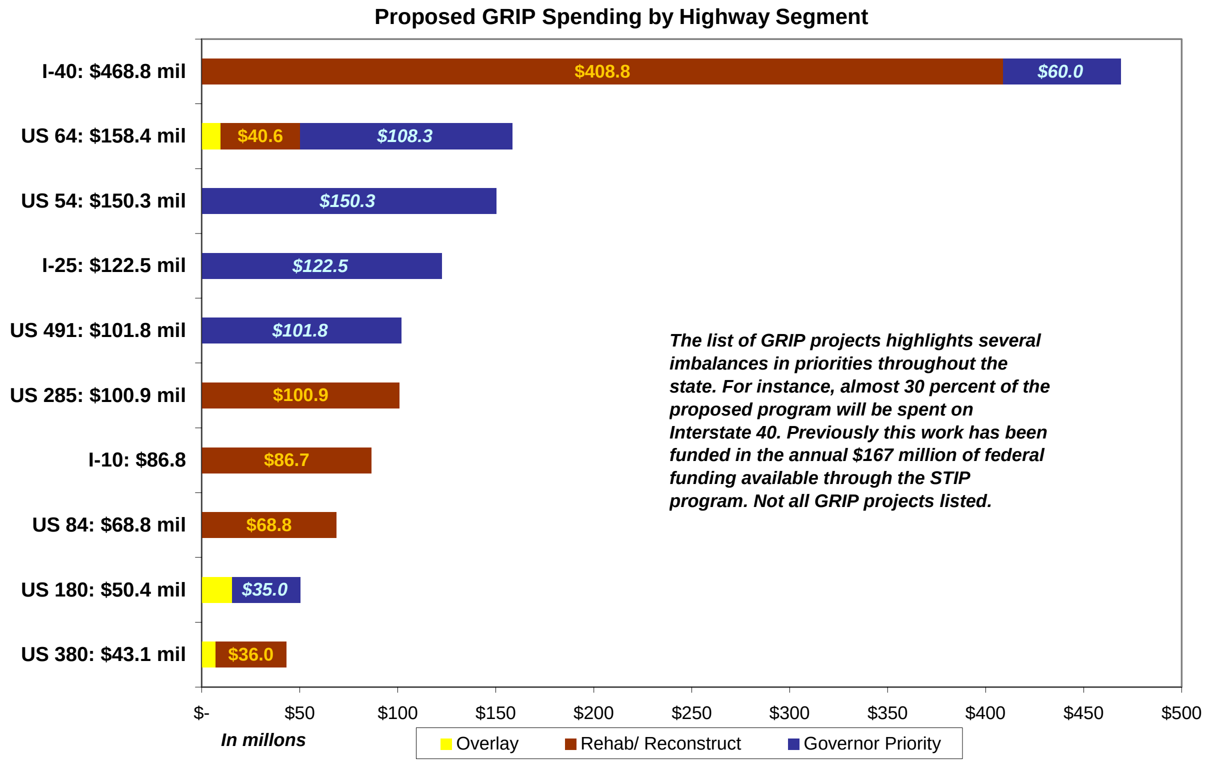
<u>Operating Budget Condition with GRIP</u>. **Appendix 2** shows an LFC forecast of the NMDOT operating budget over the next 10 years with GRIP. Using a 2 percent growth factor for revenues and expenditures, the simulation indicates, within two years, the annual debt service payments force a reduction in the rest of the operating budget. Based on this simulation, the projected deficits compound for the remaining 20 years to levels that impair the operating budget. Under GRIP, the proposed annual debt service levels may be unaffordable.

<u>GRIP Project Selection and Prioritization</u>. 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:

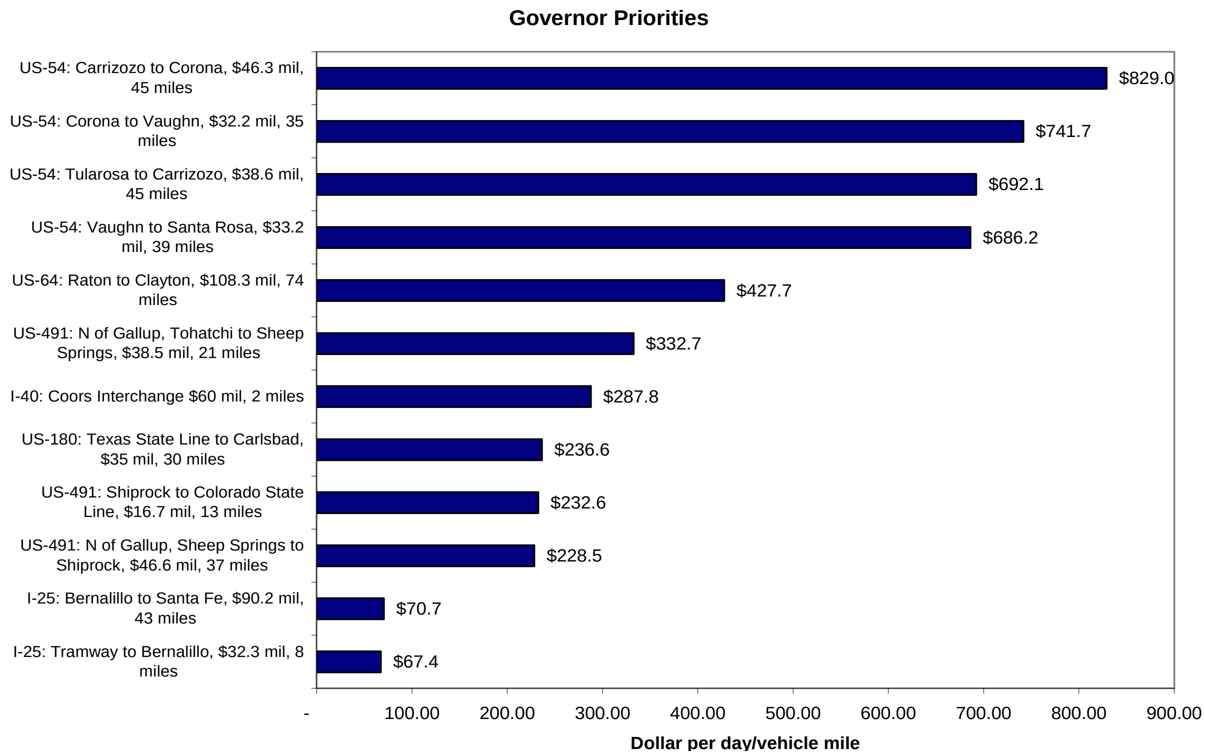
Governor's Top Priorities:	$	577.8 million
Reconstruct/Rehabilitation:	$	901.9 million
Overlay Projects:	$	63.6 million

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.

Aside from the imbalance of funding for I-40, 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. It may be that STIP funding could cover some portion of the project cost.



One other concern is the prioritization of low-volume roads over higher-volume roads. A good example is seen between the $150 million for 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 reconstruct US 54 to a four-lane highway and proposes an enhanced two-lane road for US 491.



Two additional graphics in **Appendix 3 & 4** display the results of this analysis for the rehabilitation and overlay projects.

One final concern about the GRIP program is the proposal to bond 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. This concern is applicable to several projects in the rehabilitation/reconstruction category. SB15 contains language requiring NMDOT to design the project life to meet or exceed the bond maturity.

Typically, NMDOT has managed these types of project through an annual maintenance or construction program. As mentioned, the state construction program has not been funded since FY03. As an alternative option, the Legislature may be able to address these projects by eliminating them from GRIP program and rather, appropriating funding to the state construction program, funded with some portion of the incremental revenue identified in SB15. Issuing long-term debt for short-term maintenance projects simply exacerbates the problem of declining quality of the transportation system.

TECHNICAL ISSUES

LFC notes a technical issue in Section 27, page 44. 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

SB15 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 SB15 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.

Continuing Appropriations

This bill, in Section 25, diverts incremental revenue to the highway infrastructure fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities. The Legislature may want to add the following language:

> Money in the highway infrastructure fund shall be appropriated by the legislature for specific highway construction projects.

BT:SN:MV/prr:yr
Attachments (4)