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

SPONSOR: Aragon DATE TYPED: 10/30/03 HB

SHORT TITLE: Tax and Highway Package SB 21

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**			
4,800.0	20,500.0	21,100.0	Recurring	General Fund
10,000	81,600.0	*103,600	Recurring	State Road Fund
	6,600.0	6,600.0	Recurring	Other State Funds
	(2,000.0)	5,100.0	Recurring	Local Gov't Funds

(Parenthesis ( ) Indicate Revenue Decreases)

**$103.6 million in road fund is representative for FY06, however this figure drops to approximately $60 million in FY07.*

SOURCES OF INFORMATION

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

SUMMARY

Senate Bill 21 proposes numerous 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 State Department of Transportation, 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 nearly $81.6 million in FY05, the first full year of changes. Although there are some significant changes in particular taxes affecting the state general fund and local government funds, the overall fiscal impact on these funds is limited. Presumably, this reflects the intent of the sponsors to propose a change in the system that approaches revenue neutrality for these entities. The relatively small, positive effect on the general fund--nearly $20.5 million in FY05--includes both recurring and non-recurring components.

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). The report MAY be updated as material information becomes available.

SYNOPSIS OF BILL

Local Option Compensating Tax. Section 1 defines the "local option compensating tax", thereby allowing municipalities and counties to impose the compensating tax. Effective date: July 1 2005.

Distribution to State Road Fund. Section 2 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.

Local Option Compensating Tax. Sections 3 through 6 provide for the transfer of local option compensating tax revenues which would be collected by TRD to municipalities and counties. Section 15 determines the jurisdiction where use of property subject to the local option compensating tax occurs. Effective Date: July 1, 2005.

Special Fuel Excise Tax Distribution. Section 7 changes the percentage of special fuel excise taxes distributed to the local government road fund from 11.11 percent to: 11.11 percent in FY04, 9.52 percent in FY05, 9.09 percent in FY06 and 8.7 percent in FY07 and beyond Effective Date: July 1, 2004.

Distribution of Motor Vehicle Excise Tax. Section 8 provides for 25 percent of the motor vehicle excise tax to be distributed to the road through FY06. Effective Date: March 1, 2004.

Tax Administration Issues. Additions needed Sections 9 through 14 address tax administration matters. Section 9 increases the minimum tax liability threshold after which TRD must assess the taxpayer from ten dollars ($10.00) to twenty-five dollars ($25.00). It also eliminates effectivity provisions of tax assessments, the presumed correctness of TRD tax assessements and the ability of TRD to require payment of assessed and unpaid taxes. Section 10 allows taxpayers to elect the "Rules of Civil Procedures for the District Courts" in TRD administrative hearings. Section 11 provides taxpayers with the right to designate certain refund claims as a protective claim. A protective claim is a claim for refund filed by someone based upon the arguments advanced by another person in a previously filed claim that has not been resolved. TRD would not take action on the protective claim until the previously filed claim is resolved. Section 12 and 13 change the interest rate charged and paid by TRD on tax deficiencies and overpayments. The current 14 percent rate would be changed to 10 percent on July 1, 2004. Starting January 2006, the rate would be set equal to the IRS underpayment rate—a floating rate that reflects market interest rates. Section 14 increases the minimum penalty for failing to pay or file a tax return by the date due from five dollars ($5.00) to twenty five dollars ($25.00). Effective Date: July 1, 2004.

Income Tax Filing Categories Reduced. Sections 15 through 18 eliminate the separate personal income tax tables for heads of household and roll the head of household category into the tax tables covering surviving spouses and married persons filing joint returns. The separate tables for head of households imposed higher taxes on that group compared with the married individuals table.

High Wage Jobs Tax Credit. Section 19 provides "high wage jobs tax credit" equal to 10 percent of wages and benefits paid to an eligible employee in a new high-wage job up to a maximum of $12,000. To qualify, a job must pay more than $40,000 per year in municipalities with a population greater than 40,000, and $28,000 per year in a municipality with a population below 40,000. Also, to qualify a business must be growing, with employment greater on the last qualifying day of the credit than the day when the new positions were created. The credit may be claimed for the year in which the job is created and for three years thereafter. It can be taken against the taxpayer's modified combined tax liability (gross receipts tax, compensating tax and others), personal income tax liability or corporate income tax liability. The credit is refundable. Effective date: July 1, 2004.

Research and Development Small Businesses Gross Receipts Deduction. Section 20 and 21 enact a new section of statute to provide a GRT/compensating "tax holiday" for small, high tech research businesses. Qualifying businesses are small firms (no more than 25 employees with revenue of $10 million or less in the prior fiscal year) that have made qualified research expenditures in the last 12 months. Qualified research expenditures exclude expenditures funded with grants, expenditures on property associated with Industrial Revenue Bonds, or property received as part of the Capital Equipment Tax Credit Act, the Investment Credit Act or the Technology Jobs Tax Credit Act. Effective date: July 1, 2004.

Gross Receipts Exemption for Certain Athletics Contests, Sporting Events and Concerts. Section 22 exempts receipts from ticket sales and admission fees to boxing, wrestling, auto racing, one-time sporting events and live concerts held at a venue capable of holding at least 2,500 persons. Effective date: July 1, 2004.

Compensating Tax on Services. Sections 23 through 26 impose the state and local compensating taxes on services from out of state businesses that have no nexus to the state and which would have been subject to the gross receipts tax had it occurred within the state. A compensating tax municipal credit of one half or one quarter of one percent is also provided, depending on the municipal compensating tax rate. Effective date for section 23: July 1, 2004. Effective date for sections 24-26 July 1, 2005.

Gross Receipts and Compensating Taxes on Motor Vehicles. Sections 27 and 28 exempt new alternative fuel cars from the gross receipts and compensating tax. This section relates to the motor vehicle excise tax exemption provided for these vehicles. Absent this exemption, cars provided the motor vehicle excise tax exemption would fall under the gross receipts and compensating tax provisions. Effective date: July 1, 2004.

Nontaxable Transaction Certificates (NTTCs). Section 29 changes the law associated with NTTC's. It eliminates the requirement that taxpayers be in possession of an NTTC within 60 days from the date required to allow for a deduction. It also provides use of other evidence in certain circumstances, including bankruptcy, death or an entity no longer existing as a business. Effective date: July 1, 2004.

Cigarette Stamps. Section 30 eliminates cigarette tax discounts for small volumes. All cigarette tax stamps would be sold at face value. Effective date: March 1, 2004.

Motor Vehicle Excise Tax Rate. Section 31 increases the motor vehicle excise tax rate from three percent to four percent. It establishes a minimum tax of twenty dollars ($20). Effective date: March 1, 2004.

Motor Vehicle Tax Exemption. Section 32 provides a one-time motor vehicle excise tax exemption for the purchase of clean, fuel efficient vehicles. Qualifying vehicles are defined as vehicles manufactured to run exclusively on alternative fuels with a U.S. environmental protection agency a fuel economy rating of at least 22.5 miles per gallon. Effective date: July 1, 2004.

Leased Vehicle Surcharge Rate. Section 33 increases the surcharge on short-term leased vehicles incrementally from two dollars ($2) per day to $3/day in FY04 and $4/day in FY05 and beyond.. Effective date: March 1, 2004.

Weight Distance Tax Identification Permits Defined. Section 34 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 35 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.

Bus Tax Rates. Section 36 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.

Weight Distance Tax Identification Permits. Sections 37 through 39 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.

Special Fuels Tax Rate. Section 40 increases the special fuels tax incrementally from $0.18 per gallon to $0.21 per gallon in FY05, $0.22 per gallon in FY06 and $0.23 per gallon in FY07 and beyond. Effective date: July 1, 2004.

Supplemental Local Government Compensating Taxes. Sections 41 through 54 deal with local government supplemental compensating taxes. Section 57 authorizes municipalities to impose a supplemental compensating tax. The compensating tax rate would be equal to the gross receipts tax rate. Section 58 requires supplemental municipal compensating taxes to conform to the state compensating provisions. Section 59 requires TRD to collect and distribute the local option compensating tax revenues (adjusted for credits and refunds) within the month in which they are collected. Section 60 provides TRD with responsibility for administering and enforcing the collection and distribution of the supplemental compensating taxes. Section 61 establishes that the tax shall be used to pay current bond obligations, new bond issues or may be transferred to any other municipal fund once bonding obligations are met. Section 62 requires that changes to the local option gross receipts tax be matched by changes to the compensating tax. It also automatically implements the local option compensating tax in municipalities that have imposed local option gross receipts taxes. Section 63 governs how TRD is to collect and transfer the municipal local option compensating tax. Section 64 requires entities imposing a local hospital gross receipts tax also impose the local hospital compensating tax. Section 65 governs TRD's collection and transfer of the local hospital compensating tax. Section 66 requires counties to establish a compensating tax that parallels their gross receipts tax. Section 67 governs how TRD and collects and transfers the county compensating tax. Section 68 requires counties with correctional facility gross receipts taxes to also impose a parallel compensating tax. It establishes that the tax will be governed and used in the same manner as the corresponding gross receipts tax. Section 69 governs how TRD is to collect and transfer the county correctional compensating tax. Section 70 provides counties with the authority to pledge and bond correctional compensating tax revenues as they do corresponding gross receipts tax revenues. Effective date: July 1, 2005.

Severance Tax Rate on Oil Production. Section 55 increases the oil and gas emergency school tax rate on oil and carbon dioxide from 3.15 percent to 4 percent. The lower rates provided on oil and other liquid carbons removed from natural gas at stripper wells in times of low oil prices are increased. These rates change from 1.58 percent to 2 percent when the value of the oil is less than $15 per barrel; and from 2.36 percent to 3 percent if the value of the oil is greater than $15 but less than $18. Effective date: March 1, 2004.

Tax Administration—Request for Regulations. Section 26 allows taxpayers or other interested parties to request TRD regulations. Effective date: July 1, 2005.

Regulatory Fees on Promotions. Sections 57 through 62 deal with fees on athletic promotions. Section 74 strikes the 4 percent privilege tax on promotions and replaces it with a regulatory fee. The fee is to be established at an amount that covers the cost of regulating the contest, with a maximum set at four percent of total gross receipts. Section 75 directs regulatory and supervisory fee revenues to the athletic commission fund. Section 77 strikes the five percent tax on exhibiting live professional contests on closed-circuit telecast or motion picture. It replaces the tax with a "supervisory fee" in amount necessary to cover the cost of supervising the exhibition, but capped at five percent of gross receipts. Effective date: July 1, 2005.

Tribal Agreements on Tribal Contests. Section 63 allows the athletic commission to enter into a cooperative agreement with Indian nations, tribes and pueblos for the reciprocal, joint or common direction management or control of professional contests in New Mexico. Such agreements must be signed by the governor. Money collected by the commission on behalf of the Indian nation, tribe or pueblo is governed by the terms of the agreement. Effective date: July 1, 2005.

Tax Identification Cards. Section 64 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, 2005.

Motorcycle Registration Fees. Section 65 increases the twelve-month motorcycle registration fees from $11 to $15. Effective date: July 1, 2005.

Passenger Vehicle Registration Fees. Section 66 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: July 1, 2005.

Trailer Registration Fees. Section 67 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: July 1, 2005.

Truck, Truck Tractor, Road Tractor and Bus Registration Fees. Fees for these vehicles vary by weight. Section 68 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: July 1, 2005.

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 69 increases the bus registration fee for school buses and religious and non-profits from $5 to $7. Effective date: July 1, 2005

Registration Fees for Buses Used to Transport Agricultural Workers. Section 70 increases the registration for buses used exclusively to transport agricultural workers from $25 to $33. Effective date: July 1, 2005.

Fertilizer Trailers. Section 71 increases the registration fee for fertilizer trailers $5 to $7. Effective date: July 1, 2005.

Manufactured Home Fees. Section 72 increases the fee for the registration of manufactured homes from $5 to $7. Effective date: July 1, 2005

School Bus Fees. Section 73 increases the registration fee for school buses from $5 to $7. Effective date: July 1, 2005.

Distribution of Registration Fees. Section 74 adjusts fee revenue distributions so that incremental road fund revenue flows to the road fund and other beneficiaries are held harmless. Effective date: July 1, 2005.

Overweight and Oversized Permit Fees. Section 75 & 76 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 77 through 82 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: Upon signature with two-thirds vote; if not February 2004.

Highway Infrastructure Fund. Section 77 amends the statute creating the highway infrastructure fund by including authority to use its dedicated revenue for GRIP projects, as identified in Sections 97 and 98 of this bill.

Transportation Bonds. Section 78 defines the financing strategy for GRIP projects.

Section 78a authorizes the State Transportation Commission to direct and pay NMFA to issue bonds on its behalf.

Section 78b provides a $1.585 billion limit on bond issuance for GRIP.

Section 78c authorizes NMFA to restructure existing bonds by exchange or current or advance refunding options.

Section 78d 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 78e, 78f, 78g, 78h 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 78i requires NMDOT to acquire highway construction materials from state lands, if feasible.

Section 78j requires bonds to be repaid from unobligated federal or state transportation revenues.

Section 78k 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 79 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 80 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 81 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 82 provides language to ensure existing bond debt is not impaired by the new issuance.

Repeals. Section 83 repeals requirement for each power unit to pay a $5.00 annual administrative fee.

Emergency Clause. The act takes effect immediately.

SIGNIFICANT REVENUE ISSUES

Tax Administrative Issues. The fiscal impact of reducing the interest rate on tax delinquencies will be higher in later years. In FY07, the rate is reduced to the IRS rate, which corresponds to market interest rates. This could increase the cost in those years to more than $5 million.

Income Tax Filing Categories Reduced. According to TRD, this provision would provide tax relief to 13,000 of the 140,000 families filing taxes under the head of household option. Families in this category pay higher income taxes than two-parent families.

<u>Gross Receipts Tax Exemption for Certain Athletic Contests, Sporting Events and Concerts</u>. TRD notes that this exemption may level the playing field for venues competing with Indian pueblos and tribal lands that also host such activities.

<u>High Wage Tax Credit</u>. The fiscal impact reported in the table reflects TRD assumptions on how many high wage jobs would be created. This estimate is based on information regarding the number of such jobs created in a recent year. Economic forecasts suggest that the state may experience stronger job growth in the future. Also, an assumption that the jobs created will be similar to activity in a prior year (which may be quite accurate given all the uncertainty) implies that the incentive does not result in additional jobs being created. Should the incentive prove effective, the fiscal impact (reduced general fund revenues) would be higher.

<u>Compensating Tax on Out of State Services</u>. TRD's fiscal impact estimate in FY05 is $10 million. This increases to $15 million in FY06 as TRD anticipates greater knowledge and compliance with the change. The $15 million estimate is based on the assumed tax base. There is some risk that this additional revenue may not be realized, especially absent additional auditing resources. An additional concern is that the ramping up of revenue from this source coincides with a reduction in the effective tax rate for the state. This is because in FY06 a half percent municipal credit is implemented.

<u>Motor Vehicle Tax Exemption</u>. The fiscal impact of this legislation is relatively muted in near future. Technological breakthroughs could make such cars more competitive and available later on, however. A sunset provision may be in order. TRD suggests another alternative to dealing with the risks would be to provide a cap on the value of the exemption.

<u>Weight Distance Tax Rates</u>. 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.

<u>Weight Distance Tax Identification Permits</u>. 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.

<u>Severance Tax Rates on Oil Production</u>. TRD provided a table (**see Appendix 1**) comparing New Mexico taxes on the oil and gas industries with those of other major producing states. The table shows that New Mexico's taxation of oil and gas is comparable to other states'. The proposed increase does not appreciably alter the comparisons.

<u>Regulatory Fees on Promotions</u>. According to RLD and TRD the proposed fee changes, which are designed to generate less revenue than the current tax, could impair the Athletic commission's ability to generate sufficient revenues to cover costs, including the cost of administration. RLD recommends increasing the regulatory fee to five percent.

<u>Motor Vehicle Registration Fees</u>. 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 SB21, 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 BY FUND AND GOVERNMENT ENTITY

The Fiscal Implications are summarized in table below.

	General Fund			OSF	Road Fund			Local Gov't	
Provision	FY04	FY05	FY06		FY04	FY05	FY06	FY05	Out-yea
Tax Relief for single parents		(3.2)	(2.0)						
GRT Exemption for Certain Athletics Events and Concerts		(3.0)	(3.1)					(2.0)	(2.1)
High Wage Jobs Tax Credit		(1.5)	(1.8)						
Technology Start-up credit		(1.0)	(1.1)						
Clean Car Excise Tax Exemption		(0.5)	(0.6)						
Raise Compensating Tax to GRT			(3.9)	2.5					3.6
Tax Administrative Initiatives		(3.5)	(3.5)						
Compensating Tax and GRT on Out-of-State Businesses		10.0	15.0	2.5					3.6
Motor Vehicle Excise Tax Rate--divert to road fund for 2 years					10.0	41.3	41.3		
Impose minimum excise tax value on used vehicles	1.0	3.1	3.3						
Eliminate cigarette tax discount for stamping	0.3	1.0	1.0						
Phase-in Leased Vehicle Surcharge Rate Increase	1.0	6.4	6.5						
Equalize oil& gas emergency school tax @ 4%	2.5	12.7	11.3						
Governmental Gross Receipts-5.0 to NMFA				0.9					
Weight distance tax permits				0.7					
Increase weight distance tax by 42%						22.1	22.1		
Phased-in increase of special fuels tax to 5 cents						13.2	13.2		
Increase oversize/overweight permit fees						5.0	5.0		
Increase vehicle registration fees							21.4		
TOTALS	4.8	20.5	21.1	6.6	10.0	81.6	103.0	(2.0)	5.1

FISCAL IMPLICATIONS FOR ROAD FUNDING

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:

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 SB21 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 to determine bond capacity. Given incremental revenue in SB21, 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

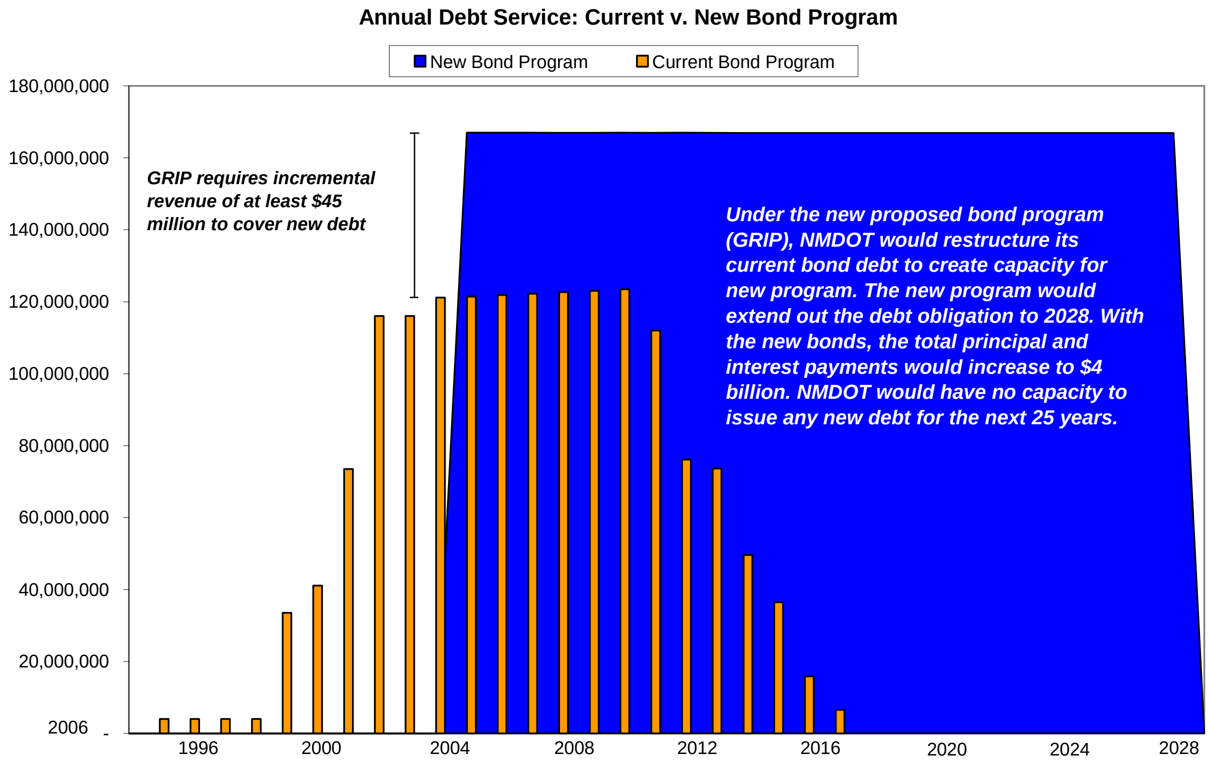
[1] The gas tax represents 35 percent of revenue in the state road fund. A one-cent increase reflects $8.4 million in new revenue, of which NMDOT receives approximately $6.5 million.

These scenarios portray the total bond capacity, based on a given revenue source and maturity period. Given the SB21 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 principal and interest payments 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.

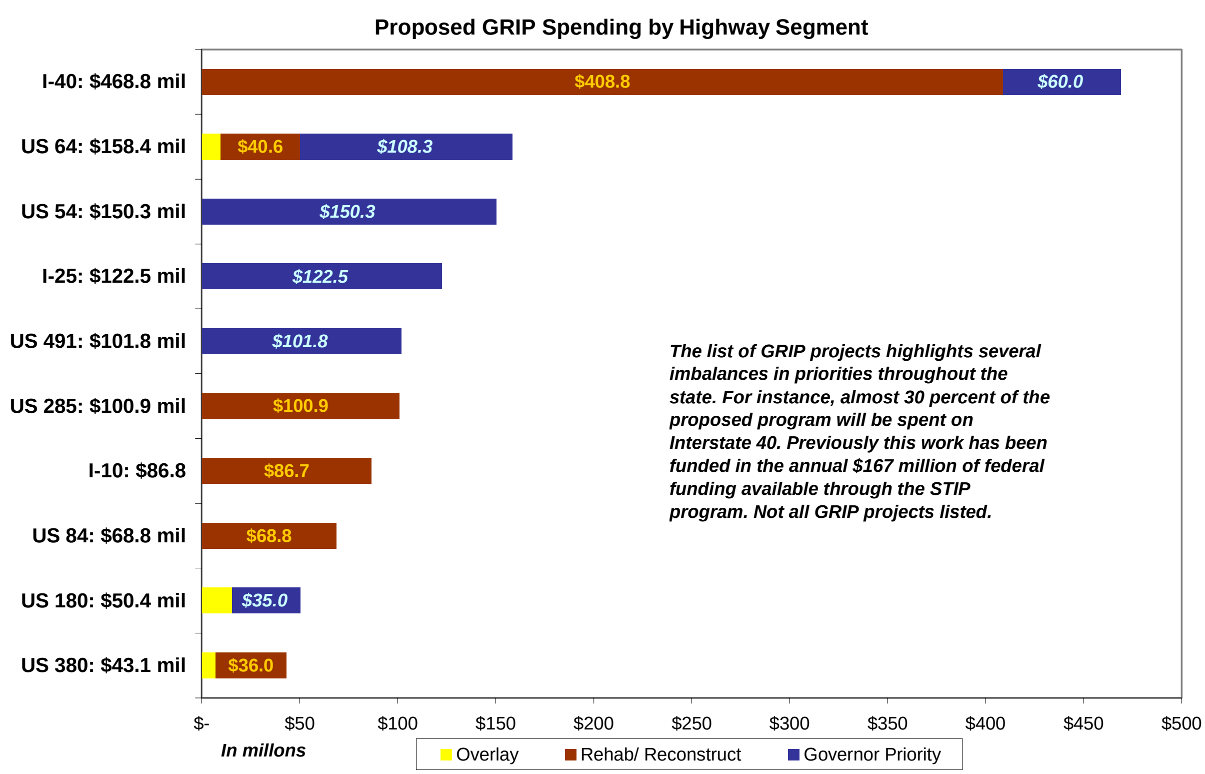


<u>Operating Budget Condition with GRIP</u>. **Appendix 2** shows an LFC forecast of the NMDOT operating budget over the next 10 years with GRIP. Using a 2 percent growth factor for revenues and expenditures, the simulation indicates, within five years, the annual debt service payments force a reduction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

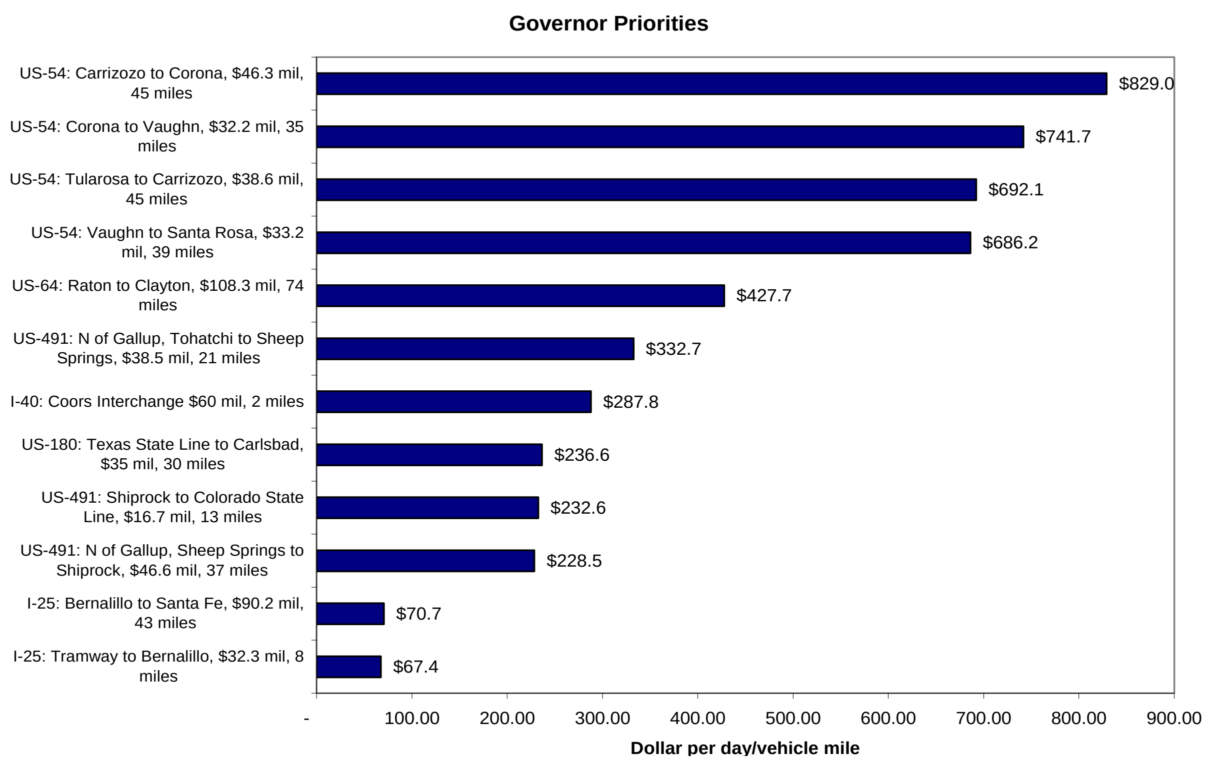
The graphic, which follows, displays the total amount of GRIP funding dedicated to each highway segment. As shown, GRIP proposes spending almost 30 percent of the funding for Interstate 40. The need is unquestioned. However, NMDOT is funded by the federal government to manage interstate maintenance and 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, the descriptions of the GRIP projects do not provide enough information for legislators. As an example, when 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. SB21 proposes $122.5 million for reconstruction and improvement of I-25 to accommodate public transportation elements including commuter rail. Introduction of commuter rail in this corridor is a significant policy issue, one in which the Legislature should approve. As written, SB21 provides NMDOT discretion in making this important policy decision.

Other concerns deal with project duplication. For instance, 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. Appendix 5 details the GRIP project list and estimated costs. The total cost of projects exceeds the authorized bonding capacity of $1.585 billion.

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. SB21 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 SB21. 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 79, page 152. 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

SB21 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 SB21 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 77, 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/yr