



**Report
to
The LEGISLATIVE FINANCE COMMITTEE**



Department of Public Safety, Motor Transportation Division
A Review of New Mexico's Motor Transportation Police Mission and Organization
September 26, 2013

Report #13-09

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September 26, 2013

Mr. Gorden E. Eden, Jr., Cabinet Secretary
New Mexico Department of Public Safety
P.O. Box 1628
Santa Fe, New Mexico, 87504-1628

Dear Secretary Eden:

On behalf of the Legislative Finance Committee, I am pleased to transmit *A Review of New Mexico's Motor Transportation Police Mission and Organization*. This evaluation assessed the agency's proper location within state government, the adequacy of its resources, and its missions in revenue enforcement, safety, and interdiction.

An exit conference was conducted with the Department of Public Safety on September 9, 2013 to discuss the contents of this report. We will present the report to the LFC on September 26, 2013.

I believe this report addresses issues the Committee asked us to review and hope all participating entities will benefit from our efforts. We very much appreciate the cooperation and assistance we received from your staff as well as from representatives of other state agencies and associations.

Sincerely,

A handwritten signature in cursive script that reads "David Abbey".

David Abbey, Director

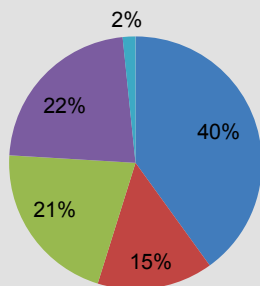
Cc: Representative Luciano "Lucky" Varela, Chairman, Legislative Finance Committee
Senator John Arthur Smith, Vice-Chairman, Legislative Finance Committee

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**Sources of Revenue
for MTD - FY14**
(\$26,065,000)



■ General Fund Transfers
■ Other Transfers
■ Federal Revenues
■ State Road Fund
■ Other Revenues

Source: LFC

Since its creation in 1935, MTD has moved from one organization to another, over eight times

Oversight and enforcement of laws relating to commercial motor vehicles is critical to the maintenance of safe transportation and commerce on New Mexico's highways. The New Mexico Motor Transportation Police (MTD), a division of the Department of Public Safety (DPS), plays a key role in keeping New Mexico's highways safe, in protecting the state's infrastructure investment, and in the interdiction of illegal contraband. This evaluation examines the agencies proper location within state government, the adequacy of its resources, and its missions in safety, revenue enforcement, and interdiction.

Since its creation in 1935, MTD has moved from one organization to another over eight times. Both from organizational and financial perspectives however, it appears the agency is correctly placed within DPS and should not be moved. DPS is planning an internal re-organization that would combine its law enforcement operations, a move that mirrors the organization of state police and commercial motor vehicle functions in neighboring states.

MTD is plagued by staffing shortages and vacancies that seriously hamper its ability to carry out its missions. Recruitment and retention challenges exacerbate this problem. Not only does the agency have too few officers for its patrol mission, but its ports are understaffed, provide insufficient coverage of the state, and in several cases, are in disrepair. A significant reason for MTD's staff shortages is its noncompetitive position with respect to other New Mexico law enforcement agencies as well as the private sector. MTD commissioned officer salaries are ranked 12th among the state's 13 largest law enforcement agencies. MTD's civilian transportation inspectors are often paid less than comparable safety positions in the private sector. As a result, MTD has difficulty recruiting and retaining qualified personnel.

New Mexico is one of four states that employ a weight-distance tax to fund part of its transportation infrastructure. An inadequate MTD presence reduces its ability to enforce this revenue obligation through its ports and patrol operations. An estimate of foregone revenue associated with evasion of the WDT ranges from 27 percent to 44 percent, or \$27 million to \$56 million annually.

Similarly, MTD's safety mission is significantly challenged by staff shortages. Both commissioned officers and civilian transportation inspectors provide a vital function in ensuring that commercial vehicles operate safely in New Mexico. Again, a greater MTD presence will help reduce accidents and unsafe commercial operations.

Finally, MTD inspections are responsible for interdicting significant quantities of illegal drugs and cash as well as screening commercial traffic for potentially dangerous materials. This mission is also diminished by a reduced MTD presence.

Comparative Patrolman Pay

Police Agency	Rank	Sign-on Bonus
San Juan County	1	\$3,000 sign on bonus
Hobbs	2	\$25,000 sign on bonus after 5 years
Los Alamos	3	
Farmington	4	\$15,000 in state lateral sign on bonus \$5K out of state lateral sign on bonus
Carlsbad	5	\$25,000 sign on bonus after 5 years
Las Cruces	6	\$3,000 sign on bonus w/ 36 month commitment
Lea County	7	
Albuquerque*	8	\$5,000 sign on bonus
Santa Fe	9	
Rio Rancho	10	
NMSP	11	
MTPD	12	

Source: DPS

DPS estimates the cost of bringing MTD into parity with State Police pay will initially cost \$394 thousand.

Despite a significant recruitment effort, MTD has only one more officer than it did at the same time last year.

KEY FINDINGS

MTD is properly located within the Department of Public Safety but is understaffed for its mission and faces serious recruitment and retention issues. MTD has had an unsettled past but its current placement within the Department of Public Safety is the right one. MTD's present location as a policing agency within the Department of Public Safety (DPS) is appropriate with respect to its mission and is generally consistent with the placement of similar agencies in other states. MTD's mission is primarily one of enforcement. Organizing the state police and motor transportation police together under one department allows a number of efficiencies, including a shared central radio dispatch, shared vehicle and equipment maintenance, and common equipment purchasing and specifications. Further efficiencies are underway as state police and MTD officers are beginning to be co-located in some areas of the state.

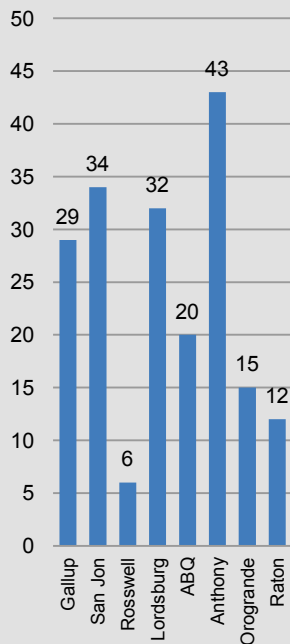
The current location of MTD in DPS is consistent with the national trend of locating motor transportation police functions within the same department as state police. However, the New Mexico model of having a separate Motor Transportation Division is unique compared with surrounding states. DPS has proposed a combined organizational structure for 2015. Should DPS adopt this model, it will be important to maintain a clear focus on the agency's commercial motor vehicle mission.

Differences between State Police and MTD need to be reconciled for DPS to function more effectively. Currently, key differences between State Police and MTD need to be considered in reorganizing the agency:

- Consistent exempt status for all commissioned officers;
- Equal pay for comparable positions according to a common pay gradient;
- One single academy to train all new entrants;
- A common advertising and recruitment campaign;
- Phase-out of the union/non-union disparity; and
- Equal retirement benefits going forward.

Recruitment and Retention are major challenges, largely because of low pay levels compared with competing law enforcement agencies and the private sector. A 2013 DPS salary and benefit survey of the largest New Mexico law enforcement agencies (LEAs) shows that the State Police and MTD are ranked last among the twelve surveyed LEAs with respect to recruit salaries. The average patrol officer salary for MTD is ranked 12th and is 23 percent below the state average. The pay disparity between the MTD and NMSP is most pronounced among the lower ranks. The average MTD patrolman salary is 6 percent below that of their State Police counterparts. DPS would need to expend almost \$7 million (after the FY14 salary increases) to bring MTD and State Police officers up to the number four ranking among New Mexico's largest law enforcement agencies, a position DPS feels will reduce many recruitment and retention barriers.

Total MTD Staff by District



Source: MTD

New Mexico Ports

Major	Secondary
San Jon	Santa Teresa
Raton	Nara Visa
Anthony	Clayton
Lordsburg	Orogrande
Gallup	Carlsbad
	Hobbs
	Texico

Source: MTD

Transportation Inspectors (TIs) make up the civilian component of MTD and are responsible for the bulk of commercial motor vehicle inspections and permit sales. TIs currently receive a starting hourly pay of \$12.01, less than many local truck stop employees. Noncompetitive salaries provide a challenge to MTD in recruiting and retaining skilled inspectors.

MTD's ability to maintain an adequate workforce is challenged by high vacancy rates, lengthy hiring and promotion periods, and unfunded positions. In addition to recruitment and retention problems, MTD has high vacancy rates and lengthy hiring and promotional processes.

According to DPS leadership, it typically takes six months to bring an MTD officer onboard, often resulting in candidates accepting positions with other LEAs during the waiting period. Promotions also take a long time. MTD's May 2013 Vacancy Report listed over twenty positions awaiting some type of promotional activity; some had been pending for more than two years. MTD elected to have SPO facilitate a promotional testing process which added considerable additional time to process promotions. A recent revision to this process has reduced processing time to less than a month.

MTD's vacancy rate is 21 percent of the 269.5 FTE MTD is allocated. As of April, 2013, the actual employee count was 214 total FTE. However, as of mid June this year, MTD was down to 115 commissioned officers with 40 vacancies – a rate of almost 25 percent in the uniformed ranks.

MTD's ports and police patrols play an important role in transportation safety and revenue enforcement for New Mexico but there are too few ports or patrols and they are inadequately staffed. New Mexico's vast rural expanses present a challenge to law enforcement including the commercial motor vehicle safety and revenue enforcement. In general, it appears that MTD's force is spread too thin. A map of MTD's service districts can be found in Appendix C.

It is not clear what constitutes an adequate number of staff for ports since an up-to-date comprehensive staffing study has not been conducted. According to experienced MTD command staff, fifteen to eighteen transportation inspectors are needed to adequately staff a port. All of New Mexico's ports have fewer TIs than this. Simply given the vast coverage areas and the complexity of MTD enforcement duties the agency's commissioned patrol officer ranks are spread too thin.

Recent and predicted increases in commercial traffic volume underscore the need for more MTD personnel in certain regions of the state. Changes in traffic volumes in identified parts of the state are driving the need to re-examine MTD's staffing coverage in these areas.

The location of New Mexico ports and patrols are insufficient to ensure comprehensive enforcement of commercial motor vehicle laws. MTD has deployed its resources as well as can be expected, given New Mexico's vast distances and the agency's staff shortages. Four of the states' ports are now closed: Shiprock (in the northwest corner of the state), Aztec (at the Colorado border), Vaughn (at the intersection of highways 54, 60 and 285, and Tatum (near the Texas border).

Two ports with serious physical issues are Raton, which lacks a permanent water supply and San Jon, which has maxed out its electrical supply.

An initial estimate of WDT foregone revenue suggests the annual loss could be as high as \$56 million.

TRD's audit unit retrieved \$1.5 million in weight-distance tax assessments in FY13.

The reduced MTD presence in these areas raises the question as to the amount of “leakage” or circumvention of MTD enforcement. Most law enforcement professionals believe proportionately more of this circumvention involves intrastate commercial motor carriers rather than interstate companies who most often pass through the established ports of entry. In a vast, rural state such as New Mexico, it is relatively easy to evade inspection. In addition, some ports of entry are poorly located and several are in need of repair. Some of the ports have physical issues, either with their location or with plant problems.

Improvements to MTD's revenue enforcement mission could increase efficiency, reduce tax evasion, and identify additional revenue. MTD also enforces key aspects of the state's transportation revenue. The state's weight-distance tax (WDT) is a significant contributor to New Mexico's road fund. MTD's role is enforcement of revenue collection for TRD by citing commercial vehicles that are out of compliance with this obligation.

New Mexico is one of four states that use the weight-distance tax (WDT) to partially fund part of its transportation infrastructure. New Mexico, Oregon, New York, and Kentucky are the only states using the WDT as a source of revenue. Other states depend on the International Fuel Tax Agreement (IFTA) and the International Registration Plan (IRP), which apportion taxes paid by an interstate vehicle among the states traveled. Most states also rely on significantly higher vehicle registration fees and vehicle fuel taxes.

The registrants, owners, and operators of most motor vehicles who have a declared gross weight or gross vehicle weight over 26 thousand pounds, are subject to the WDT. In 2012, the WDT revenues brought in \$73 million, the fourth-largest contribution to the SRF, after the gasoline tax (\$105 million), the special fuel tax (\$92 million), and vehicle registration fees (\$76 million).

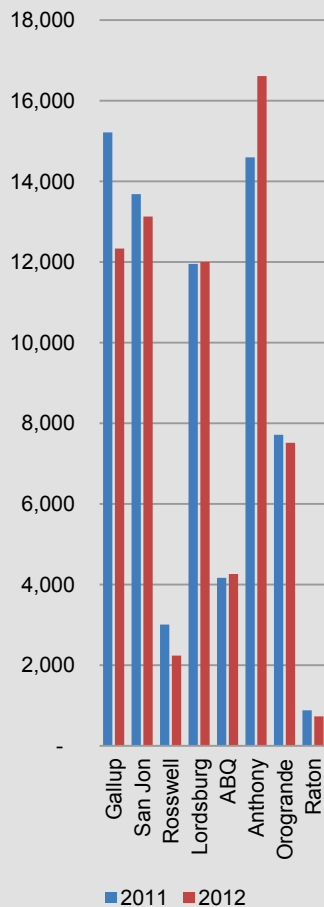
The amount of circumvention of the weight-distance tax by commercial motor vehicles is significant and worth closer review. Opportunities for tax evasion are greater in New Mexico because of the challenge of enforcing the WDT in a vast rural environment.

In 2009, LFC analysts cited a special operation in the Albuquerque metro area which determined that, out of a sample of 641 trucks, 186 did not have the required WDT permit, indicating 30 percent of local CMVs were not paying the WDT.

LFC staff conducted an initial estimate of WDT evasion. Based on the number of heavy commercial motor vehicle miles driven in New Mexico annually and the percentage of trucks falling within specified weight classes subject to the tax, the state could forgo as much as \$27 million to \$56 million WDT revenue per year, or 27 percent to 44 percent above current revenues of \$73 million.

Overweight fines in New Mexico are less than half of what they are in neighboring states.

Total Inspections by District



Source: MTD

TRD's audit unit plays a critical role in collecting weight-distance tax revenue and could effectively be expanded. Each year, the audit bureau sends out approximately 4,000 written inquiries to trucking companies and performs a smaller number of field audits. In FY13, 25 audits were conducted, eight of these involved intrastate carriers and 17 involved out-of-state carriers. As a result of this activity, the state retrieved \$1.1 million in assessments from field audits and another \$400 thousand from its written investigations. Weight-distance targeted audits have only been employed for two years. Prior to that, WDT recovery assessments never exceeded \$60 thousand per year. More WDT audits, particularly targeted at intrastate carriers, could recover significant additional revenue.

Additional revenue generation is possible. In addition to enhancing efforts to reduce evasion of the WDT, more tax revenue could be retrieved, and enforcement strengthened, by increasing various fees and penalties. For example, MTD provides escort services for oversize/overweight vehicles without charge to the carrier. Other states charge for this service. In Arizona, escort services run as high as \$1,000 per assigned officer. Also, New Mexico's commercial motor vehicle fines and fees are generally lower than surrounding states. For example overweight fines in New Mexico are often half the amount of corresponding fines in Texas, Utah, Arizona and California.

MTD places a major emphasis on its safety mission but is hampered by insufficient safety data, potentially-conflicting priorities, and too few staff. The data MTD uses to plan enforcement operation and deploy resource is out-dated.

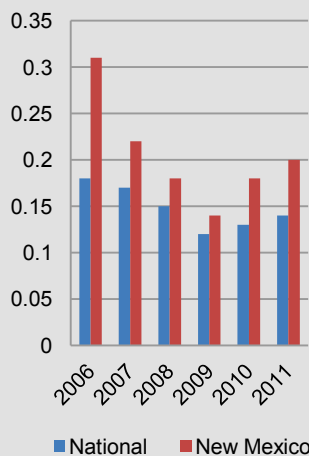
MTD relies on other agencies for much of its safety data. At present there is a two-year lag in crash data received from NMDOT and from the Federal Motor Carrier Safety Administration (FMCSA). DPS has proposed a plan to share an enhanced data processing system with NMDOT that will result in more current data. MTD also relies on local law enforcement agencies, but not all reportable crashes are being submitted to MTD, diminishing MTD's ability to deploy its resources to address current trends.

MTD's safety mission is frustrated by staffing issues. The number of safety inspections declined in the last two years because of staffing shortages and how personnel are deployed. MTD reports staff vacancy rates have forced the agency to scale back inspection operations. To increase the number of safety inspections performed, MTD will need to reduce its vacancy rates and re-deployed. With two or fewer inspectors on duty, which is often the case in the ports, inspectors are limited to assessing incoming trucks and collecting revenue rather than performing complex inspections. At the busiest ports of entry, transportation inspectors spend 90 percent of their time on revenue collection (e.g. selling trip permits) and 10 percent on safety inspections.

MTD compliance review unit has been unable to meet target numbers of investigations. MTD's compliance review unit (CRU) comprises a supervisory sergeant and four full-time officers who conduct safety reviews on intrastate and interstate motor carriers who have been involved in a fatal

MT's highly-trained transportation inspectors often spend the bulk of their time selling trip permits rather than performing safety inspections.

Comparative CMV Fatality Rates



Source: FMSCA
* Per 100 million vehicle miles travelled

MTD's chief is arranging for free federal training of MTD staff in searching commercial vehicles for contraband.

accident, have been the subject of serious complaints, or have a critically low federal safety score. The CRU has a target of 100 investigations per year but has achieved only half of this target in recent years because of insufficient staff and the time constraints brought about by enforcement and carrier training activities. At least two additional investigators would help meet the demand as well as a regional focus on problem areas of the state, such as the southeast sector with its dramatic increase in tanker crashes.

MTD's general law enforcement role appears to be growing, possibly at the expense of its commercial motor vehicle oversight mission. Recent MTD citation performance suggests the agency may be experiencing mission drift. MTD officers have full police powers and are responsible for enforcing the criminal code as well as the motor vehicle and motor transportation codes. MTD has currently achieved 112 percent of its state performance measure for non-commercial citations, but only 72 percent for commercial vehicle citations. Should DPS go forward with plans to integrate MTD with NMSP, it will be critical to maintain a clear focus on the commercial motor vehicle mission.

MTD has been effective in performing its interdiction role but could make improvements. MTD officers and inspectors routinely screen commercial motor vehicles for contraband, including illegal drugs, weapons, and cash. In some cases, municipalities, such as Hidalgo County, have provided contractual funding to MTD to provide enhanced law enforcement in support of the U.S. Border Patrol and Customs Protection. Their efforts have been successful but are hampered by insufficient staff.

Sixty-eight percent of MTD's contraband seizures for the months of October 2011 to September 2012, involved vehicles and locations other than commercial motor vehicles. MTD leadership points to a lack of training in the complexities of searching CMVs as the reason for this imbalance.

MTD's vacancy rate and understaffing impact its interdiction role. MTD will improve its ability to interdict contraband by increasing its police presence through enhanced vehicle. Since most of its 2011 – 2012 reported seizures occurred during highway operations, as opposed to ports, MTD might find a more effective and efficient strategy is one that directs resources to mobile operations.

MTD needs to re-examine its role with respect to the interdiction of radiological materials. Preventative Radiological Nuclear Detection is designed to detect radiological nuclear threats but is underutilized. The federal Department of Homeland Security has invested in a number of strategies to protect the country from attack, including the interdiction of dangerous radiological materials. MTD has deployed radiological portal monitors at several of its ports and also issues personal radiation detectors to some patrol officers. MTD has thousands of dollars in sophisticated equipment, but lacks sufficient trained staff to use these devices and equipment maintenance costs place pressure on its operating budget. A renewed commitment to this program appears to hinge upon the identification of sufficient resources to sustain it.

KEY RECOMMENDATIONS

DPS should:

Create a planned approach to resolving the major differences between MTD and State Police prior to making the transition to its new organizational model in 2015;

develop a plan to bring MTD personnel up to pay parity with State Police counterparts;

recommend the Legislature implement the Uniform Recommended Maximum Fine Schedule to bring New Mexico's CMV fine structure in line with other states.

MTD should:

Begin to fill existing vacancies within the next six months and develop a plan for funding and filling unfunded positions;

add more patrol officer and transportation inspector personnel to underserved areas of the state, in particular, the southeast sector within the next year;

develop a plan for enhancing its presence in the Santa Teresa area in response to the expected exponential growth in CMV;

develop a plan for expanding random road patrols, remote sensing equipment, and mobile weighing operations as a more cost effective alternative to re-opening closed ports of entry;

contract with the NM Sentencing Commission to determine appropriate staffing levels for POEs and districts;

schedule and initiate physical repairs to its POEs;

re-create revenue clerk positions to sell permits to free up TIs for vehicle inspections. Also explore the installation of automated processes, such as online or via kiosks, at the POEs;

inventory and add fee schedules for services that it currently provides without charge, such as escort services for OS/OW vehicles;

increase the Compliance Review Unit; and

seek additional funding from local municipalities and the federal government increase the number of interdiction operations, utilizing random patrols and joint interdiction operations.

DPS, DOT, and TRD should jointly undertake a study to determine the amount of foregone revenue associated with the WDT and develop recommendations to improve revenue enforcement.

TRD should add WDT-focused auditors.

BACKGROUND INFORMATION

Mission and Authority. The Motor Transportation Division (MTD) of New Mexico's Department of Public Safety is mandated by the Motor Transportation Act (Chapter 65, NMSA 1978) to ensure the safe and legal operation of commercial motor vehicles, to prevent the introduction of illicit contraband into New Mexico while facilitating trade, and to promote safety on New Mexico highways by providing law enforcement traffic services to the motoring public.

Budget and FTE. The MTD receives 40 percent of its revenue, or approximately \$10 million, from the general fund. Other significant sources of revenue are federal funds and the state road fund (SRF). For FY13, appropriations to MTD included \$1.2 million from the weight-distance tax identification permit fund and \$5.6 million from the state road fund. MTD has a current operating budget of nearly \$26 million. Funding information for MTD prior to FY10 is not easily available, as the division and its funding were incorporated into the law enforcement branch of DPS. When the legislature created the new MTD for FY10, it appropriated an additional \$1 million in state funds, estimating the MTD would bring in an additional \$7 million in WDT revenues.

History and Organization. New Mexico's motor transportation police began with the introduction of the New Mexico Ports of Entry (POEs) which were organized as the POE Division under the Bureau of Revenue in 1935. In 1939, the POE Division was transferred to the New Mexico State Police (NMSP), first as the Division of Field Administration, and then as the Division of Courtesy and Information. Motor transportation police officers were stationed at ports of entry to welcome visitors to New Mexico and collect appropriate fees, including a mileage tax. Motor transportation officers also enforced the laws and regulations of the Gasoline Tax Division, Highway Department, and the Game and Fish Department. A separate Motor Transportation Department was created in 1967 comprising three divisions. However, when the Transportation Department was created in 1977, MTD became one of its divisions. In 1987, Motor Transportation was once again relocated, this time to the Taxation and Revenue Department (TRD), where it remained until moving to its current location, the Department of Public Safety (DPS) in 1998. In FY10, the New Mexico Legislature created a new Motor Transportation Program, retaining the division within DPS but separating it from the State Police.

Table 1. Historical Placement of Motor Transportation Police

1935	New Mexico Department of Revenue – Port of Entry Division
1939	New Mexico State Police – Division of Field Administration,
1941	New Mexico State Police – Division of Courtesy and Information
1943	Bureau of Revenue – Department of Courtesy and Information/Motor Transportation Department
1967	<u>Motor Transportation</u> Department created with enforcement as a separate division
1977	New Mexico <u>Transportation</u> Department created with MTD as a separate division
1987	Taxation and Revenue Department – MTD is a separate division
1998	Department of Public Safety – MTD is a separate division answering to the State Police Chief
2010	MTD budget separated from the State Police - continues as a separate division within DPS

Source: MTD and New Mexico Blue Books

As a division within DPS, MTD is commanded by the Motor Transportation Police Chief who answers directly to the DPS Deputy Secretary, who is also the Chief of the State Police. The division is divided into northern and southern zones and further into a total of five sectors covering the state's geography. (See Organizational Chart in Appendix F).

MTD's enforcement and safety personnel are divided into commissioned law enforcement officers and civilian transportation inspectors. MTD officers are peace officers authorized to enforce the criminal code, specializing in commercial vehicle safety and enforcement. They have full police authority under New Mexico law. Transportation inspectors are civilian employees who perform commercial vehicle inspections as well as collect revenue at the ports of entry.

Ports of Entry and Enforcement Operation. MTD operates five major ports of entry in Gallup, San Jon, Raton, Lordsburg and Anthony. These major points of entry operate 24 hours a day, 7 days a week. Two of those ports are near the Mexico border. Seven other ports of entry are open at various operating hours for weight enforcement or interdiction operations, and four ports of entry are currently closed. For example, the port at Santa Teresa, which is an important Port of Entry (POE) for motor carriers traveling to and from Mexico, is open for commercial traffic from 8:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 p.m. to 2:00 p.m. on Saturdays, and operates in collaboration with the federal Immigration and Customs Enforcement (ICE) agency. MTD also carries out mobile patrols and weighings at various locations outside of established ports. According to the MTD website, MTD performs 25 thousand mobile weighings each year.

Safety Role. MTD's safety mission is accomplished through inspections on commercial motor vehicles and drivers; traffic enforcement; accident investigations and reconstructions; safety audits and compliance reviews; size and weight enforcement; and permit and tax compliance, among other duties. The division also conducts enhanced radiological inspections on all Waste Isolation Pilot Project (WIPP) shipments originating or entering the state, as well as route control of hazardous material shipments. There are seven different types of inspections performed on commercial vehicles. MTD also participates in specialized operations, including DOT DWI enforcement safety campaigns, federal safety campaigns such as "Safety Week," and works in collaboration with NM State Police and other law enforcement agencies.

MTD follows safety standards set by the Federal Motor Carrier Safety Administration (FMCSA). For example FMCSA established the Compliance, Safety, and Accountability (CSA) program in 2010 in part to analyze all safety-based violations from inspections and crash data to determine a commercial motor carrier's on-road performance, and identify unsafe carriers. Each carrier is given a rating which allows MTD to focus inspections on vehicles that are deemed less safe.

A special program within MTD's safety mission involves the inspection of radioactive materials being transported to New Mexico's Waste Isolation Pilot Program (WIPP) in the Carlsbad area. This underground facility stores long-lived radioactive debris (transuranic waste) from nuclear weapons research facilities. MTD inspects these shipments as they enter the state at ports of entry and onsite at the Los Alamos lab. Seventy-three MTD officers and inspectors are certified to perform these inspections. This activity is likely to increase as southeast New Mexico is one of five or six sites that could become a repository for high level nuclear waste now that Yucca Mountain Nevada has been decertified.

Transportation Revenue Enforcement Role. MTD enforces the state's commercial transportation revenue laws and, to a lesser extent, collects some transportation revenue. New Mexico is one of only four states that use the weight-distance tax (WDT) as a source of transportation revenue, along with Oregon, New York, and Kentucky. The majority of other states depend on the International Registration Plan (IRP), which apportions taxes paid by an interstate vehicle among the states traveled. These other states also rely on significantly higher vehicle registration fees and vehicle fuel taxes.

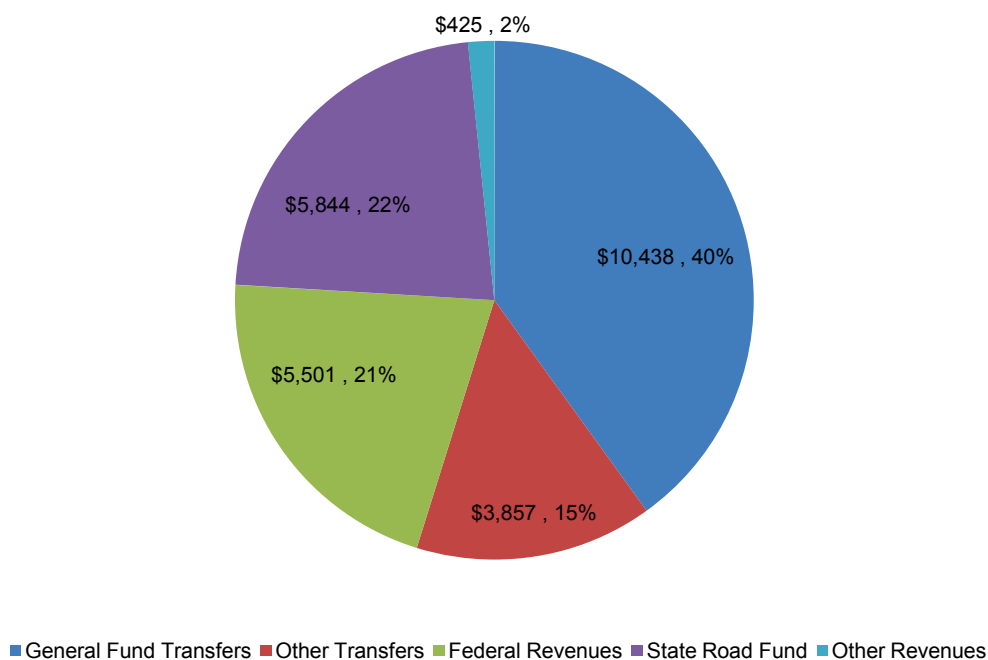
MTD also collects and enforces the Trip Tax, a single-use permit for commercial vehicles not registered or licensed in New Mexico, typically paid at a Port of Entry. Revenues from the Trip Tax are also deposited into the state road fund.

While the Taxation and Revenue Department (TRD) performs audits of commercial vehicle carriers, the MTD enforces the collection of the Weight-Distance tax (WDT). MTD does not collect the bulk of WDT as this is collected by TRD through electronic filing by carriers. MTD's role is enforcement of revenue collection for TRD by citing commercial vehicles that are out of compliance with this obligation. The registrants, owners and operators of most motor vehicles using New Mexico highways who have a declared gross weight or gross vehicle weight over 26 thousand pounds are subject to the weight distance tax (WDT). The WDT is the fourth-largest contributor to the SRF, after the gasoline tax (\$104.9 million), the special fuel tax (\$92.3 million), and vehicle registration fees (\$75.6 million). In 2012, the Trip Tax contributed approximately \$5.6 million to the State Road Fund (SRF). In 2012, the WDT revenues contributed approximately \$72.8 million.

Revenues from the Trip Tax are also deposited into the state road fund. In 2012, the Trip Tax contributed approximately \$5.6 million to the SRF. Oversize/overweight (OS/OW) permits are another source of income for the state.

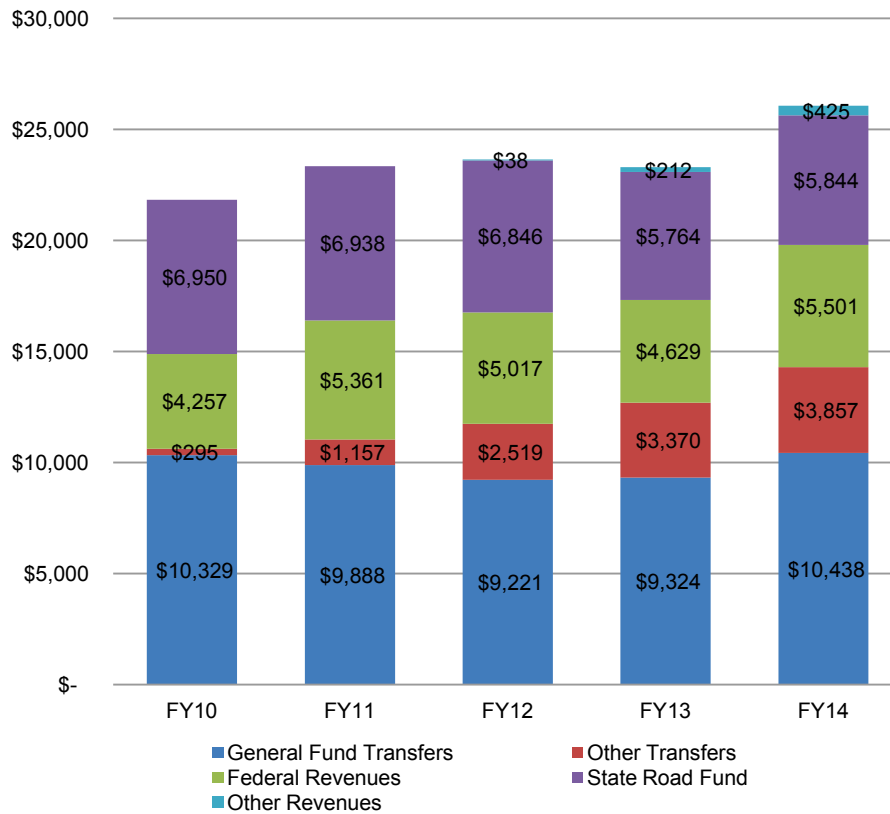
Interdiction Role. An important aspect of MTD's role is the interdiction of illegal and potentially dangerous cargo transported into the state via commercial motor vehicles. MTD routinely screens commercial motor vehicle cargo for drugs, crime-related cash, weapons, potential radiological weapons, as well as illegal human traffic. From October 2011 to September 2012, MTD seized \$2.17 million in US currency, 3,060 pounds of marijuana, 6 pounds of heroin, and 16 pounds of methamphetamine. These seizures led to 44 arrests.

Graph 1. Sources of Revenue for MTD - FY14
(thousands)



Source: LFC

Graph 2. Sources of MTD Revenue, FY10 - FY14
(thousands)



Source: LFC

In FY13, MTD was authorized a total of 272.5 FTE. At total of 219.5 positions were actually filled leaving 53 positions vacant resulting in a vacancy rate of 19.4 percent. The average vacancy rate over the previous two years was 22 percent.

Table 2. FY10-FY14 MTD Appropriations

	(in thousands)				
Uses	2010	2011	2012	2013	2014
Personal Services and Employee Benefits	15,846.3	15,956.8	16,013.4	16,041.0	17,659.8
Contractual Services	1,056.3	2,122.6	2,856.7	2,829.5	3,268.8
Other	4,928.7	5,288.7	4,813.7	4,427.0	5,172.6
Total Uses	21,831.3	23,368.1	23,683.8	23,297.5	26,101.2
Authorized FTE (Perm)	218.5	218.5	218.5	217.5	217.5
Authorized FTE (Term)	53.0	55.0	55.0	55.0	55.0
Source: GAA					

FINDINGS AND RECOMMENDATIONS

THE MTD IS PROPERLY LOCATED WITHIN THE DEPARTMENT OF PUBLIC SAFETY, BUT IS UNDERSTAFFED FOR ITS MISSION AND FACES SERIOUS RECRUITMENT AND RETENTION CHALLENGES

MTD has had an unsettled past but its current placement within the Department of Public Safety is the right one. Since its creation in 1935, the state's motor transportation police have moved from one organization to another, over eight times. Its present location as a policing agency within the Department of Public Safety (DPS) is appropriate with respect to its mission and is generally consistent with the placement of similar agencies in other states.

Organizing two state-wide police agencies together under one department has proven benefits. MTD's mission is primarily one of law enforcement. Organizing the state police and motor transportation police together under one department allows a number of efficiencies, including a shared central radio dispatch, shared vehicle and equipment maintenance, and common equipment purchasing and specifications. Further efficiencies are underway as state police and MTD officers are beginning to be co-located in some areas of the state. A common strategic plan for state-level law enforcement will lead to better coordination of operations, shared training opportunities, and more efficient staffing models. There do not appear to be any financial or administrative benefits to moving MTD to another department in state government. Also, for the sake of staff morale it would be wise to reinforce a sense of closure that MTD will be located within DPS for the foreseeable future.

Organizing MTD within the same department as state police is consistent with models used by other states. The majority of states with motor transportation police functions tend to locate this function within the same department as state police. The current location of MTD in DPS is consistent with this national trend. However, the New Mexico model of having a separate Motor Transportation Division is unique compared with surrounding states. Texas, Oklahoma, and Colorado have integrated enforcement, where commercial vehicle enforcement is incorporated within state law enforcement. Under these systems, all state troopers train together and then move into specialties such as commercial vehicle enforcement and related areas (such as hazmat) after gaining experience in the field. Appendix E describes models used by some surrounding states. DPS has proposed a similar organizational structure for 2015. Should DPS adopt this model, it will be important to maintain a clear focus on the agency's commercial motor vehicle mission.

MTD is no longer considered the stepchild in DPS, but organizational changes are still needed. MTD and State Police need to maintain equity across a range of issues. Historically, the MTD has occupied the uncomfortable position of being considered the stepchild to the NMSP. This perceived role appears to be diminishing as DPS and MTD report that negative attitudes regarding MTD are now very rare and the agency is accepted as an equal to its state police counterparts. This negative image will be further reduced by removing inconsistencies between these law enforcement professionals. The following sections describe some differences between New Mexico State Police and MTD that should be reconciled.

Differences between State Police and MTD need to be reconciled for DPS to function more effectively. Currently, differences between State Police and MTD include:

- State Police officers are exempt (non-classified) and MTD officers and Transportation Inspectors are non-exempt (classified) and are under the State Personnel Office (SPO). According to DPS, while this system remains in place, it will be impossible to create long-term pay parity among Special Investigations Division (SID), state police and MTD because of fundamental organizational differences in how the pay systems function.
- State Police officers can be hired more easily as they do not fall under SPO. Their pay is organized under pay steps. State Police management has authority over initial pay and subsequent pay increments.

- MTD are subject to SPO which results in a somewhat lengthier hiring period. Most of the hiring delay results from DPS and MTD internal processes which are being streamlined. Current SPO processes are more time consuming than NMSP's process which are outside of SPO.
- MTD personnel are organized in a union up to and including the sergeant level. State Police officers are non union.
- There is unequal pay between State Police and MTD – below the rank of lieutenant. There is a sense of unfairness among lower-ranking officers over a lack of parity with State Police and other state-wide law enforcement agencies. DPS reports it will cost approximately \$394 thousand to bring MTD patrolmen and sergeants up to the same average salary as NMSP.
- MTD employees pay into social security while State Police officers do not.
- State police cadets attend the state police academy while MTD cadets attend the New Mexico Law Enforcement Academy. The state police academy graduates one class every six months.

In implementing its proposed new organization structure, DPS will need to resolve the fundamental differences between MTD and NMSP. DPS has proposed to merge MTD, the Special Investigations Division, the Law Enforcement Academy, and the New Mexico State Police into a single Law Enforcement Program by 2015. The proposed organization reflects similar models used by other states such as Colorado and Texas that combine all law enforcement personnel under a unified law enforcement agency. To make this an effective organization, DPS will need to address the inequities that currently exist between the State Police and MTD divisions, over an identified period of time and according to a strategic plan. The following will need to be considered:

- All commissioned officers exempt and not classified under the SPO system;
- Equal pay for comparable positions according to a common pay gradient;
- One single academy to train all new entrants;
- A common advertising and recruitment campaign;
- Phase out of the union/non-union disparity; and
- Ensure that there are equal retirement benefits going forward.

The DPS FY15 strategic plan addresses most of these issues. All commissioned officers will be exempt, will have equal pay categories, and all officers will attend a common academy and have common recurring training. There is a question as to whether MTD officers will be covered by the union when they become part of the new DPS law enforcement program. This is currently being reviewed by SPO. Civilian employees, such as TIs, will most likely remain covered by the union. MTD officers will no longer pay into Social Security as part of the new program. As a result of 2013 legislation, the retirement benefit for new state police officers will match the current 25 year plan for MTD officers. Existing state police officers will continue to receive the enhanced 20 year benefit, but this will be phased out as they are replaced by new officers hired after June 30, 2013.

In implementing this plan, New Mexico must not dilute the commercial motor vehicle focus of the current MTD organization and needs to increase basic commercial motor vehicle inspections. Greater emphasis could be given to training and certifying all highway patrol officers to perform basic commercial vehicle/driver inspections.

Recruitment and Retention are major challenges, largely because of low pay levels in comparison with competing law enforcement agencies and the private sector. DPS in general and MTD specifically do not offer competitive salaries in comparison with other New Mexico law enforcement agencies. In 2013, DPS published a salary and benefit survey of the largest New Mexico law enforcement agencies (LEAs). Table 2 shows that the State Police and MTD are ranked last among the twelve surveyed LEAs with respect to recruit salaries. DPS and MTD recruits are, on average, over 23 percent below the LEA average. The pay disparity between the MTD and NMSP is most pronounced among the lower ranks. The average MTD patrolman salary is 6 percent below that of their State Police counterparts. DPS would need to expend almost \$7 million (after the FY14 salary increases) to bring MTD and State Police officers up to the number four ranking among New Mexico's largest law enforcement agencies, a position that DPS feels will reduce many recruitment and retention barriers.

Table 3. Police Recruit Salary

Police Agency	Rank	Sign-on Bonus	Hire Salary
Hobbs	1		\$22.28
San Juan County	2	\$500 sign on bonus	\$21.48
Farmington	3	\$3,000 sign on bonus	\$20.90
Carlsbad	4		\$19.79
Santa Fe	5		\$19.11
Albuquerque	6		\$18.24
Lea County	7		\$18.00
Rio Rancho	8		\$16.03
Las Cruces	9	\$3000 sign on bonus w/ 36 month commitment	\$15.50
Dona Ana County	10		\$15.14
NMSP	11		\$14.80
MTPD	12		\$14.80
Average Salary (Non-DPS)			\$18.65
DPS Difference			26%

Source: DPS Survey Updated August 2013

Tables in Appendix B compare sergeant, lieutenant and captain pay respectively. MTD sergeants are 17 percent below the LEA average pay, lieutenants are 12 percent below the average, and captains are 13 percent below the average.

Table 4. Police Patrolman Salary Comparison

Police Agency	Rank	Sign-on Bonus	Incumbents	Starting Salary	Highest Step	Average Salary
San Juan County	1	\$3,000 sign on bonus	62	\$ 22.34	\$ 29.81	\$ 24.43
Hobbs	2	\$25,000 sign on bonus after 5 years	46	\$ 22.28	\$ 28.64	\$ 23.42
Los Alamos	3		22	\$ 22.27	\$ 37.29	\$ 24.53
Farmington	4	\$15,000 in state lateral sign on bonus \$5K out of state lateral sign on bonus	90	\$ 21.94	\$ 35.27	\$ 28.26
Carlsbad	5	\$25,000 sign on bonus after 5 years	25	\$ 21.34	\$ 26.39	\$ 24.67
Las Cruces	6	\$3,000 sign on bonus w/ 36 month commitment	128	\$ 21.20	\$ 28.62	\$ 22.57
Lea County	7		25	\$ 20.10	\$ 29.81	\$ 20.73
Albuquerque*	8	\$5,000 sign on bonus	954	\$ 20.04	\$ 26.15	\$ 25.24
Santa Fe	9		98	\$ 19.11	\$ 31.51	\$ 24.18
Rio Rancho	10		73	\$ 18.85	\$ 26.30	\$ 21.29
NMSP	11		284	\$ 18.21	\$ 26.37	\$ 21.34
MTPD	12		84	\$ 17.70	\$ 29.39	\$ 20.08
Weighted Average Salary (Non-DPS)						\$ 24.76
MTD Difference						23.3%

Source: DPS Survey Updated August 2013

Table 4 compares the average starting salary for experienced officers transferring into the largest law enforcement agencies. Again, officers transferring into DPS receive the lowest average starting salaries. Starting salaries place DPS and MTD in particular, on a non-competitive footing. DPS must also compete with LEAs that offer substantial sign-on bonuses and competitive pay scale schemes. For example, San Juan County offers a \$3 thousand sign-on bonus, Hobbs offers a \$25 thousand bonus spread out over five years and Farmington offers a \$15 thousand bonus for in-state transfers and \$5 thousand for out-of-state transfers.

Of particular concern is competition for officers from the Albuquerque Police Department (APD) which is in an active recruitment phase. Not only does APD have a high starting salary, compared with the state's largest LEA's, but they also move officers quickly up the pay scale during their first year of service. Another potential challenge to officer retention is the predicted enhancement of U.S. Border Patrol personnel to secure the Mexican-American border.

Retirement system cost of living changes will further impact the retention of officers. On June 30, 2014, changes of the state retirement system go into effect that decelerate the cost of living adjustments (COLA) for retirees. DPS anticipates that a large group of individuals, eligible for retirement, will leave State Police and MTD at that time. Over the course of the last four years, 45 percent of DPS employees who were eligible to retire actually did so. DPS predicts actual retirements will jump to 75 percent in 2014 as a result of the COLA change. Although MTD has a smaller number of potential retirees than State Police, the predictions are still worrisome.

Transportation inspectors have no advancement opportunities and are often targets for private sector recruitment. Transportation Inspectors (TIs) comprise the civilian component of MTD and are responsible for the bulk of commercial motor vehicle inspections and permit sales. TIs currently receive a starting hourly pay of \$12.01. MTD field staff indicates this pay is less than many local truck stops and provides a challenge to MTD in recruiting and retaining skilled inspectors. Table 5 compares New Mexico's TI salaries with comparable civilian agencies in other states.

Table 5. Civilian State Motor Transportation Inspectors Pay Survey

Agency	Minimum Salary*	Midpoint	Maximum Salary
Oregon OFC I	\$32,508	\$37,392	\$44,940
• OFC II	\$34,128	\$39,120	\$47,112
Wyoming POE SPC I	\$40,356	\$47,016	\$54,072
• POE SPC 2	\$35,916	\$41,832	\$48,108
• POE SPC 3	\$28,488	\$33,192	\$38,172
• POE SPC 4	\$22,884	\$26,664	\$30,660
Colorado	\$28,880	\$32,136	\$49,152
Idaho	\$27,456	\$36,000	\$45,000
Arizona MVD 1	\$28,027		\$44,076
• AZ MVD 2	\$30,643		\$49,393
• MVD Supervisor SGT	\$34,918		\$57,104
Nevada	\$34,911	\$37,980	\$56,146
California	\$32,220		\$38,340
Texas	\$23,052		\$32,736
New Mexico *	\$25,272		\$37,133

* Min as of FY12 Increases

Source: DPS 2012

Retention of TIs is further confounded by a lack of career advancement opportunities. The only position available for career advancement is Port Supervisor, which is limited to one position for each port. In the past, the ports had shift supervisors. However this position was removed a couple of years ago. Several TIs mentioned the position should be re-instated, both to provide career opportunities and to provide needed supervision during late shifts.

MTD's ability to maintain an adequate workforce is challenged by high vacancy rates, lengthy hiring and promotion periods, and unfunded positions. In addition to recruitment and retention problems, MTD has high vacancy rates, unfunded positions, and lengthy hiring and promotional processes.

The hiring process within MTD takes too long. According to DPS Administrative Services, the hiring practices for the New Mexico State Police (NMSP) and MTD are basically the same. Both have background investigations, interviews, psychological evaluations, medical evaluations and polygraph exams. The length of time to hire is not directly comparable, as NMSP hires only when beginning a recruit school. MTD hires throughout the year, sending cadets to the Law Enforcement Academy when basic police officer training courses are available. The process of candidate evaluation typically takes four months. However, according to DPS leadership, it typically takes about six months to bring an MTD officer onboard, often resulting in candidates accepting positions with other LEAs during the waiting period. DPS has worked hard to streamline the internal hiring process by reducing the number of procedural bottlenecks such as limited resources for polygraph and psychological assessments. MTD is also revising its internal processes to speed the hiring process. Elements of the SPO process add some additional delays.

Promotions within MTD take a long time and some MTD leadership positions remain temporary. MTD's May 2013 Vacancy Report listed over twenty positions awaiting some type of promotional activity; some had been pending for more than two years. MTD rank-and-file feels it takes a long time to get a promotion through and there are limited advancement opportunities. The same is true of key command staff. The division's two Major posts, commanding the north and south MTD zones, are filled with interim officers whose promotions have not as yet been confirmed. MTD elected to have SPO facilitate a promotional testing process which added considerable additional time to process promotions. A recent revision to this process has reduced processing time to less than a month.

Some vacancies have been unfilled for lengthy periods of time including key leadership position, and with few exceptions, MTD is losing more FTE than it gains annually. MTD's vacancy rate is high. MTD has been allocated a total of 269.5 FTE. As of April, 2013, the actual employee count was 214 total FTE, a 21 percent vacancy rate. However, according to DPS, as of mid June this year, MTD was down to 115 commissioned officers with 40 vacancies – a rate of almost 25 percent in the uniformed ranks. Despite a significant recruitment effort, MTD has only one more officer than it did at the same time last year. MTD continues to attempt to overcome a staffing deficit created, in part, by recruitment challenges and employee attrition. Table 6 shows the 20 positions considered by DPS to be unfunded, including 16 commissioned officers and three transportation inspectors. Many of these positions have been vacant for more than two years.

Table 6. MTD Positions Currently Unfunded*

Category	Not Funded	Cost**
Officer	16	\$912,000
TI	3	\$111,000
Total	20	\$1,023,000

*Considered by DPS as unfunded for FY14

**Based on entry salary plus benefits

Source: DPS

Recommendations:

DPS should:

- Create a planned approach to resolving the major differences between MTD and State Police prior to making the transition to its new organizational model in 2015;
- Develop a plan to bring MTD personnel up to pay parity with State Police counterparts. DPS estimates this will initially cost \$394 thousand;
- Move forward with its proposed pay study by an outside consultant to bring DPS, as a whole, into a more competitive position with respect to the other large law enforcement agencies in the state.

MTD should begin to fill existing vacancies within the next six months and develop a plan for funding and filling those positions they consider as currently unfunded.

MTD and DPS should develop a coordinated and enhanced recruitment campaign to increase the number of officers and inspectors.

MTD HAS INADEQUATE STAFF FOR ITS PORTS AND PATROL MISSION

MTD's ports and police patrols play an important role in transportation safety and revenue enforcement for New Mexico but there are too few ports or patrols and they are inadequately staffed. New Mexico's vast rural expanses present a challenge to law enforcement including the commercial motor vehicle safety and revenue enforcement. In general, it appears that MTD's force is spread too thin. Table 7 shows the number of MTD positions by district location and Graph 3 summarizes total FTE across the eight districts, including MTD headquarters. A map of MTD's service districts can be found in Appendix C.

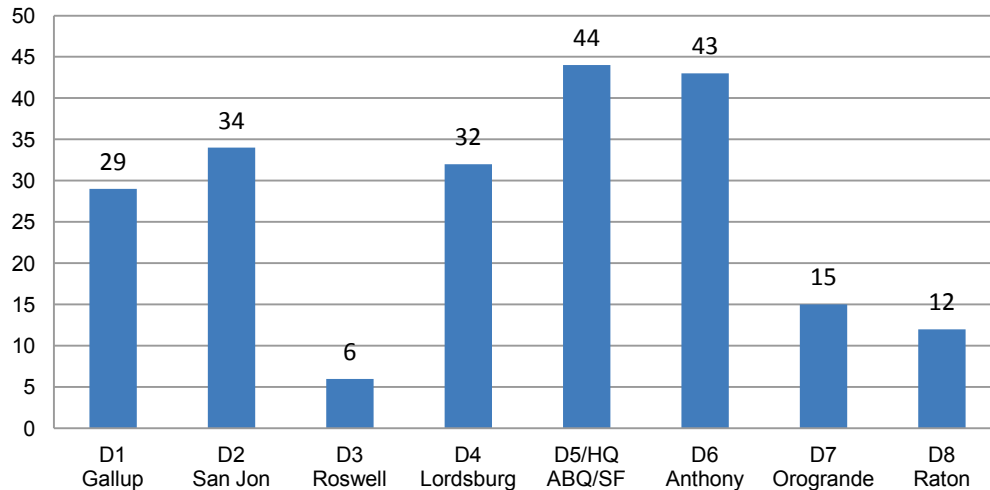
Table 7. MTD Positions By District Location

Permanent Positions	D1	D2	D3	D4	D5/HQ	D6	D7	D8	Total
Inspector	13	16	2	12		12	3	6	64
Inspector A (Port Supervisor)	1	2		1		1		1	6
Landscaper				1					1
Lieutenant	1	1	1	1	1	1	1	1*	7
Office Administrator	1	1		1	3	1	1		8
Patrolman	8	6	2	8	10	12	7	4	57
Quartermaster					1				1
Sergeant	2	4		2	2	4	2	1	17
Captain			1						1
Audit - Revenue		1			5				6
Trainer					1				1
Budget Analyst					1				1
Chief					1				1
Financial Specialist					1				1
Assistant Chief					1				1
Federal Term Positions									
Business Analyst - WIPP					1				1
Exec Secretary					2				2
Inspector						1			1
IT Gen.				1				1
IT Tech					1				1
Office Clerk					1				1
Patrolman	3	3		6	7	10	1		30
Sergeant					2				2
Major					1	1			2
Total	29	34	6	32	43	43	15	12	214

* Lt. shared with HQ

Source: DPS

Graph 3. Total MTD Staff By District



Source: DPS

New Mexico ports of entry are inadequately staffed. Appendix D lists all of New Mexico's ports of entry along with information regarding their hours of operation, the number of shifts for inspectors and police officers, the types of inspections conducted, as well as special equipment installed. Table 8 shows the number of staff for each of the five major ports of entry.

Table 8. New Mexico's Major Ports of Entry

Key Positions	San Jon	Raton	Anthony	Lordsburg	Gallup
Transportation Inspectors	12	6	12	12	13
Port Supervisors	1	1	1	1	1
Office Administrator	1		1	1	1
Lieutenant	1	1*	1	1	1
Sergeant	3		3	2	2
Patrolman	4	2	9	10	9
Total	22	10	27	27	27

* Lt. shared with HQ

Source: DPS

Table 9. New Mexico's Secondary Ports of Entry

Key Positions	Santa Teresa	Nara Visa	Clayton	Orogrande	Carlsbad	Hobbs	Texico
Transportation Inspectors	1	2		3	1	1	2
Port Supervisors							1
Office Administrator				1			
Lieutenant				1			
Sergeant	1		1	2			1
Patrolman	13		1	8	1		1
Total	15	2	2	15	2	1	5

* Lt. shared with HQ

Source: DPS

These ports are located along major interstate highways and operate three shifts of transportation inspectors continuously. New Mexico's secondary ports are shown in Table 9. These ports operate at key locations, but at varied times, and usually with only one or two shifts.

It's not clear what constitutes an adequate number of staff for ports since an up-to-date comprehensive staffing study has not been conducted. In 2012, the New Mexico Sentencing Commission conducted a staffing analysis for DPS. Because of insufficient data, they were unable to provide a staffing analysis of MTD and its ports. An additional, focused study is needed to collect this information and to benchmark it with similar operations in other states. However, according to experienced MTD command staff, fifteen to eighteen transportation inspectors are needed to adequately staff a port. All of New Mexico's ports have fewer TIs than this. There is no consensus on the ideal number of patrol officers for ports and surrounding areas, but given the vast coverage areas and the complexity of MTD enforcement duties, most seem to agree that the agency's commissioned officer ranks are spread too thin. A thorough staffing study is needed to determine the appropriate number. In the meantime, an evaluation of current vacant positions at the major ports warrants a review by DPS.

Table 10. Unfunded Positions at Major Ports of Entry

Port Positions	Vacancies*
Transportation Inspectors	3
Port Supervisors	
Office Administrator	
Lieutenant	
Sergeant	1
Patrolman	5
Total	9

* Considered Unfunded by DPS

Source: DPS

Recent and predicted increases in commercial traffic volume dramatically underscore the need for more MTD personnel in certain regions of the state. Changes in traffic volumes in identified parts of the state are driving the need to re-examine MTD's staffing coverage in these areas. Two areas in particular have seen or soon will see the need for an expanded MTD presence.

Traffic at the Santa Teresa port currently averages 160 to 200 trucks per day and is the largest cattle border crossing in the United States. In the next two years, the Bridge of the Americas on the El Paso/Mexico border will be shut down – and traffic will be re-routed east and west. During this period, two other operations will expand in the area: the local Foxconn electronics factory in Santa Teresa, Mexico will greatly expand its operations and the Union Pacific Railroad will construct a multi-modal rail facility. As a result, truck traffic is expected to expand by an additional four to five thousand vehicles a day. In anticipation of the increased traffic, MTD is constructing a port of entry at Santa Teresa.

Also, the southeast motor transportation police sector (Eddy and Chaves counties) has seen an increasing amount of truck traffic, much of which is the result of the growing petroleum industry. According to MTD, this area of the state has the most commercial vehicle accidents in the state (16 during April 2013). The southeast sector of MTD is considerably understaffed both in terms of transportation inspectors and patrol officers. Competition with the petroleum industry in southeast New Mexico is daunting for public agencies and as a result, recruitment and retention are significant problems.

Other areas of the state could benefit from an enhanced MTD presence. In addition to somewhat thin patrol coverage over vast areas of the state, there are particular areas that warrant enhancement.

South: Although MTD's Orogrande port in Otero County has fifteen staff, it is only open from 6 a.m. to 10 p.m. The U.S. Border Patrol reports truck traffic noticeably increases after the port is closed. Law enforcement professionals suspect trucks are bypassing inspection and enforcement by timing their passage through this area. The cost of an additional shift needs to be balanced against safety and revenue considerations.

Southwest: At the Anthony and Lordsburg ports, which are 24-hour operations, there are insufficient uniformed officers to staff these facilities, and provide law enforcement between the hours of 2 a.m. and 7 a.m. During that time, only two transportation inspectors are on duty at each facility and the division is unable to assign patrol officers during that shift.

Northeast: The port of Raton is part of MTD's northeastern District 8. This district comprises approximately 15 thousand square miles extending (roughly) from Raton to Taos and from Clines Corners to the state border. This vast area is covered by three uniformed MTD officers, a sergeant, and seven transportation inspectors. As a result of the sparse coverage, MTD loses opportunities for revenue enforcement and CMV safety inspections. MTD district 8 staff estimate needing at least two more TIs and two more patrol officers for the district.

North/Northwest: According to MTD command staff, there is a gap in coverage from Albuquerque to the northwest corner of the state with minimal patrols and no port, and there is virtually no patrol coverage in the north central part of New Mexico, from just north of Albuquerque to the state border, leaving this vast area without targeted enforcement.

East: At the port of San Jon, there is no eastbound I-40 inspection coverage and Texas does not operate a port on the east side of the Texas-New Mexico border. Again, the cost of re-opening the east-bound inspection station needs to be balanced against safety and revenue considerations. An alternative to explore would be enhanced patrol operations and random inspection.

The location of New Mexico ports and patrols are insufficient to ensure comprehensive enforcement of commercial motor vehicle laws. The map in Appendix C. shows the location of the major and secondary ports of entry in the state. MTD has deployed its resources as well as can be expected, given New Mexico's vast distances and the agency's staff shortages. Four of the states' ports are now closed: Shiprock (in the northwest corner of the state), Aztec (at the Colorado border), Vaughn (at the intersection of highways 54, 60 and 285, and Tatum (near the Texas border).

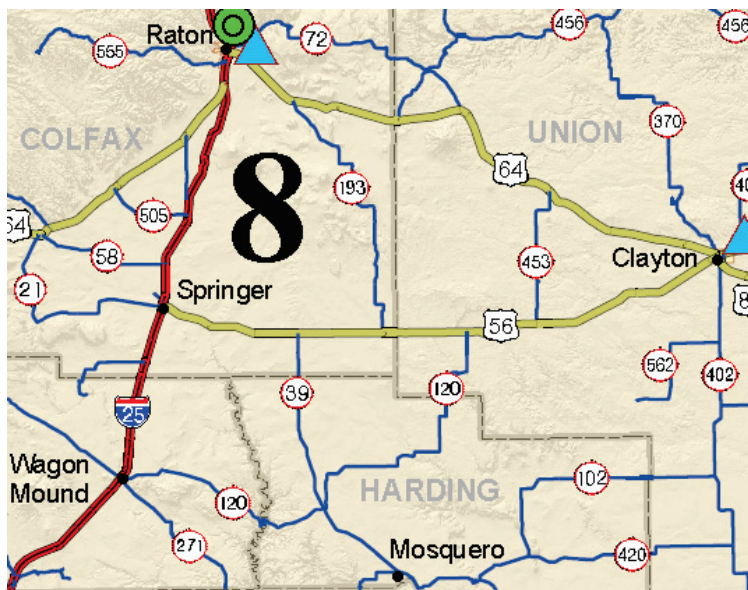
The reduced MTD presence in these areas raises the question as to the amount of "leakage" or circumvention of MTD enforcement. Most law enforcement professionals interviewed in this study seem to think proportionately more of this circumvention involves intrastate commercial motor carriers than interstate companies who most often pass through the established ports of entry. In a vast, rural state such as New Mexico, it is relatively easy to evade inspection. Information regarding the current presence of law enforcement is known to carriers and those who wish to can circumvent inspection. A more comprehensive cost-benefit analysis is required to determine the practicality of re-opening closed ports, however it makes sense that additional, random patrol operations would increase MTD presence within the state and would reinforce compliance with safety regulations and state and federal laws.

Some ports of entry are poorly located and several are in need of repair. Some of the ports have physical issues, either with their location or with plant problems.

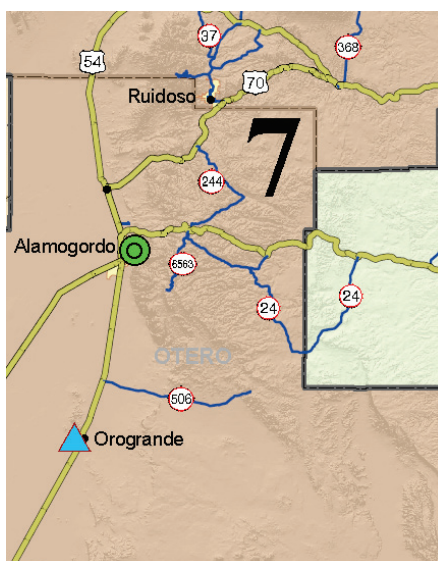
New Mexico ports could be more effectively located to perform MTD's revenue and safety functions. MTD field staff pointed out some issues with the locations of several ports of entry.

Raton: The Port of Raton is located on I-25 at the top of the Raton Pass on the Colorado Border. In the 1930's the port served as a visitor greeting center and later morphed into a weigh station for commercial traffic entering New

Mexico from Colorado. Its present location is not ideal and is partially responsible for frequent power and internet outages, lack of water, and winter-related closures (6 to 7 per year). Moving it down the hill to a location closer to Raton, where highways 565, 72, 64 and I-5 intersect, would solve many of these issues.

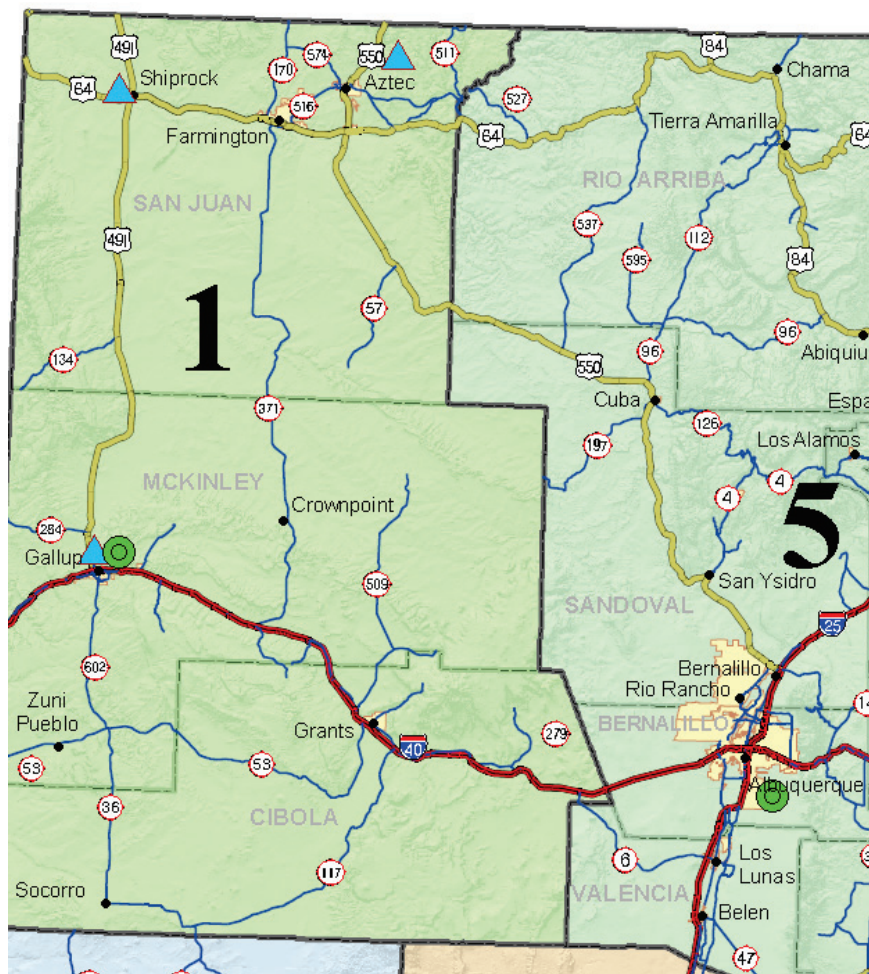


Orogrande: The port of entry in Otero County is located at Orogrande, 37 miles from Alamogordo, the primary residential location for local MTD staff. This is a lengthy, uncompensated commute for staff and has posed retention problems for the agency. A location closer to Alamogordo would be desirable.



Gallup: The Gallup port of entry is located several miles west of the town of Gallup on the eastbound side of I-40. This is a perfect location to clear vehicles inbound from the west. However there is a potential problem for traffic coming into Gallup from the north on US 491. Those vehicles must by law clear the port. These vehicles most likely entered the state in a location where there are no fixed base port locations, such as US 491 south of Cortez, Colorado or US 550 south of Durango, Colorado. If the driver proceeds as directed, he/she must go west on I-40 nearly to the Arizona state line (at least 15 miles) to find an exit and overpass to safely return to the Gallup POE. And if that driver is going to continue west, he/she must then drive the several miles east to Gallup to again find a safe exit and underpass to resume the trip. Therefore, to comply with the regulation to clear the port, a driver could take up to an hour and perhaps an additional 40 miles or more. There could be significant numbers of drivers who don't comply and it's unlikely that enforcement patrols will catch the majority of the violators. It doesn't take much imagination to conclude that drivers with overweight vehicles, or who are out of hours of service, or who have equipment that would not pass a Level 1 inspection, are not coming back to the port.

There does not appear to be an easy cost effective solution to this unusual situation. Gallup is unique in this respect. Ports such as Raton, San Jon or Anthony don't have this problem. Even adding a port on the westbound side would not solve the problem. Without question, the potential exists for a vehicle to enter and depart the state without ever coming into contact with a fixed base port of entry. A more cost effective solution might involve increased MTD mobile enforcement as a deterrent.



Several ports of entry have significant physical plant issues. Two of the major ports of entry have physical issues that should be addressed. First, the port of Raton has no potable water and often is without any water – making the use of plumbing impossible. The truck inspection area is uncovered and is located on significantly sloping ground. Local port staff would like relocate the inspection area to a flatter part of the property and cover it to protect inspectors from the weather. This port also does not have an area to isolate unsafe trucks – an important consideration since the majority of WIPP (radioactive waste) inspections are conducted here. The facility also needs improved lighting. These improvements warrant consideration, unless a decision is made to relocate the port to a location closer to Raton.

Also, the port of San Jon in general is undersized for the volume of traffic passing through it. Plans to expand and modernize it have been on the capital outlay list for a decade. The electrical system is at capacity and cannot be expanded to operate additional equipment. The overhead lighting at the port is also not functional and presents a possible safety hazard. In addition, the port's nuclear detectors were hit by lightning two years ago and still have not been replaced. This port also has an electrical supply shortage.

New Mexico leads the nation as the first to deploy state-of-the-art remote sensing equipment as a force extender for its enforcement missions. The Smart Roadside Inspection System (SRIS) was the first in the nation to marry remote sensing technology with multiple databases to set up an alert system at ports and remote locations.

MTD has dramatically increased the efficiency of its port operations with the Smart Roadside Inspection System (SRIS). On a single pole, a number of cameras and sensors scan DOT numbers, license plates and other identifiers, then instantly link to data bases to determine compliance with IFTA, IRP, New Mexico weight-distance tax, federal safety compliance scores, and the national criminal information database. These sensor arrays cost approximately \$250 thousand each and have an estimated lifespan of 20 years. At a port of entry, MTD instantly knows if the truck has a poor safety record and should be inspected, if it is stolen, and if it is up-to-date on required taxes and permits. By the time the truck arrives at the weigh station window, the inspector can either wave it through or direct it into the port for an inspection or to purchase a permit. Most trucks clear the port in under a minute. Sixteen of these systems are in place at the major ports, in mobile vans, and are beginning to be deployed in unmanned remote locations. At some locations, MTD uses infrared imaging to instantly determine mechanical safety issues involving faulty tires and brakes. The SRIS remote sensor provides MTD with the ability to expand its coverage and could prove to be an excellent application for areas such as Raton and Shiprock.

Prior to SRIS, a truck had to stop at the port window where the inspector would type in the DOT number, license plate and VIN numbers, check for insurance card, tax ID cards and registration. This took up to 12 minutes per truck and often resulted in a large, potentially dangerous queue backed up on the interstate waiting to enter the port. Also, prior to the new weigh-in-motion (WIM) scales, trucks had to be systematically weighed axle by axle. New Mexico is being evaluated by Harvard University for a prestigious innovation grant.

Data-driven police mapping systems could facilitate MTD operations. A growing number of police organizations across the country are using data-driven mapping software that identifies areas of high crime occurrence. Establishing a similar system to identify high commercial motor vehicle crash locations, interdiction activity, etc. could prove useful to MTD in deploying its resources for random patrols and special operations.

New Mexico can further improve its vehicle inspection efficiencies with additional remote sensors, but will still need response officers to accomplish its enforcement mission. The new SRIS capability extends MTD's scrutiny of commercial motor vehicle traffic but does not, by itself, provide enforcement capability. Sufficient numbers of MTD TI staff are still required to inspect the vehicles that are flagged and patrol officers are required to respond to alerts from remote sensors.

Recommendations:

MTD should:

- focus on adding more patrol officer and transportation inspector personnel to underserved areas of the state, in particular, the southeast sector within the next year; and
- develop a plan for enhancing its presence in the Santa Teresa area in response to the expected exponential growth in CMV traffic in that area in the next couple of years; and
- develop a plan for expanding random road patrols, remote sensing equipment and mobile weighing operations, as a more cost effective alternative to re-opening closed ports of entry. MTD should continue to take advantage of remote sensing technology as this is most likely the future of enforcement. MTD should also explore the feasibility of adopting data-driven police mapping as a tool in deploying random patrols and special operations.

DPS should:

- Go forward with the NM Sentencing Commission study to determine appropriate staffing levels for POEs and districts; and
- Should schedule and initiate physical repairs to its POEs. Two with immediate needs include:
 - Raton: Establish a permanent water supply to the port, move the vehicle inspection area to flat ground and construct a cover, establish a place to isolate vehicles as needed.
 - San Jon: Resurrect and implement the capital expansion plan for this port. Repair the POE's electrical system and overhead lights. Repair the nuclear detection equipment.

IMPROVEMENTS TO MTD'S REVENUE ENFORCEMENT MISSION COULD INCREASE EFFICIENCY, REDUCE TAX EVASION, AND IDENTIFY ADDITIONAL REVENUE

MTD's role with respect to revenue collection/enforcement for agencies such as TRD is often misunderstood.

MTD's stated mission is to promote safety on New Mexico highways by providing law enforcement traffic services to the motoring public, to ensure the safe and legal operation of commercial motor vehicles, and to prevent the introduction of illicit contraband into New Mexico while facilitating trade. However, in addition to the safety emphasis is MTD's role in the enforcement of key aspects of the state's transportation revenue. The state's weight-distance tax (WDT) is a significant contributor to New Mexico's road fund. However, MTD does not collect the bulk of WDT as this is collected by TRD through electronic filing by carriers. MTD's role is enforcement of revenue collection for TRD by citing commercial vehicles that are out of compliance with this obligation. MTD does sell overweight/oversize vehicle permits and one-time trip permits at its POEs and on road patrols when a CMV has been stopped and found noncompliant.

New Mexico is one of four states that use the weight-distance tax to partially fund part of its transportation infrastructure. New Mexico, Oregon, New York, and Kentucky are the only states using the WDT as a source of revenue. Other states depend on the International Fuel Tax Agreement (IFTA) and the International Registration Plan (IRP), which apportion taxes paid by an interstate vehicle among the states traveled. Most states also rely on significantly higher vehicle registration fees and vehicle fuel taxes.

Weight-distance tax revenue is a significant contributor to the state road fund (SRF). The registrants, owners, and operators of most motor vehicles using New Mexico highways, who have a declared gross weight or gross vehicle weight over 26 thousand pounds, are subject to the weight distance tax (WDT). In 2012, the WDT revenues brought in \$72.8 million, the fourth-largest contribution to the SRF, after the gasoline tax (\$104.9 million), the special fuel tax (\$92.3 million), and vehicle registration fees (\$75.6 million).

Those subject to the weight-distance tax (WDT) must file a New Mexico weight-distance tax return quarterly, and pay the tax to the MVD, through MVD's online services. MTD also collects and enforces the Trip Tax, a single-use permit for commercial vehicles not registered or licensed in New Mexico, typically paid at a Port of Entry. The Trip Tax is typically more expensive than e-filing, at 16 cents per mile, and includes not only the WDT but also IRP and IFTA assessments. Revenues from the Trip Tax are also deposited into the SRF. In 2012, the Trip Tax contributed approximately \$5.6 million to the SRF. MTD sells oversize/overweight (OS/OW) permits which are another source of income for the state. OS/OW permits are required for vehicles exceeding the maximum weight of 86,400 lbs. and cost \$15 per single trip. These and related permits contribute over \$4 million annually to the SRF.

There are identified advantages to using the weight-distance tax model. Under weight-distance system, commercial motor vehicle tax rates increase with the weight of a truck. That rate is multiplied by the number of miles the truck travels in New Mexico to determine the tax liability. The intent of basing a tax on weight and distance is to more accurately assess the costs of road wear. The damage to roads increases exponentially as trucks get heavier. Hence, heavier trucks pay proportionately more for using New Mexico's roads.

Fuel use is also related to a vehicle's road use and wear. However variations in fuel economy among vehicles reduce the direct correlation to road wear. According to an Oregon Issue Brief (2000), an increase in truck weight that nearly doubles road wear may only increase fuel use by 10 percent. As vehicles become more fuel efficient, the correlation between fuel taxes paid and road wear diminishes. A weight-distance tax charges for road usage and is not affected by fuel efficiency. However, adjustments to the tax scale that more accurately reflect the extent of increased road wear with increased weight may be worth exploring.

Other sources of revenue for funding transportation infrastructure are also employed in New Mexico and these methods, as well as the WDT, are not immune from tax evasion. Interstate carriers operating in New Mexico also participate in the International Registration Plan (IRP) which apportions state truck registration fees based on the portion of miles traveled by a truck in each state or Canadian province. Interstate carriers also participate in the

International Fuel Tax Agreement (IFTA) which prorates fuel taxes among states where a truck travels. Under this model, fuel taxes are paid where the fuel is burned. Intrastate-only carriers only pay the WDT. Both the IRP and IFTA apportion registration fees and fuel taxes among states but do not eliminate tax evasion as mileage can be underreported. Similarly, the WDT can be evaded by underreporting mileage and by evading detection. As a result, the audit function is a critical part of enforcement.

An American Transportation Research Institute (ATRI) study of New York's ton-mile tax estimated for the years 2002 through 2005, this weight-mile tax was not collected for an average of almost 50 percent of commercial vehicle miles traveled. The authors concluded that because tax evasion in New York is often considered low risk, because of difficult enforcement, trucking companies are often motivated to not report travel within the state. Since deregulation of the trucking industry in the 1980's, the number of trucking companies in the nation dramatically increased while carrier operating margins decreased. As the market becomes more competitive, tax evasion or avoidance become more valuable options. Similar situations exist in New Mexico.

The amount of circumvention of the weight-distance tax by commercial motor vehicles is unknown, but it is probably significant and worth closer review. Opportunities for tax evasion are in some ways greater in New Mexico because of the challenge of enforcing the WDT in a vast rural environment. Exactly how much revenue the SRF is losing to this leakage has not as yet been determined. Some partial analyses suggest the foregone revenue may be significant. A 2009 report from the House Memorial 5 Technical Committee, looking at short-term funding options for the SRF, cited improved compliance with the WDT and trip tax as a viable option. The report affirmed that there has been no reliable estimate available on revenue lost from evasion of the WDT and assumed a potential increase of 25 percent over current WDT revenues through improved compliance.

Large areas of New Mexico are not patrolled or covered by ports of entry, creating opportunities for commercial motor vehicles to evade paying tax. An earlier section of this report discusses staff resources available to MTD to carry out its mission. MTD simply does not have an adequate presence, either through its location of ports of entry, its road patrols, or its automated license plate readers, to cover all portions of the state. Those who wish to evade their tax obligation have opportunities to do so as POE hours of operation are known to carriers and the presence of road patrols and remote sensing equipment can be quickly communicated.

In 2009, LFC analysts estimated that 30 percent of local commercial trucks operated without paying the weight-distance tax. In a 2009 report to the Legislative Finance Committee (LFC), analysts cited a recent "blitz" in the Albuquerque metro area which checked the license plates of metro trucks to determine tax compliance. Out of a sample of 641 trucks, 186 did not have the required WDT permit indicating that almost 30 percent of local CMVs were not paying the WDT. Thirty percent may or may not be representative of the entire state's non-compliance, but it is an indication of a tax collection problem. In FY09, MTD reported over 19 thousand *non-filers* (did not file a WDT report) and over 22 thousand *zero-filers* (cited zero miles traveled in New Mexico). These snapshots suggest that tax evasion could be a significant problem in New Mexico. A more comprehensive study is warranted.

An estimate of WDT foregone revenue suggests the annual loss could be as high as \$56 million. There have been no formal estimates of the amount of foregone revenue resulting from evasion of the WDT, apart from the 2009 LFC estimate of intrastate losses. This report attempts to construct an initial estimate of WDT foregone revenue and offers it as a starting point for further discussion and analysis. The estimate is based on the number of heavy commercial motor vehicle miles driven in New Mexico annually, the percentage of trucks falling within specified weight classes subject to the tax, the rough estimate of the total possible WDT revenue, and an estimate of the foregone revenue calculated by subtracting actual revenue from the projected total.

$$(Total\ CMV\ Miles\ Driven) \times (Total\ CMV\ in\ each\ weight\ class) = Estimated\ Total\ Probable\ WDT$$

$$(Estimated\ Total\ Probable\ WDT) - (Actual\ WDT\ Revenue\ in\ 2012) = Estimated\ Foregone\ Revenue$$

Depending on the assumptions used regarding which commercial vehicles to include in annual CMV miles driven, the resulting initial estimate ranges from \$27 million to \$56 million in foregone WDT revenue per year, or 27 percent to 44 percent above current revenues of \$72.8 million. This estimate is subject to a significant error range, but suggests that there is considerable foregone revenue. This is a large amount of funds which could help New Mexico with its infrastructure needs and which reflects the intuitive observations of many of the transportation professionals interviewed in this study.

This is generally consistent with other estimates of transportation-related tax evasion. For example, a study of New York's foregone ton-mileage tax (TMT) revenue performed by ATRI in 2008 estimated TMT was not collected for almost 50 percent of all commercial vehicle miles travelled. Even though a formal analysis has not been performed in New Mexico, informal estimates of WDT foregone revenue include the following:

- 2009 LFC estimated based on the Albuquerque MTD operation: 30 percent
- 2009 House Memorial 5 Technical Committee report assumed an increase of 25 percent WDT was possible
- WDT lost revenue estimates from seasoned MTD commissioned officers range from 20 percent to 45 percent – particularly in sparsely patrolled sections of the state.

Oregon is a state with an extensive size and weight infrastructure in place, along with statewide weight in motion and license plate readers. According to the Oregon Department of Transportation (ODOT), it is difficult to evade the weigh mile tax obligation in Oregon, largely because they are well resourced. As a result, Oregon's weight mile tax evasion foregone revenue is between three and seven percent. Oregon can thus serve as a model for New Mexico.

This formula does not control for many variables, but it is offered as a first step toward a more sophisticated estimate. Please see Appendix H for an explanation of the data sources and assumptions used to create this estimate.

Additional revenue generation is possible. In addition to enhancing efforts to reduce evasion of the WDT, more tax revenue could be retrieved, including enhancing the state's enforcement functions and increasing various fees and penalties.

TRD's Audit Unit plays a critical role in collecting weight-distance tax revenue and could effectively be expanded. TRD's Tax Audit Department has two teams devoted exclusively to weight-distance tax audits. Each year, this audit bureau sends out approximately 4 thousand written inquiries to trucking companies suspected of owing less than \$5 thousand in weight-distance tax. For companies suspected of owing larger amounts of tax, the unit will perform a field audit. In FY13, 25 audits were conducted, eight of these involved intrastate carriers and 17 involved out-of-state carriers. As a result of this activity in FY13, the state retrieved \$1.1 million in assessments from field audits and another \$400 thousand from its written investigations. Weight-distance targeted audits have only been going on for two years. Prior to that, WDT recovery assessments never exceeded \$60 thousand per year. It is expected that more WDT audits, particularly targeted at intrastate carriers, could recover significant additional revenue.

About 2 thousand New Mexico-based interstate CMV companies are registered under the IRP and IFTA. Each year, the federal government requires MTD to audit 3 percent of these home-based interstate trucking firms, or 60 companies. TRD is not required to audit intrastate trucking firms but is expanding its focus to include these in-state-only firms as it is likely that additional tax revenue could be collected by expanding this auditing focus.

TRD's recent deployment of two WDT-focused audit teams resulted in dramatic increases in recovered revenue. Discussions with TRD and DPS staff indicate that doubling the number of auditors would be productive. Two more four-person audit teams dedicated to WDT audits, therefore seems warranted.

The cost of two audit teams is estimated at about \$464,000 per year. If these teams repeated the success of the existing teams (i.e., \$1.5 million per year), New Mexico could see a rate of return on this investment as high as 320 percent.

There are areas where taxes and permits could be collected but are not because of limited staffing. MTD provides a number of services to the commercial transportation sector, sometimes without reimbursement. For example, MTD provides escort services for oversize/overweight vehicles without charge to the carrier. Other states charge for this service. In Arizona, escort services run as high as \$1 thousand per assigned officer.

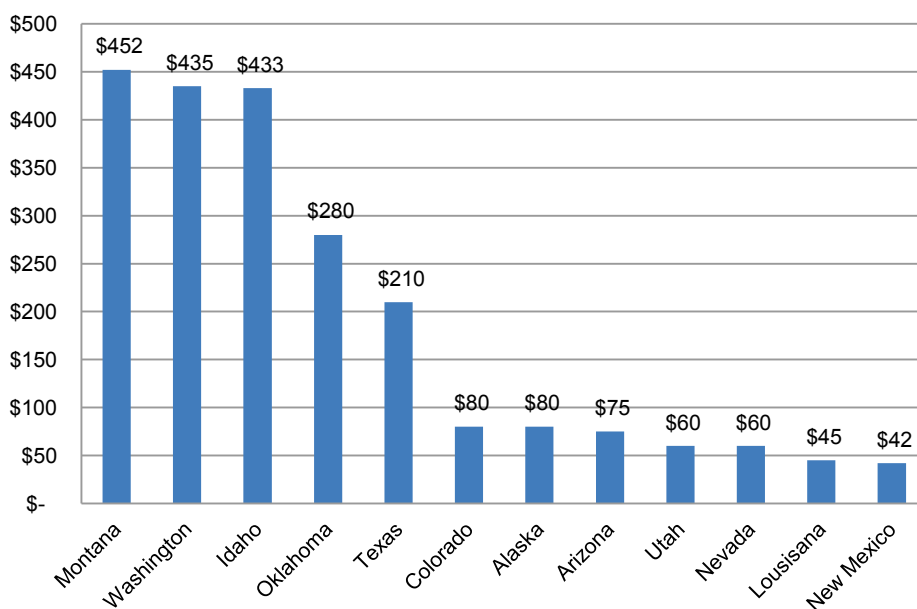
In the area of the Santa Teresa port, individuals routinely bring salvaged vehicles from the United States to Mexico for repair and resale. There is a \$4 permit fee to take salvaged vehicles across the border, but because of limited staffing, MTD is unable to routinely police the area where this activity takes place. Recently, TRD financed \$50 thousand in MTD overtime payments to establish a limited operation to collect these permit fees. As a result MTD recovered \$200 thousand over the course of 6 months.

In a number of areas, existing fees and penalties appear to be insufficient. New Mexico's commercial motor vehicle fines and fees are generally lower than surrounding states. For example overweight fines in New Mexico are often half the amount of corresponding fines in Texas, Utah, Arizona and California, often more than half of what they are in these neighboring states. Many states have adopted the Uniform Recommended Maximum Fine Schedule published in 2011 by the Commercial Vehicle Safety Alliance (CVSA). New Mexico is low in comparison to this national standard and a review is warranted.

An example of a comparatively low OS/OW permit fee involves the recent transport of an electrical transformer. In June of 2013, NMDOT, the state police and MTD coordinated the transport of a 910 thousand pound transformer from Santo Domingo Pueblo to Chili, on a 20 foot by 290 foot trailer, taking up two lanes along the route, and traveling at five to 30 miles per hour. The coordination effort was substantial and necessitated multiple road closures. The company was charged a permit fee of \$798. According to MTD, in other states, the permit would have cost from \$3 thousand to \$5 thousand.

Graph 4 compares over-dimensional permit fees in 12 western states. Taking the example of a 5-axle CMV, with a 100 thousand pound load, travelling 100 miles, the permit fee in New Mexico is lower than any of the other comparable states.

**Graph 4. Over-dimensional Permit Fees:
Total Fee - 5 Axle - 100,000 lbs
100 Mile Trip**



Source: 2010: MTD/Western Assoc. of State Hwy and Transportation Officials

CMV permitting processes in New Mexico warrant review. MTD and its partner agencies need to review the manner in which trip permits and OW/OS permits are processed in an effort to achieve greater efficiency and reduced processing costs.

The current method for processing OW/OS permits needs to be modernized. The current OW/OS permit system is based on faxing. MTD will fax information to DOT's bridge section to get approval for a specific route permit. This is inefficient and often causes delays. Delays represent the single most frequent complaint to DOT. MTD has proposed an automated system that will streamline and expedite the process. The cost is estimated at \$6 million and MTD is requesting funding from DOT. The system is still in the planning process.

Restructuring the method of selling trip permits at ports of entry could increase efficiency of the permitting process as well as increasing the numbers of commercial motor vehicle inspections. In the larger POEs, MTD transportation inspectors (TI) spend the bulk of their time (up to 90 percent at the busiest POEs) selling trip permits, and a fair amount of time depositing revenues in the bank. These are fairly mechanical processes that could be handled by lower-paid revenue clerks, thus freeing up TIs to perform their primary duties inspecting vehicles. As an alternative to creating a new clerical position within MTD, the agency could also invest in automating the permit process, either through online transactions or through automated kiosks located at the POEs. Both alternatives are worth exploring as methods to decrease costs and improve operations.

Recommendations:

DPS, DOT and TRD should jointly undertake a more in-depth study to determine the amount of foregone revenue associated with the WDT and develop recommendations to improve revenue enforcement.

MTD and its partner agencies should review the manner in which trip permits and OW/OS permits are processed in an effort to modernize the process, and achieve greater efficiency and reduced processing costs – including the implementation of an automated process.

MTD should re-create Revenue Clerk positions, at a pay scale lower than TIs, to sell permits -- at the larger POEs, to free up TIs for vehicle inspections. These clerical positions might be included in the staffing study that DPS is commissioning. MTD should also look into the installation of automated processes – either online or via kiosks at the POEs.

TRD should add two more teams of WDT-focused auditors to Audit Bureau C (8 FTE). It is anticipated that the additional tax revenue recovered by these units would more than cover their costs.

MTD should inventory and add fee schedules for services that it currently provides without charge, such as escort services for OS/OW vehicles.

DPS/MTD should consider making a recommendation to the NM Legislature to implement the Uniform Recommended Maximum Fine Schedule to bring New Mexico's CMV fine structure into line with other states.

MTD PLACES A MAJOR EMPHASIS ON ITS SAFETY MISSION BUT IS HAMPERED BY INSUFFICIENT SAFETY DATA, POTENTIALLY-CONFLICTING PRIORITIES, AND TOO FEW STAFF

Safety data, although insufficient, are critical to safety enforcement. Up-to-date information on safety-related variables is important to planning enforcement operations and the deployment of resources. National and state CMV trends help inform MTD enforcement decisions. Unfortunately, this information is not as current as it could be.

National trends reflect the need for continued CMV safety enforcement. The American Transportation Research Institute (ATRI) divides large trucks into heavy duty (those over 26,000 pounds) and medium duty trucks (those between 10,000 and 26,000 pounds). According a 2013 ATRI study, the overall number of large truck crash rates decreased by about 25 percent between 2000 and 2010. These numbers reflect safety improvements in heavy duty trucks but mask an actual increase in medium duty truck crashes of about 38 percent during the same period. Intrastate carriers represented a steeper increase in crash rates than interstate carriers.

ATRI also reports that, although the national rate of CMV-related fatalities per 100 million vehicle miles traveled (VMT) has continued to decline over the last thirty years, the actual number of fatalities remains relatively stable. The national average for CMV-related fatalities per 100 million VMT was .18 in 2008, .14 in 2009 and .13 in 2010. A number of variables contribute to this decrease, including the economic downturn. In a 2006 report to Congress, the Federal Motor Carrier Safety Administration (FMCSA) determined that 87 percent of the reasons for large truck crashes involved the driver rather than the vehicle. Similarly, ATRI research was able to determine that driver behavior was a significant contributing factor to crash rates and that speeding appears to play a dominant role. Enforcement activity targeting driver behavior reduces crash rates.

New Mexico statistics reflect national safety trends. MTD reports that, consistent with national trends, New Mexico has reduced the rate of CMV fatalities, although still above the national average and corresponding rates for most neighboring states (see Table 11 and Graph 5). MTD credits the downward trend in fatalities to its targeting unsafe driver behavior. Further improvement in these rates will most likely result from enhancing this strategy.

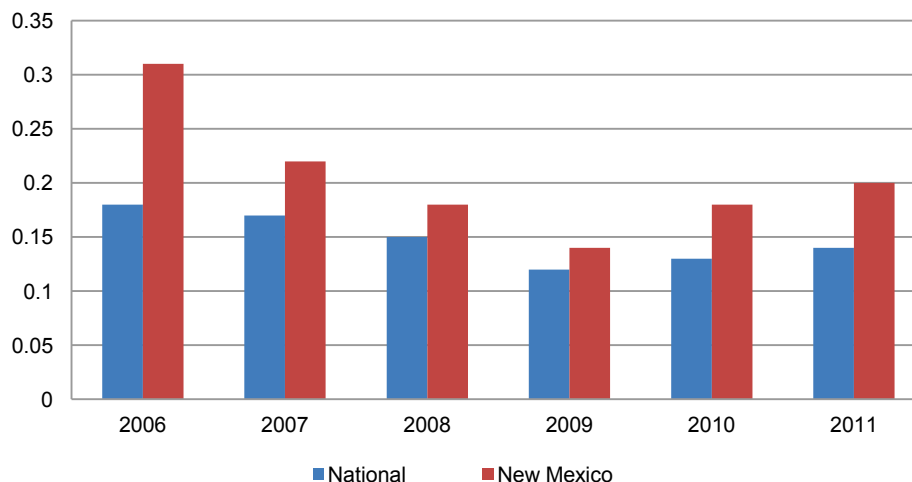
Table 11. CMV State Fatality Rates*

	2006	2007	2008	2009	2010	2011
National	0.18	0.17	0.15	0.12	0.13	0.14
New Mexico	0.31	0.22	0.18	0.14	0.18	0.20
Arizona	0.23	0.17	0.18	0.13	0.13	0.12
California	0.13	0.12	0.11	0.09	0.08	0.09
Colorado	0.14	0.17	0.15	0.1	0.12	0.11
Texas	0.22	0.21	0.21	0.14	0.18	0.19
Utah	0.15	0.15	0.15	0.09	0.14	0.10
Oklahoma	0.29	0.24	0.25	0.2	0.19	0.24

* Per 100 million vehicle miles driven

Source: FMCSA

Graph 5. Comparative CMV Fatality Rates*



Source: FMSCA

* Per 100 million vehicle miles travelled

The total number of large truck crashes has grown from 549 to 894 from 2009 through 2012, as reflected in Table 12, particularly in the large urban area of Albuquerque as well as the northwest and southeast corners of the state experiencing increased petroleum industry activity. Comparing these numbers with the staffing levels and number of inspections performed, particularly in the southeast part of the state (District 3), gives additional impetus to enhance MTD presence in these areas.

Table 12. Large Truck and Bus Crashes by County				
County	2009	2010	2011	2012
Bernalillo	30	20	72	121
Catron	1	0	1	2
Chaves	17	1	13	30
Cibola	17	0	19	34
Colfax	5	0	7	11
Curry	9	2	17	14
DeBaca	4	0	3	2
Dona Ana	22	3	27	31
Eddy	19	9	28	49
Grant	4	0	4	5
Guadalupe	17	2	11	33
Harding	1	0	1	1
Hidalgo	4	0	8	13
Lea	11	2	24	43
Lincoln	4	0	5	6
Los Alamos	1	0	3	0
Luna	12	0	3	14
McKinley	29	7	40	84
Mora	0	0	5	3
Otero	9	2	6	12

County	2009	2010	2011	2012
Quay	19	3	15	22
Rio Arriba	8	1	12	7
Roosevelt	5	0	7	7
San Juan	16	6	21	38
San Miguel	4	1	5	5
Sandoval	8	5	13	12
Santa Fe	7	2	19	12
Sierra	4	0	3	4
Socorro	2	1	7	6
Taos	4	0	3	3
Torrance	10	6	29	17
Union	1	0	1	7
Valencia	1	1	6	7
Unknown	244	645	435	239
Total	549	719	873	894

* Fatal and Non-Fatal

Source: FMCSA

A lack of current transportation safety data diminishes its usefulness in directing enforcement activities. MTD relies on other agencies for much of its safety data. At present there is a two-year lag in crash data received from NMDOT and from the FMCSA. DPS has proposed a plan to share an enhanced data processing system with NMDOT that will result in more current data. MTD must also rely on local law enforcement agencies and there is still no way to guarantee that all reportable crashes are being submitted to MTD. As a result, MTD's ability to deploy its resources to address current trends is diminished. Recently, DPS has proposed all of the citations be computerized so that they are updated immediately rather than through the current process of monthly and quarterly reports.

MTD's safety mission is frustrated by staffing issues. MVD cites as its primary focus, commercial motor vehicle enforcement and the prevention of crashes. MVD officers have full police powers and as such are required to respond to all emergencies and criminal activities. So they are actively involved in enforcing criminal statutes where necessary as well as state and federal transportation laws for all vehicles – with an emphasis on commercial motor vehicles. MTD's civilian transportation inspectors (TIs) are trained to conduct safety inspections, are authorized to make out-of-service decisions for both vehicles and drivers, but do not have the authority to write citations. CMV safety in New Mexico would benefit from more inspections.

The number of safety inspections declined in the last two years because of staffing shortages and how personnel are deployed. Table 14 and Graph 6 portray the number of safety inspections conducted across the districts over the last couple of years. MTD reports staff vacancy rates have forced the agency to scale back inspection operations. To increase the number of safety inspections performed, MTD will need to reduce its vacancy rates and perhaps rethink how some staff are deployed. With 2 or fewer inspectors on duty, which is often the case in the ports, inspectors are limited to assessing incoming trucks and collecting revenue rather than performing complex inspections. At the busiest ports of entry, transportation inspectors spend about 90 percent of their time on revenue collection (e.g. selling trip permits) and 10 percent on safety inspections. This latter situation might be remedied by creating lower-paid revenue clerk positions to free up highly-trained TIs to perform their primary function. Other methods include reopening closed POEs, expanding shifts at existing POEs, expanding the number of random roadside inspections by MTD officers, or cross training state police officers to conduct basic CMV inspections. For example, in Colorado, nearly all state troopers can perform level III inspections of commercial drivers, and 50 troopers are certified to perform level I inspections.

Table 13. Types of MTD Safety Inspections

Inspection	Description	Who Can Perform	Where Performed
Level I	A full inspection of the vehicle and driver documentation.	All patrol officers and transportation inspectors	All ports of entry and temporary weigh stations
Level II	A less detailed, walk-around driver/vehicle inspection.	All patrol officers and transportation inspectors	All ports of entry, temporary weigh stations and roadside
Level III	A roadside, driver-only paperwork inspection	All patrol officers	All ports of entry, temporary weigh stations and roadside
Level IV	A special, one-time examination of a particular item	MTD Safety Compliance Officers	Audit performed at carrier's location
Level V	A detailed (Level I) inspection of the vehicle without the driver present.	All patrol officers and transportation inspectors	Ports of entry and occasionally at a carrier's location in response to a company request for an inspection
Level VI	An inspection for select radiological shipments. Waste Isolation Pilot Project	Special certification required. 76 CVSA Level VI certified officers/inspectors - WIPP	Ports of entry – with special radiological equipment

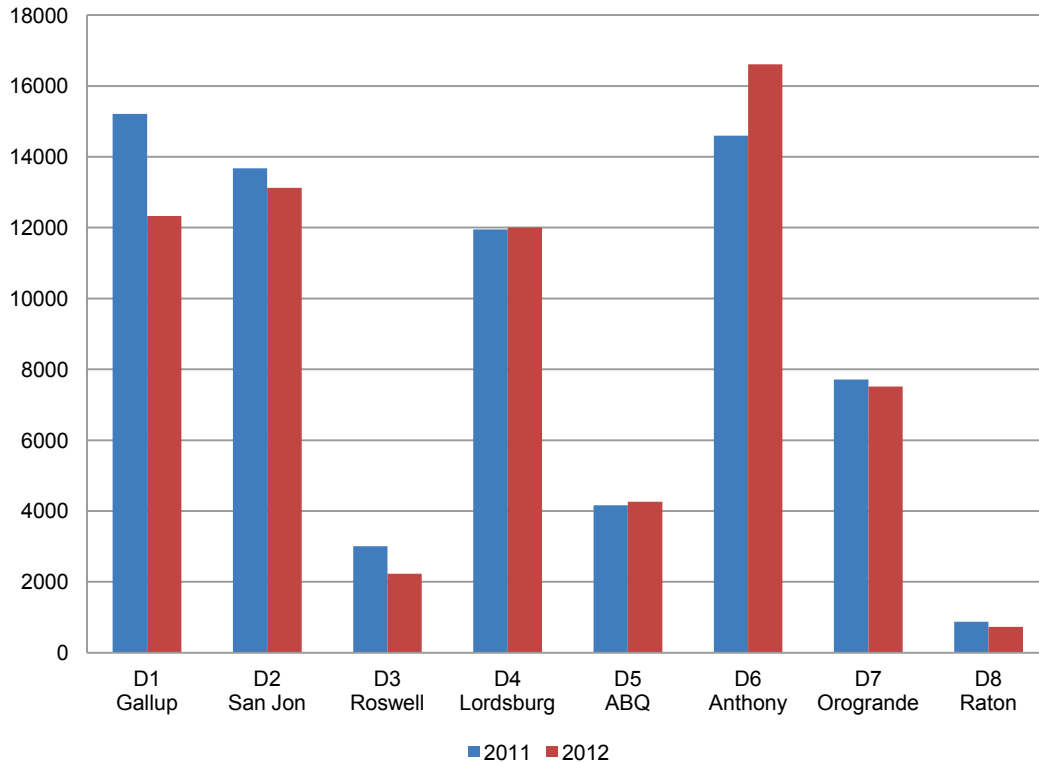
Hazmat inspections and cargo tank bulk inspections are typically performed as level II or level III inspections at ports of entry by POs and TIs with appropriate hazmat certification.

Table 14. MTD Safety Inspections by District

2011 Inspections	Gallup	San Jon	Roswell	Lordsburg	ABQ	Anthony	Orogrande	Raton	Total
	D1	D2	D3	D4	D5	D6	D7	D8	
Intrastate	362	266	352	332	710	581	290	118	3011
Interstate	14852	13414	2657	11622	3456	14012	7425	760	68198
Total	15214	13680	3009	11954	4166	14593	7715	878	71209
% Off Peak	72.45	58.33	17.12	62.09	48.06	67.42	40.27	39.64	50.67
2012									
Inspections	D1	D2	D3	D4	D5	D6	D7	D8	Total
Intrastate	291	244	239	349	670	574	283	80	2730
Interstate	12043	12881	1995	11652	3592	16036	7230	647	66076
Total	12334	13125	2234	12001	4262	16610	7513	727	68806
% Off Peak	71.83	55.55	15.58	60.85	47.44	45.7	38.04	40.3	46.91
2013 Inspections (6 months)									
	D1	D2	D3	D4	D5	D6	D7	D8	Total
Intrastate	108	89	116	147	327	272	103	0	1162
Interstate	6754	6690	1071	6451	1908	9124	3558	48	35604
Total	6862	6779	1187	6598	2235	9396	3661	48	36766
% Off Peak	68.22	54.33	14.41	60.49	44.16	48.02	34.99	14.58	42.40

Source: MTD

Graph 6. Total Inspections by District



Source: MTD

The number of CMV driver and vehicle citations has remained relatively stable over the last couple of years. In most of the POEs, the number of CMV violations has dropped from 2011 to 2012 – most likely reflecting the drop in overall traffic and the decline in the number of inspections performed. Lordsburg is the exception with an 11 percent increase in violations. MTD plans to target more of its enforcement activities at driver behavior, the dominant causal factor in truck crashes.

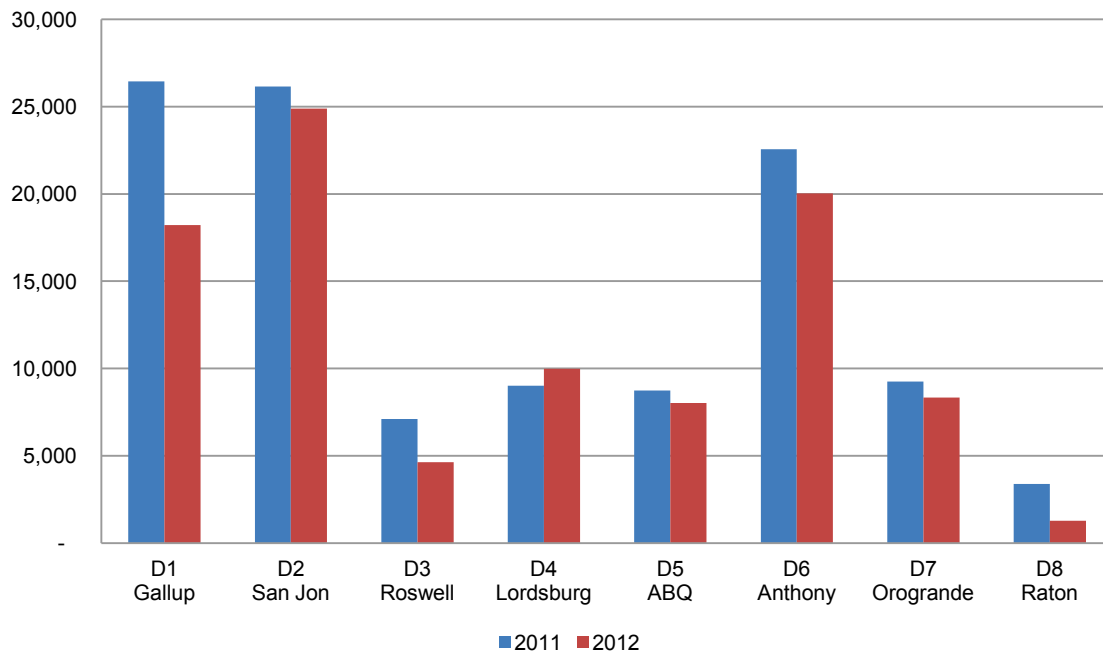
Table 15. MTD Safety Violations by District

2011	Gallup	San Jon	Roswell	Lordsburg	ABQ	Anthony	Orogrande	Raton	
Truck Violations	D1	D2	D3	D4	D5	D6	D7	D8	Total
Driver	10225	13827	3030	4566	2776	11806	4878	592	51700
Vehicle	16159	12232	4016	4434	5918	10649	4316	1085	58809
Hazardous Mat.	67	96	59	22	42	105	50	1707	2148
Total	26451	26155	7105	9022	8736	22560	9244	3384	112657
Bus Violations	D1	D2	D3	D4	D5	D6	D7	D8	Total
Driver	8	186	5	44	4	228	87	7	569
Vehicle	8	46	20	53	8	204	64	4	407
Total	16	232	25	97	12	432	151	11	976

2012									
Truck Violations	D1	D2	D3	D4	D5	D6	D7	D8	Total
Driver	7539	12464	1798	4915	2843	8232	4779	517	43087
Vehicle	10630	12333	2781	5032	5153	11716	3519	755	51919
Hazardous Mat.	39	95	48	31	29	82	35	5	364
Total	18208	24892	4627	9978	8025	20030	8333	1277	95370
Bus Violations	D1	D2	D3	D4	D5	D6	D7	D8	Total
Driver	11	151	5	30	5	385	65	2	654
Vehicle	39	74	11	65	7	307	28	0	531
Total	50	225	16	95	12	692	93	2	1185
2013 (6 months)									
Truck Violations	D1	D2	D3	D4	D5	D6	D7	D8	Total
Driver	3191	5662	844	2712	1410	4988	2027	16	20850
Vehicle	4349	6755	1688	4166	2188	7664	1860	13	28683
Hazardous Mat.	7568	58	30	15	1	42	3892	29	11635
Total	15108	12475	2562	6893	3599	12694	7779	58	61168
Bus Violations	D1	D2	D3	D4	D5	D6	D7	D8	Total
Driver	4	102	0	9	1	166	20	0	302
Vehicle	1	32	0	5	0	160	11	0	209
Total	5	134	0	14	1	326	31	0	511

Source: MTD

Graph 7. Total Violations by District



Source: MTD

The number of safety inspections performed is a function of the availability of trained staff. In 2012, 191 trained MTD staff performed over 68 thousand inspections across all districts. The average number of inspections per FTE was 360. Using this ratio as a guide, progressive staff increases yield corresponding increases in the estimated number of potential inspections. For example, by adding 20 inspectors, MTD can increase its inspections by 10 percent, to over 76 thousand.

MTD can improve the quality of its safety inspections by balancing target numbers with routine supervisory oversight. As MTD works to increase the number of safety inspections, several command staff expressed the need to balance numbers with quality and thoroughness. At this time, MTD lacks a standardized method for first line supervisors to review inspection quality – possibly through an inspection record review at the end of each day.

MTD Compliance Review Unit has been unable to meet target numbers of investigations. MTD's Compliance Review Unit (CRU) comprises a supervisory sergeant and four full-time officers who conduct safety reviews on intrastate (primarily) and interstate motor carriers. Carriers are selected for review if they have been involved in a fatal accident, have been the subject of serious complaints, or have a critically low federal CSA score. Compliance, Safety, Accountability (CSA) is a Federal Motor Carrier Safety Administration (FMCSA) system that rates carriers on a number of basic safety criteria – based on previous safety inspections and driving records. New Mexico's CRU looks at company and driver records. Carriers receiving an unsatisfactory review have 45 days to make the necessary corrections or face being placed out of service. The CRU has a target of 100 investigations per year but has been able to achieve only about half of this target in recent years because of insufficient staff and the time constraints brought about by enforcement and carrier training activities. At least two additional investigators would help meet the demand as well as a regional focus on problem areas of the state, such as the southeast sector with its dramatic increase in tanker crashes.

MTD's general law enforcement role appears to be growing, possibly at the expense of its commercial motor vehicle oversight mission. Recent MTD citation performance suggests the agency may be experiencing mission drift. As mentioned earlier in this report, MTD officers have full police powers and are responsible for enforcing the criminal code as well as the motor vehicle and motor transportation codes. There is some concern among MTD personnel that the general law enforcement role is increasing at the expense of the agency's primary commercial motor vehicle enforcement role and that MTD's primary mission may become increasingly diluted. For example, MTD has currently achieved 112 percent of its state performance measure for non-commercial citations, but only 72 percent for commercial vehicle citations. This appears to reinforce the worry expressed by some in the agency that MTD's mission focus is drifting away from commercial motor vehicles. Should DPS go forward with plans to integrate MTD with NMSP, it will be critical to maintain a clear focus on the commercial motor vehicle mission.

Recommendations:

DPS should explore the feasibility of cross training state police officers to perform Level III inspections of commercial drivers.

MTD should initiate a QA plan in which supervisors routinely review a sample of records of daily vehicle inspections.

MTD should increase the Compliance Review Unit by two officers.

MTD HAS BEEN EFFECTIVE IN PERFORMING ITS INTERDICTION ROLE, BUT COULD MAKE IMPROVEMENTS

MTD routinely seizes cash, weapons and drugs in its port and patrol operations. MTD officers and inspectors routinely screen commercial motor vehicles for contraband including illegal drugs, weapons and cash. In some cases municipalities, such as Hidalgo County, have provided contractual funding to MTD to provide enhanced law enforcement in support of the U.S. Border Patrol and Customs Protection. Their efforts have been successful but are hampered by insufficient staff.

MTD has a successful track record in criminal interdiction. The agency includes these inspections are part of routine port and road patrol activities. Table 15 summarizes MTD contraband seizures from October 2011 to September 2012.

Table 16. MTD Seizures*

Cash	\$2,173,800
Marijuana	3,060 lbs.
Meth	13 lbs.
Heroin	6 lbs.

*10/2011 - 9/2012

Source: MTD

During this period of time, there were 42 seizures, 11 of which were joint operations with state or federal agencies. Over half of these operations (64 percent) involved non-commercial vehicles. Associated with these seizures were 44 arrests and 27 vehicle seizures. Less than half of the seizures occurred at ports of entry with the bulk taking place at highway locations. Some of this seizure activity was accomplished with the assistance of MTD K9 teams. Specially trained dogs have been a successful component of MTD's drug and cash seizures. MTD patrol officers receive advanced interdiction training and the agency also provides this training to law enforcement officers from allied state and local law enforcement agencies.

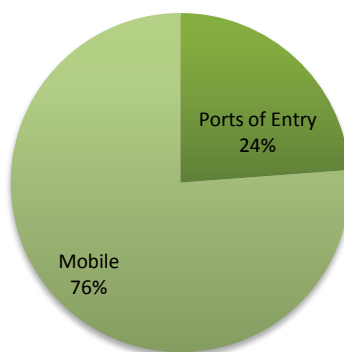


Drugs and cash found by MTD hidden in commercial motor vehicles

MTD could improve its contraband interdiction involving commercial motor vehicles. MTD's contraband seizures for the months of October 2011 to September 2012, is impressive, but sixty-eight percent of these seizures involved vehicles and locations other than commercial motor vehicles (MTD's focus). MTD leadership points to a lack of training in the complexities of searching CMVs as the reason for this imbalance. MTD's chief is arranging for free federal training of MTD staff in this area.

Insufficient patrolling minimizes the state's ability to interdict contraband and enhance revenue. MTD's ability to interdict illegal contraband is a function of its police presence – comprising its ability to perform vehicle inspections in its ports and on highway patrols. As mentioned in previous sections of this report, MTD's vacancy rate and understaffing impact its safety and revenue enforcement missions. The same is true for its interdiction role. MTD will improve its ability to interdict contraband by bringing up patrol staff levels. Since most of its 2011 – 2012 reported seizures occurred during highway operations, as opposed to ports, MTD might find a more effective and efficient strategy is one that directs resources to mobile operations.

Graph 8. Location of MTD Contraband Seizures



Source: MTD

MTD needs to re-examine its role with respect to the interdiction of radiological materials. One possible terrorist threat to the United States involves the introduction of dangerous radioactive materials through the nation's ports. Agencies such as MTD have deployed sophisticated detection equipment but often see it as a resource drain with minimal payback.

Preventative Radiological Nuclear Detection (PRND) is designed to detect radiological nuclear threats, but is underutilized. The federal Department of Homeland Security (USDHS) has invested in a number of strategies to protect the country from attack – including the interdiction of dangerous radiological materials. Working in conjunction with the USDHS, MTD has deployed radiological portal monitors at several of its ports. These devices have the ability to detect and identify radioactive sources in a vehicle and sort out innocent radioactive materials (e.g. potassium isotopes associated with cat litter or bananas) from threat level sources. MTD also uses personal radiation detectors, issued to some patrol officers and can deploy mobile radioisotope identification instruments in the field. Radiological screening is considered an important security strategy, even though there have been no direct threats as yet detected. MTD has thousands of dollars in sophisticated equipment, but lacks sufficient trained staff to use these devices and equipment maintenance costs place pressure on its operating budget. There appears to be reluctance to increased resources for this program when so many other demands for existing resources are present. For example, 15 MTD employees were recently scheduled to attend a recent level-6 radiology course, but only seven showed up, and almost half the class failed the certification test. A renewed commitment to this program appears to hinge upon the identification of sufficient resources to sustain it.

Recommendations:

MTD should reiterate its commitment to radiological interdiction by additional staff to participate in certification classes and should approach the USDHS for funding to support the maintenance of its radiological equipment investment.

MTD should increase the number of interdiction operations, utilizing random patrols and joint interdiction operations. DPS should seek additional funding from local municipalities and the federal government to help support these operations.



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September 16, 2013

Mr. David Abbey
Director, Legislative Finance Committee
325 Don Gaspar, Suite 101
Santa Fe, NM 87501

Re: LFC Program Evaluation Report on the Motor Transportation Division, Department of Public Safety

Dear Director Abbey:

The Department of Public Safety is appreciative of the opportunity to respond to the Program Evaluation Report prepared for the Legislative Finance Committee. The Report is very effective in documenting the critical mission of Motor Transportation Division (MTD) in enhancing public safety on New Mexico's highways while supporting significant revenue income for the State. We find the Report overall to be highly comprehensive and accurate and are in general agreement with the findings and the majority of the recommendations.

There are a number of stakeholders who receive benefit from the activities of MTD, including federal and state government agencies, the motor carrier industry, motorists, and the general public. MTD activities result in: fewer crashes, fatalities, and injuries on roadways; improved safety for highway workers; improved public awareness of safety issues; increased revenue for New Mexico's Road Fund, indirectly and directly through enforcement of the Weight Distance Tax and the Trip Tax; reduced damage to pavement and infrastructure resulting in lower highway maintenance costs; decreased availability of illegal narcotics; and a more level playing field for motor carriers.

The level of benefit the State receives from MTD's activities is directly impacted by several factors including: staffing levels; MTD's effectiveness in targeting high-risk motor carriers, vehicles, and drivers for inspection; and the level of cooperation between MTD, TRD and NMDOT.

To address some major points and recommendations highlighted in the Report:



CALEA
ACCREDITED LAW ENFORCEMENT AGENCY



Department of Public Safety, Motor Transportation Division - Report #13-09
A Review of New Mexico's Motor Transportation Police Mission and Organization
September 26, 2013

Law Enforcement Organization at DPS

As the Report states, the DPS has proposed a reorganization of all law enforcement operations for FY15. This reorganization, if approved and statutory changes are enacted, will address the recommendations made in the Report. The objective of pay equity will be achieved through the support of the Law Enforcement Officer Pay Plan for FY15 (see below).

Competitive Compensation

The Report accurately depicts the lack of competitive pay for all DPS law enforcement officers. This lack of competitive pay, combined with the significant number of officers who are eligible for retirement during FY14, could result in no net gain in officer staffing over the next year, despite ongoing recruitment efforts and the expense of graduating 2 recruit classes. DPS has already engaged a highly experienced compensation consultant, Mr. Neville Kenning, to work with staff in the preparation of a Law Enforcement Pay Plan for FY15. Mr. Kenning has worked extensively with the State of New Mexico in the past on compensation plans for the Classified Service and the Administrative Office of the Courts, as well as with the LFC directly. It is our hope that, with a modest improvement in our market competitiveness that we will be more effective and attracting and retaining law enforcement officers.

Recruitment

Recruitment and retention remain a concern throughout DPS, especially for officers. MTP has recently improved the promotional process and reorganized recruiting resources and processes in the hope of improved hiring in the next quarter. Our goal is to fill positions with certified officers when possible to reduce training time and costs, but we are also actively seeking recruits if the certified applicant pool is insufficient. As an agency we are also developing a recruiting process tracking spreadsheet for each applicant so we can immediately understand where they are in the process and which will provide data to determine where we lose applicants during the process. Adequate compensation for employees is also critical for hiring and retention. MTD's starting pay is at \$17.71. All other major competitors pay \$18.85 - \$22.34 as starting pay.

Advancement Opportunities for Transportation Inspectors

We are reclassifying our New Entrant Officer positions to a civilian position as they are over classified as a commission officer. If approved by the State Personnel Office, this will provide for some advancement opportunities for Transportation Inspectors.

Staffing Study:

DPS is already pursuing a staffing study to determine the State's officer and Port of Entry staffing requirements. The Institute for Social Research is confident the CAD data exists to complete the staffing study. It will take a minimum of six months and will cost approximately \$24,000.

Recent and predicted increases in CMV traffic underscores need for more MTP personnel in certain regions of the state.

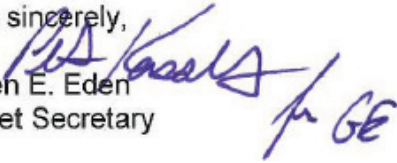
The activities of MTD directly impact the mission of the NMDOT and NM TRD by improving highway safety, protecting the highway infrastructure, and maximizing revenues. It has been noted there are too few Ports of Entry to properly maintain oversight of our mission throughout the State and many areas could benefit from enhanced MTD presence. As the Report states, the location of the Ports are insufficient to ensure comprehensive enforcement of commercial vehicle laws and allows for circumvention of the WDT and therefore increased cost to the State for associated highway infrastructure damage. MTD has conducted a substantial number of special operations in these areas. However these efforts would be enhanced through the use of mobile

temporary inspection stations that could be used throughout the underserved areas and for special operations. Mobile inspection stations have the potential of improving revenue for the state. In the Report it is estimated that the annual loss from by passing Ports could be as high as \$56 million. They would also enhance interdiction efforts and in general enhance enforcement operations and public safety. We are currently developing cost estimates and estimated returns on investment in such mobile stations.

In closing, let me state that DPS is committed to maintaining and supporting the mission focus of MTD and will continue to pursue implementation of the Report's major recommendations. The work of the LFC evaluation team is very appreciated and valuable. We also appreciate the ongoing support of the Legislative Finance Council committee members and look forward to discussing the Report in more detail at the hearing on September 26, 2013.

Yours sincerely,

Gorden E. Eden
Cabinet Secretary



GEE:ddj

APPENDIX A: Evaluation Scope And Methodology

Evaluation Objectives. This evaluation assesses the current operation of New Mexico Department of Public Safety Motor Transport Division (MTD) including its organization, resource allocation and use, effectiveness in safety enforcement and effectiveness in enforcing New Mexico Weight-Distance Tax Act. Specific areas of evaluation include the following:

Organization and Location: The report assesses the operational effectiveness of MTD's current organization, both internal and with respect to its location within the Department of Public Safety. It reviews the historical location of this agency within various state departments and assesses the impact of current organization on the ability to accomplish state goals.

Resource Adequacy: The report assesses the allocation, use and adequacy of current staffing levels and resources within the MTD. It compares pay schedules to those of NMSP and other large New Mexico law enforcement agencies, and reviews recruitment and retention issues. It reviews the allocation of resources to port of entry and field locations in New Mexico.

Safety Mission: The evaluation assesses the division's performance with respect to its transportation safety mission, including commercial vehicle inspections, driver safety and current highway patrolling practices.

Revenue Enforcement Mission: The report assesses the division's role in weight-distance tax (WDT) enforcement and its impact on revenue collection. It makes an attempt to estimate the possible amount of foregone revenue associated with evasion of the weight-distance tax. It reviews the current deployment of ports of entry and mobile scale operations, and the adequacy of the division's current enforcement efforts.

Interdiction: The study reviews MTD's role in the interdiction of drugs, illegal cash and other contraband, and reviews its role in the interdiction of radioactive materials.

Scope and Methodology.

- Visited all major ports of entry and each MTD district and interviewed command staff, officers and transportation inspectors
- Met with representatives of the trucking industry to gain their perspective.
- Interviewed representatives from allied agencies including NMSP, NMDOT, NMTRD, PRC and the FMCSA.
- Collected data on safety, revenue enforcement and interdiction activities from MTD and from state and federal sources
- Reviewed similar motor transportation police activities in other states.
- Developed an estimate of the amount of foregone revenue associated with evasion of the NM weight-distance tax.

Evaluation Team.

Jack Evans Program Evaluation Lead
Kate Chavez Program Evaluator

Authority for Evaluation. LFC is authorized under the provisions of Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies, and institutions of New Mexico and all of its political subdivisions; the effects of laws on the proper functioning of these governmental units; and the policies and costs. LFC is also authorized to make recommendations for change to the Legislature. In furtherance of its statutory responsibility, LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state laws.

Exit Conferences. The contents of this report were discussed with DPS on September 9, 2013.

Report Distribution. This report is intended for the information of the Office of the Governor; the Department of Public Safety; Department of Transportation; Taxation and Revenue Department; Office of the State Auditor; and the Legislative Finance Committee. This restriction is not intended to limit distribution of this report, which is a matter of public record.

A handwritten signature in black ink, reading "Charles Sallee". The signature is fluid and cursive, with the first name "Charles" and last name "Sallee" clearly distinguishable.

Charles Sallee
Deputy Director for Program Evaluation

APPENDIX B: Salary Comparisons For Sergeants, Lieutenants, And Captains

Sergeant Salary Comparison

Police Agency	Starting Salary Rank	# Incumbents	Starting Salary	Highest Step	Average Salary
Farmington	1	12	\$ 31.49	\$ 37.62	\$ 33.32
Albuquerque	2	122	\$ 30.16	\$ 30.16	\$ 30.16
San Juan County	3	12	\$ 30.09	\$ 34.60	\$ 31.89
Santa Fe	4	19	\$ 29.95	\$ 35.12	\$ 33.31
Las Cruces	5	25	\$ 29.28	\$ 32.43	\$ 31.68
Los Alamos	6	6	\$ 29.23	\$ 43.17	\$ 32.31
Carlsbad	7	9	\$ 28.88	\$ 29.73	\$ 29.26
Lea County	8	6	\$ 28.29	\$ 33.41	\$ 28.58
Hobbs	9	5	\$ 26.90	\$ 34.11	\$ 30.98
NMSP	10	83	\$ 26.83	\$ 31.11	\$ 27.63
Rio Rancho	11	17	\$ 24.78	\$ 31.49	\$ 27.58
MTD	12	23	\$ 24.75	\$ 32.96	\$ 26.25
Weighted Average Salary (Non-DPS)					\$ 30.64
MTD Difference					17%

Source: DPS Survey Updated August 2013

Lieutenant Salary Comparison

Police Agency	Starting Salary Rank	# Incumbents	Starting Salary	Highest Step	Average Salary
Las Cruces	1	7	\$ 38.50	\$ 42.31	\$ 40.70
Hobbs	2	6	\$ 35.78	\$ 43.16	\$ 39.95
Farmington	3	4	\$ 35.44	\$ 46.01	\$ 39.45
San Juan County	4	4	\$ 35.29	\$ 38.59	\$ 35.74
Albuquerque	5	39	\$ 34.74	\$ 34.74	\$ 34.74
Rio Rancho	6	6	\$ 33.53	\$ 33.53	\$ 33.53
Los Alamos	7	3	\$ 32.29	\$ 49.97	\$ 37.75
NMSP	8	30	\$ 31.71	\$ 34.64	\$ 31.93
MTD	8	6	\$ 31.71	\$ 37.20	\$ 31.98
Carlsbad	9	5	\$ 31.45	\$ 34.52	\$ 32.90
Santa Fe	10	9	\$ 30.17	\$ 53.37	\$ 35.18
Lea County	11	1	\$ 24.99	\$ 39.04	\$ 31.84
Weighted Average Salary (Non-DPS)					\$ 35.80
MTD Difference					12%

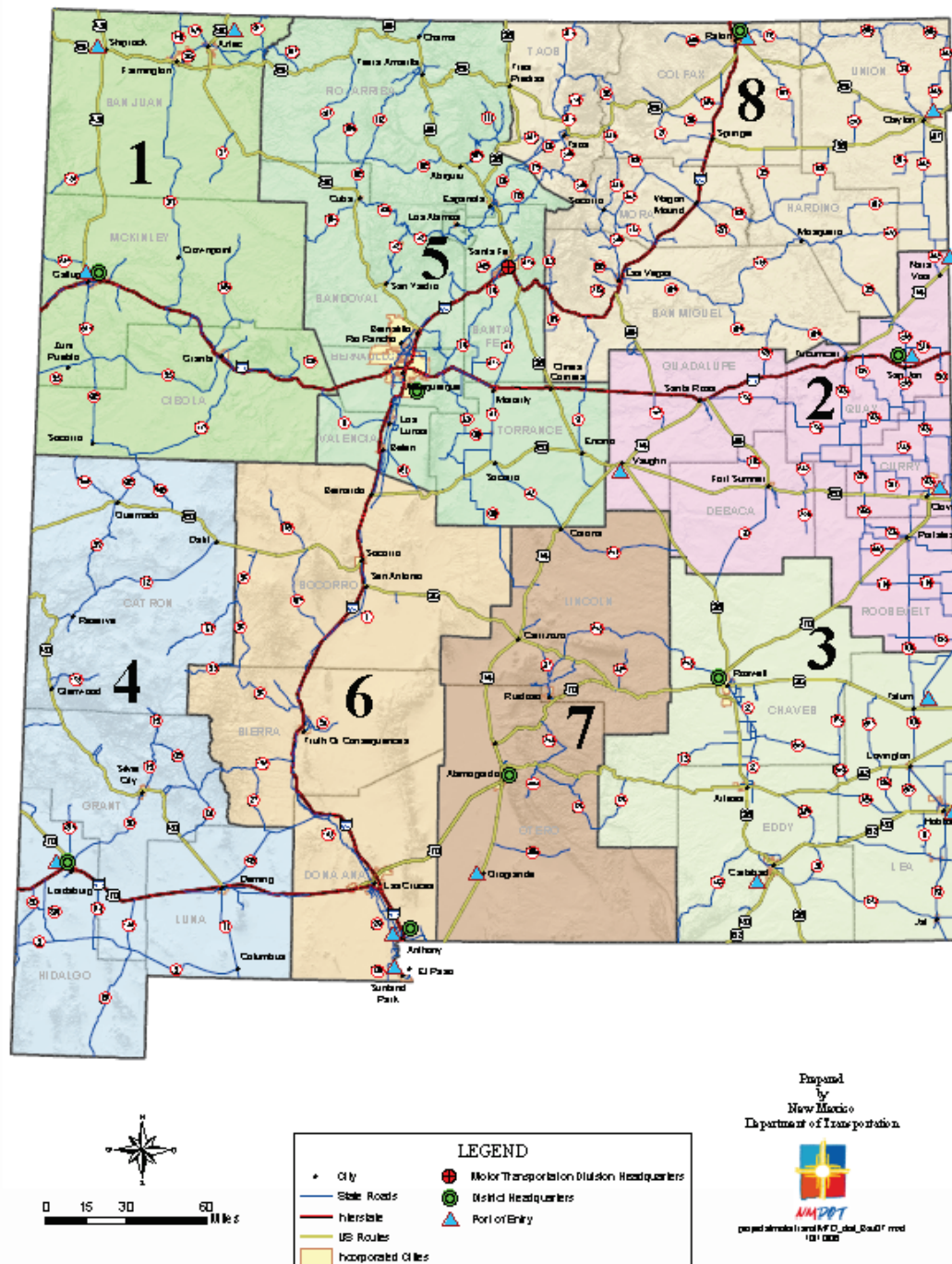
Source: DPS Survey Updated August 2013

Captain Salary Comparison

Police Agency	Starting Salary Rank	Incumbents	Starting Salary	Highest Step	Average Salary*
Hobbs	1	2	\$ 44.76	\$ 47.29	\$ 46.03
Farmington	2	3	\$ 39.44	\$ 46.62	\$ 45.87
San Juan County	3	3	\$ 39.37	\$ 43.05	\$ 41.67
Los Alamos	4	1	\$ 35.60	\$ 44.89	\$ 44.89
MTPD	5	3	\$ 35.32	\$ 42.26	\$ 36.06
NMSP	5	15	\$ 35.32	\$ 37.47	\$ 35.69
Rio Rancho	6	2	\$ 35.20	\$ 35.20	\$ 35.20
Carlsbad	7	2	\$ 33.65	\$ 35.04	\$ 34.87
Santa Fe	8	2	\$ 33.18	\$ 39.78	\$ 39.70
Lea County	9	3	\$ 27.48	\$ 41.81	\$ 38.76
Weighted Average Salary (Non-DPS)					\$ 40.86
MTD Difference					13%

Source: DPS Survey Updated August 2013

Motor Transportation Division Districts



APPENDIX D: New Mexico Ports of Entry Information Matrix

NEW MEXICO PORTS OF ENTRY

Port of Entry	Location	Hours of Operation	No. of Shifts - TIs	No. of Shifts - POS	WIPP inspections?	Operational X-Ray?	Operational Scales?	Plate Reader?	PrePass	Drivewyze	Avg. Daily Truck Volume
San Jon	I-40 at TX Border	24/7	3	2	HRCQ/Level 6	No	Yes	Yes	Yes	Yes	1,400
Raton	I-25 at CO border	24/7	3	2	Yes	No	Yes	Yes	Yes	Yes	1,500
Anthony	I-10 south of Las Cruces	24/7	3	2	HRCQ/Level 6	Yes	Yes	Yes	Yes	Yes	1,500
Lordsburg	I-10 at AZ border	24/7	3	2	HRCQ/Level 6	No	Yes	Yes	Yes	Yes	1,500
Gallup	I-40 at AZ border	24/7	3	2	HRCQ/Level 6	Yes	Yes	Yes	Yes	Yes	1,300
Santa Teresa	I-10 at Mexican border	M-F 7am-8pm, Sat 8am-2pm	1	2	No	No	Portable	No	No	No	150-200*
Nara Visa	Hwy 54 at TX border	7 days, 6am-4pm	1	0	No	No	Yes	No	No	Yes	200-250
Clayton	US 87 at TX border	M-F 7am-3pm	1	1	No	No	No	No	No	Yes	400
Orogrande	Hwy 54 S near TX/Mexico border	M-F 6 am - 10 pm	2	2	No	No	Yes	No	No	Yes	350
Carlsbad	US 62/180	Depends on availability	1	1	Yes	No	Yes	No	No	Yes	100
Hobbs	Seminole Hwy near TX border	M-F 8am-5pm	1	1	No	No	Yes	No	No	Yes	75-80
Texico	Hwy 60 near TX border	Mon – Friday 7am to 10pm	2	2	No	No	Yes	No	No	Yes	275
Shiprock	Hwys 491 and 64, NW corner of state	Closed									
Aztec	550 at Colorado border	Closed									
Vaughn	Intersection of Hwys 54, 60, 285	Closed									
Tatum	Hwy 380 near TX border	Closed									

Source: MTD

*Santa Teresa traffic is expected to increase dramatically in the next few years.

APPENDIX E: Motor Transportation Police Organizational Models From Other States

MTD's organizational placement in DPS differs from many other states. In New Mexico, motor transportation police are a separate division within the Department of Public Safety (DPS). In states such as Oklahoma, Texas, New Mexico and Colorado, commercial vehicle enforcement (CVE) is integrated into a unified state enforcement structure. In these organizations, all officers are trained together and begin their service as state troopers. Commercial Motor Vehicle (CMV) enforcement and other subspecialties are considered promotions.

Colorado

In Colorado, commercial vehicle enforcement is carried out by the Motor Carrier Safety Section (MCS) of the Colorado State Patrol (CSP). MCS officers are located throughout the state, conduct compliance reviews and safety audits, and provide enforcement and compliance investigations. MCS officers earn 5 to 10% more than the average Colorado State Patrol trooper. Acceptance into the Motor Carrier Safety branch is quite competitive, usually requiring 5-10 years of experience as a state trooper before becoming eligible. An alternative means of access is through the POE officer program, which has a separate hiring process than for CPS officers.

On July 1, 2012, Colorado's ports of entry were recently brought under the supervision of the CSP from the Colorado Department of Revenue. The Port of Entry unit has 100 POE officers, similar to New Mexico's Transportation Inspectors. However, under Colorado law, POE officers have the power to write citations for truck-related offenses, including license and regulation citations and overweight violations, but do not enforce the criminal code. Nearly all state troopers in the CPS are certified to perform level-3 inspections on commercial vehicles, and 50 road troopers are certified to perform level-1 inspections. CSP has between 800 and 900 officers at any given time, greatly extending Colorado's ability to provide commercial motor vehicle enforcement.

Kentucky

Commercial Vehicle Enforcement (CVE) is a division of the Kentucky State Police. The Division is staffed with sworn law enforcement officers, regulatory weight and safety inspectors, and civilian staff. When new officers are employed they receive 18 weeks of training at the Department of Criminal Justice Training. Officers and Inspectors also receive an initial 4 weeks of concentrated commercial vehicle law training.

Kentucky's CVE division was a stand-alone department until a July 14, 2008, when it was made a division of the Kentucky State Police (KSP) through executive order. The division employs both sworn officers and commercial vehicle inspectors. KVE officers have full law enforcement authority and often enforce general traffic laws. However, their principal focus is commercial vehicle enforcement.

Texas

The Commercial Vehicle Enforcement Service (CVE) is a part of the Texas Department of Public Safety. CVE troopers are responsible for routine law enforcement duties, and have a primary responsibility for enforcing the Motor Carrier Safety Act and other laws and regulations involving hazardous material shipments, commercial driver licensing and insurance, size, weight, and registration and operating authority of commercial vehicles.

The basic mission of the Commercial Vehicle Enforcement Service is weighing and checking commercial vehicle traffic operating over the public highways to enforce compliance with the laws regulating weight, motor carrier safety, registration, and transportation of persons, property, and hazardous materials. CVE has joint responsibility with the Texas Highway Patrol to conduct Traffic and Criminal Law Enforcement primarily on rural highways.

California

California's Commercial Vehicle Section (CVS) is organized under California Highway Patrol (CHP), the statewide law enforcement organization. The primary responsibility of CVS is the commercial vehicle enforcement program, including the enforcement of commercial vehicles on public highways and the general regulation of commercial vehicles based in California at their place of business.

CVS is divided into a number of units which coordinate on-highway commercial vehicle enforcement, provide information and training on handling of suspected biological agents, implement the latest technology for inspecting commercial vehicles and driver credentials, coordinate the off-highway commercial inspection programs, and provide other services including training for the commercial industry.

Oklahoma

Commercial vehicle enforcement is a specialized troop within the Oklahoma Highway Patrol, which is a division within the Oklahoma Department of Public Safety. Commercial motor vehicle enforcement troopers are primarily focused on commercial vehicle safety and enforcing size and weight regulations. The troop employ transportation inspectors, auditors and troopers.

Oregon

Oregon divides commercial vehicle enforcement between the Motor Carrier Transportation Division of the Oregon Department of Transportation (ODOT) and the Oregon State Police. Ports of entry are operated by ODOT and employ civilian inspectors who perform weight-mile enforcement and safety inspections. If a commercial vehicle is caught at a port of entry or on the road and is not weight-mile compliant, the officer or port inspector issues a \$435 ticket and the driver is responsible for paying the tax through the motor carrier transportation division. Neither port inspectors nor officers collect revenue. The weight-mile tax is paid monthly, similar to the IFTA and IRP taxes. If a carrier is in good standing, they may pay their taxes quarterly. Repeat citations are flagged in the system so that the carrier may be subject to an audit. Oregon port of entry officials divide their time between vehicle inspections and carrier audits.

Ports of entry have license plate recognition software and enforce trucks that try to bypass any of the state's ports of entry. However, ODOT inspectors are not armed and the actual pursuits of vehicles bypassing the ports, as well as related law enforcement activities, are conducted by Oregon State Police officers. The majority of Oregon State Police are CVSA certified and may perform roadside inspections of commercial vehicles. State police are responsible for most of the truck inspections performed by law enforcement in the State.

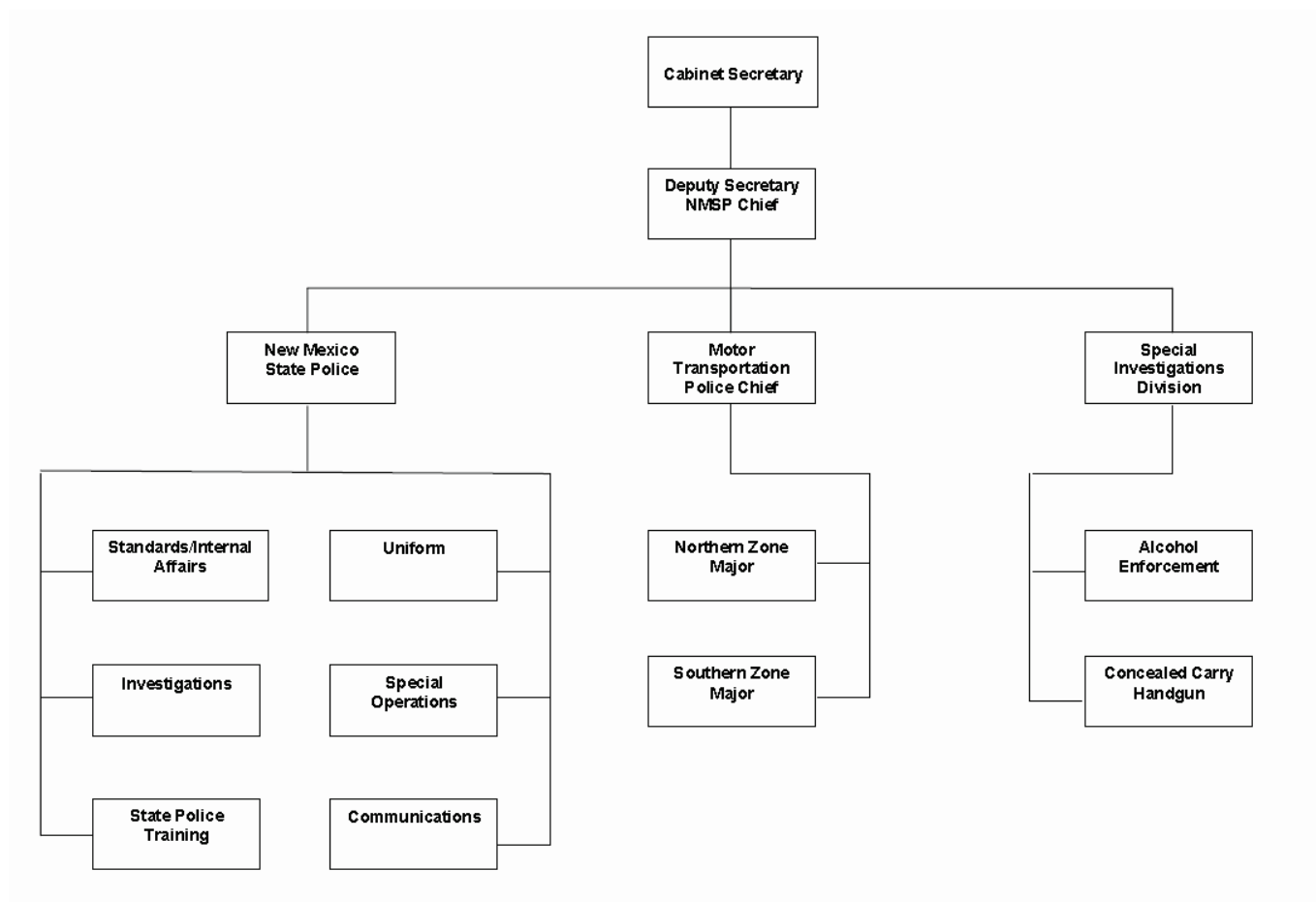
Arizona

In Arizona, both the Department of Public Safety and the Department of Transportation are involved in commercial motor vehicle enforcement. The Commercial Vehicle Enforcement Bureau of the Arizona Department of Public Safety's Highway Patrol has as its primary mission the enforcement of Federal Motor Carrier Safety Regulations. Activities include inspections, weighings and traffic enforcement. Over 46,000 inspections are conducted annually by officers throughout the state. The CVE Bureau does not have a presence at Arizona's ports of entry and does not collect revenue.

The Arizona Department of Transportation operates the state's ports of entry. Armed ADOT officers monitor all commercial traffic entering Arizona for registration, taxes, size and weight restrictions, commercial driver license requirements, insurance requirements and equipment safety requirements, and issue permits as required. They also conduct mobile operations and patrols around the port areas.

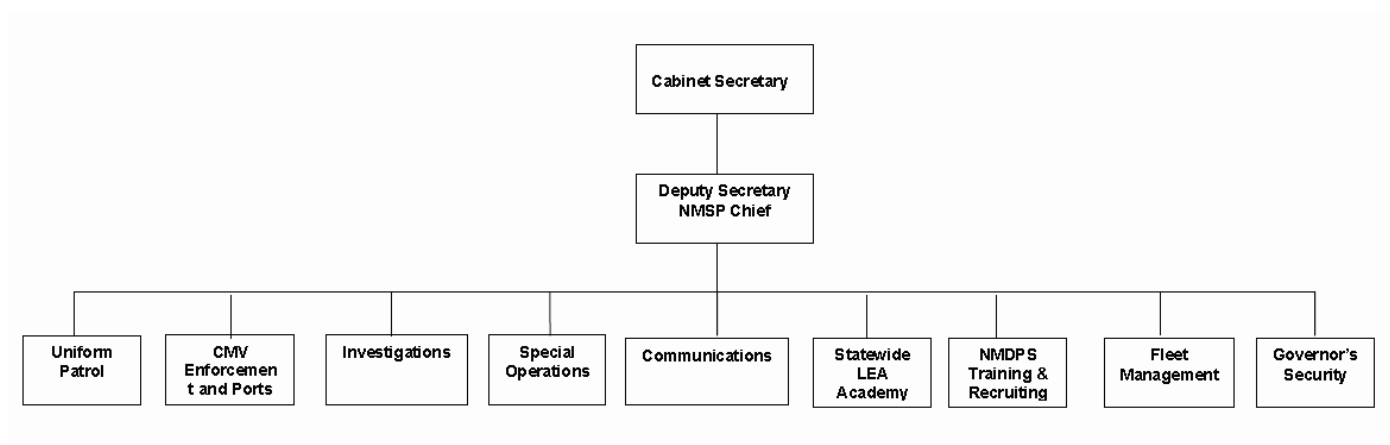
APPENDIX F: Current DPS Organization

Current New Mexico DPS Organizational Chart



APPENDIX G: Proposed DPS Organization

New Mexico DPS Organization Proposed for 2015



APPENDIX H: Data Sources And Assumptions Underlying Estimates of WDT Foregone Revenue

The formula: The formula used to estimate foregone WDT revenue is based on one used by the American Transportation Research Institute in its February 2008 study: *New York State Ton-Mile Tax Analysis: Estimation of Untaxed Commercial Vehicle Miles Travelled*.

The formula uses the number of heavy commercial motor vehicle miles driven in New Mexico annually, the percentage of trucks falling within specified weight classes subject to the tax, the rough estimate of the total possible WDT revenue, and an estimate of the foregone revenue calculated by subtracting actual revenue from the projected total.

$$(Total\ CMV\ Miles\ Driven) \times (Total\ CMV\ in\ each\ weight\ class) = Estimated\ Total\ Probable\ WDT$$

$$(Estimated\ Total\ Probable\ WDT) - (Actual\ WDT\ Revenue\ in\ 2012) = Estimated\ Foregone\ Revenue$$

Total CMV Miles Driven in New Mexico: *Total miles driven in New Mexico* represents all heavy commercial vehicle miles travelled in the state during the 2012 traffic year as compiled by New Mexico Department of Transportation (NMDOT). This includes all interstate and intrastate heavy commercial vehicles. NMDOT includes in the heavy commercial vehicle class “everything that is not a motorcycle, car or pickup truck.” Most vehicles under 26,000 lbs are pickup trucks – with the possible exception of a group of vehicles that the federal Department of Transportation’s Federal Highway Administration (FHWA) include in class 6 medium duty trucks. These are vehicles having a gross vehicle weight rating between 19,501 and 26,000 lbs. Examples include the Ford F650 and the GMC Top kick. Most vehicles below this weight class appear to be pickup trucks. All vehicles over 26,000 lbs are subject to New Mexico’s weight-distance tax. Inclusion of lower weight vehicles drives the estimate of foregone revenue down. For example including vehicles as low as 14,000 lbs in the CMV miles driven, produces an foregone revenue of \$16 million. There is a large error range in this variable and it points to the need to produce a more current and robust inventory of New Mexico commercial vehicles.

For traffic year 2012, heavy commercial vehicles traveled 113,291,000 miles on average each day. This amounts to 4,157,715,000 average annual miles traveled in New Mexico.

Total CMV in each weight class in New Mexico: New Mexico’s Weight Distance Tax Act (Sections 7-15A-1 to 7-15A-16 NMSA 1978) defines the weight categories and corresponding tax liability per mile. The following weight categories are listed in statute:

Gross Vehicle Weight	Mills per Mile	\$ per Mile
26,001 to 28,000	11.01	0.01101
28,001 to 30,000	11.88	0.01188
30,001 to 32,000	12.77	0.01277
32,001 to 34,000	13.64	0.01364
34,001 to 36,000	14.52	0.01452
36,001 to 38,000	15.39	0.01539
38,001 to 40,000	16.73	0.01673
40,001 to 42,000	18.05	0.01805
42,001 to 44,000	19.36	0.01936
44,001 to 46,000	20.69	0.02069
46,001 to 48,000	22.01	0.02201
48,001 to 50,000	23.33	0.02333

Gross Vehicle Weight	Mills per Mile	\$ per Mile
50,001 to 52,000	24.65	0.02465
52,001 to 54,000	25.96	0.02596
54,001 to 56,000	27.29	0.02729
56,001 To 58,000	28.62	0.02862
58,001 to 60,000	29.93	0.02993
60,001 to 62,000	31.24	0.03124
62,001 to 64,000	32.58	0.03258
64,001 to 66,000	33.9	0.0339
66,001 to 68,000	35.21	0.03521
68,001 to 70,000	36.52	0.03652
70,001 to 74,000	39.26	0.03926
74,001 to 76,000	40.71	0.04071
76,001 to 78,000	42.21	0.04221
78,001 and over	43.78	0.04378

A very rough estimate was made of the percentage of heavy commercial vehicles distributed across the weight classes. The only source of this information that could be found was the *US Census Bureau-- 2002 Economic Census: Vehicle Inventory and Use Survey*. This document describes the physical and operational characteristics of the states' truck population. Unfortunately, it was discontinued in 2002, so this is the most recent data. The following table estimates truck miles driven in New Mexico by average truck weight in 2002. Again, including lower weight trucks in the heavy commercial miles driven, dilutes the percentage of miles driven by vehicles subject to the WDT, and results in lower foregone revenue estimates. A more current and careful inventory of New Mexico commercial vehicles is warranted.

Truck Weight	Million Miles Driven in 2002	%
26,001 -33,000	27.7	9%
33,001 - 40,000	16.3	5%
40,001 - 50,000	33.9	11%
50,001 - 60,000	34.7	11%
60,001 - 80,000	197.7	62%
80,001 - 100,000	10	3%
	320.30	100%

To estimate the percentage of trucks in each weight category in New Mexico, the weight categories listed in the New Mexico statute were collapsed to match the categories the Vehicle Inventory and Use Survey. Average WDT rates were calculated for each category. For simplicity, the assumption was made that New Mexico trucks are evenly distributed within each category.

Truck Weight	%	Average WDT Rate
26,001 -33,000	9%	\$0.011887
33,001 - 40,000	5%	\$0.015070
40,001 - 50,000	11%	\$0.020688
50,001 - 60,000	11%	\$0.027290
60,001 - 80,000	62%	\$0.036454
80,001 - 100,000	3%	\$0.043780

Estimated Total Probable WDT: To estimate the weight-distance tax revenue that would be expected if all heavy commercial vehicles fulfilled their obligation, the percentage of miles driven by each weight class was multiplied by the corresponding average tax obligation for that category.

Actual WDT Revenue in 2012: In FY12, actual weight-distance tax revenue for FY12 was \$72,786,000. Note that revenue from the related Trip Tax was \$5,689,000. The latter figure includes contributions to the International Fuel Tax Agreement and the Interstate Registration Plan.

Results: Foregone revenue was calculated applying the formula as described above. Two tables are shown below with low and high estimates of foregone revenue. In the low range estimate, the definition of heavy commercial vehicles includes some lighter-weight (19,501 to 26,000 lbs) vehicles that are not subject to the WDT. Hence, the percentage of miles driven by vehicles actually subject to the WDT is diluted and less possible revenue is projected. In the second table, the high range estimate, only vehicles subject to the WDT are included.

Foregone WDT revenue ranges from \$27 million (27 percent) to \$56 million (44 percent).

Estimate of Foregone WDT Revenue -- Low Range				
CMV Weight	Heavy Commercial Vehicle Miles Traveled	% Miles Travelled by Weight Class*	Average Weight-Distance Tax per Mile	Total WDT Liability
19,501 - 26,000	912,792,694	22%	N/A	N/A
26,001 - 33,000	280,625,501	7%	\$ 0.011887	\$ 3,335,702
33,001 - 40,000	165,133,417	4%	\$ 0.015070	\$ 2,488,561
40,001 - 50,000	343,436,985	8%	\$ 0.020688	\$ 7,105,024
50,001 - 60,000	351,541,692	8%	\$ 0.027290	\$ 9,593,573
60,001 - 80,000	2,002,875,866	48%	\$ 0.036454	\$ 73,012,336
80,001 - 100,000	101,308,845	2%	\$ 0.043780	\$ 4,435,301
Annual VMT**	4,157,715,000		Possible WDT Revenue	\$ 99,970,497
Daily VMT	11,391,000		Current WDT Revenue	\$ 72,800,000
			Foregone Revenue	\$ (27,170,497)
			% Foregone Revenue	-27%

*Percentages based on CMV above 19,501 lbs.

** Daily and Annual Heavy Commercial Vehicle Miles Travelled – from NMDOT

Estimate of Foregone WDT Revenue -- High Range				
CMV Weight	Heavy Commercial Vehicle Miles Traveled	% Miles Travelled by Weight Class*	Average Weight-Distance Tax per Mile	Total WDT Liability
26,001 - 33,000	374,194,350	9%	\$ 0.011887	\$ 4,447,924
33,001 - 40,000	207,885,750	5%	\$ 0.015070	\$ 3,132,838
40,001 - 50,000	457,348,650	11%	\$ 0.020688	\$ 9,461,629
50,001 - 60,000	457,348,650	11%	\$ 0.027290	\$ 12,481,045
60,001 - 80,000	2,577,783,300	62%	\$ 0.036454	\$ 93,969,868
80,001 - 100,000	124,731,450	3%	\$ 0.043780	\$ 5,460,743
Annual VMT**	4,157,715,000		Possible WDT Revenue	\$ 128,954,046
Daily VMT	11,391,000		Current WDT Revenue	\$ 72,800,000
			Foregone Revenue	\$ (56,154,046)
			% Foregone Revenue	-44%

*Percentages based on heavy commercial vehicles above 26,000 lbs.

** Daily and Annual Heavy Commercial Vehicle Miles Travelled – from NMDOT