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

SPONSOR Silva/Lundstrom **DATE TYPED** 1/21/2004 **HB** 4

SHORT TITLE Department of Transportation (DOT) Appropriation Act **SB**

ANALYST Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	709,354.7			Recurring	DOT Operating

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates appropriation in the General Appropriation Act, Section 4 for the NMDOT

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	302,623.4		Recurring	Federal Funds
	406,731.3		Recurring	State Road Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

- *Report of the Legislative Finance Committee to the Forty-sixth Legislature*, Second Session, January 2004 for Fiscal Year 2004 – 2005, pp. 659 - 679.

SUMMARY

Synopsis of Bill

House Bill 4 represents the Legislative Finance Committee recommendation for funding FY05 recurring operations of NMDOT.

Significant Issues

The LFC recommendation includes new revenue of $60.1 million from tax increases from the 2003 special legislative session. The LFC recommended this new funding to improve the highway infrastructure statewide.

FISCAL IMPLICATIONS

Revenue Estimates. The total NMDOT budget is funded from almost equal shares of federal and state funds. The major state revenue source is the state road fund while the majority of federal funds is determined under the six-year federal authorization formula. The major state funding source is the state road fund, which receives revenues from gasoline and diesel fuel taxes, weight and distance fees, vehicle registration fees and other miscellaneous revenues. Other state funding is derived from the local government road fund, aircraft registration fund, motorcycle training fund, driving while intoxicated (DWI) prevention and education fund, traffic safety and enforcement fund, highway infrastructure fund, and interest earnings.

*Road Fund Outlook***.** NMDOT projects growth from the state road fund of 2.4 percent for FY05. In its original estimate, the department included the 1 cent reduction in gasoline tax (1 cent was to be repealed in June 2003 when the series 1993 highway bonds were paid off). Repeal of the reduction improved the revenue estimate (Laws 2003, Chapter 289) for the gasoline tax. Special fuels taxes showed surprising strength in FY03, according to NMDOT, which has led to 4 percent growth in the estimate. Typically, strength in special fuels is an indicator of commensurate growth in the weight-distance tax, for which the department estimates 5.1 percent growth.

Several developments since preparation of the 2.4 percent growth scenario will substantially increase revenues into the state road fund: (1) During a special legislative session in November 2003, the governor won approval for a plan to increase transportation-related taxes by $60 million. (2) Focus on the weight-distance tax decline has forced interagency commitment to resolve the problem. (3) The Blue Ribbon Tax Reform Commission spent considerable study on revenue losses to the fund, which will likely benefit the department in its management efforts.

Transportation-Related Tax Increases. The most significant impact to the state road fund is transportation-related tax increases to fund what is commonly called the Governor Richardson investment partnership (GRIP). With these increases, the state road fund could grow by 24.1 percent in FY05 for unrestricted revenues. These new dollars, estimated at $60.1 million, result from a 3-cent increase in special fuels taxes, a 38 percent increase in weight-distance tax, and increases in motor vehicle registration and oversize and overweight permit fees.

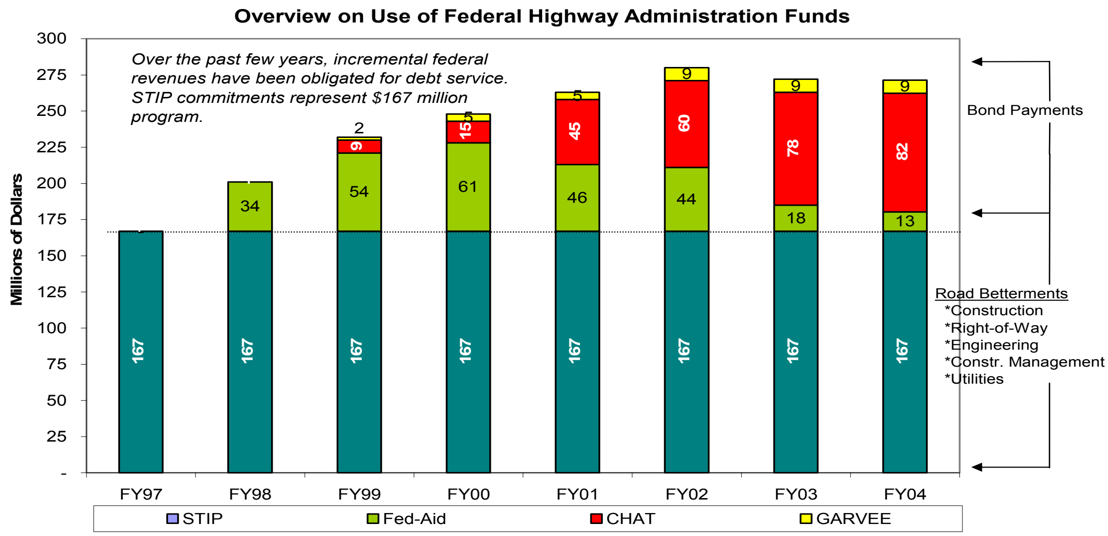
Declines in Weight-Distance Tax Revenue. Laws 2003, First Special Session, Chapter 3, contained a provision that could reap additional revenue benefits for the department. These provisions require that the weight-distance tax identification card (“cab card”) be specific to each heavy commercial vehicle traveling within the state. Further, the provision specifically prohibits the use, at ports of entry, of duplicates of tax identification cards as acceptable proof of registration for the weight-distance tax. An administrative fee of up to $10 per card can be imposed by the Taxation and Revenue Department (TRD) for issuance of each card. The administrative fee would be retained by TRD and deposited in the newly created “weight-distance tax identification permit administrative fund” to be used solely for administration of the issuance of these cards.

Though use of an identification card will not increase weight-distance tax revenue directly, its implementation is the first step to correct underreporting of miles driven in New Mexico by trucking companies. As background, despite a steady increase in commercial vehicle traffic as reported by TRD, the number of non- and zero-filers with weight-distance tax accounts increased by more than 40 percent after elimination of the tax identification card. As each fiscal year passed, collections dropped slightly or stayed flat. During this same time, according to a Motor Transportation Division (MTD) study, trip tax collected at the ports of entry revenue dropped by 51 percent.

An inverse relationship exists between weight-distance and trip taxes; a trucking company pays one or the other. If collections of one tax decline, the other should increase. This interesting outcome -- where both taxes are declining - perhaps is the strongest evidence of underreporting by trucking companies. The identification card is important in this process because if a truck could not provide one, the driver would be required to pay a trip tax at the port of entry. A second complement to the new identification cards is to deploy auditors to validate the voluntary mileage reports. (Separately, the committee recommends a special appropriation from the state road fund for the Taxation and Revenue Department [TRD] for enhanced audit efforts and requests TRD estimate potential one-time revenue increases anticipated from such effort.)

*Federal Fund Revenues***.** In 2003, the U.S. Congress was expected to, but did not, reauthorize the Transportation Equity Act for the 21st Century (TEA-21). Instead, the act has been extended to the end of February 2004 by continuing resolution. Both houses of Congress introduced reauthorization bills based on the administration's Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 (SAFETEA) proposal. The competing proposals for highways and transit funding are the House version totaling $375 billion, the Senate version, totaling $311 billion, and the administration proposal, SAFETEA, totaling $247 billion. Programmatically all the bills emphasize safety programs, environmental streamlining, and a new infrastructure performance and maintenance program, which targets quick projects to address highway condition and congestion.

The graph following illustrates growth in federal funds over several past fiscal years. As shown, much of the incremental federal funding was obligated for a bonding program. The remaining amount is tied to the statewide transportation improvement plan (STIP), called road betterments. The department projects flat funding from the six-year reauthorization process.



* Excludes U.S. Department of Energy (Waste Isolation Pilot Program), Highway Infrastructure Fund, and U.S. Forest Service bond debt service.

Source: NMDOT Budget File

As more federal funds have been obligated, greater pressure has been placed on the state road fund to adequately cover not only operating costs but also construction expenditures, including principal and interest payments. Moreover, this trend has limited legislative approval authority.

Other Revenue Options. During the 2003 legislative interim cycle, the Executive created a working group to assess the impact of the Native American gasoline tax exemption and tax-at-the rack proposal, while the Blue Ribbon Tax Reform Commission assessed opportunities for increases to transportation-related taxes. The consensus of the working group was that some entities might not be paying the correct amount owed on gasoline taxes. The group noted the need for more accountability in the system. One proposed solution was to implement a system of taxing gasoline at the rack. Other states have reported revenue increases after implementing this approach.

According to its report, under current law, gasoline is taxed at the rack but distributors, rather than the rack operators, pay the tax. The proposal would require rack operators to pay the tax. Under this system, tax policy experts testified accountability would also improve for the Native American gasoline tax exemption, which according to NMDOT represents a $15 million loss annually to the state road fund. The Executive's working group recommended current law remain unchanged. In addition, the Executive spoke publicly about its unwillingness to support any increase in the gasoline tax, despite New Mexico's lower-than-surrounding-states rate:

State	Gas	Diesel
Arizona	$0.18	$0.26
Colorado	0.22	0.205
New Mexico	**0.185**	**0.225**
Texas	0.20	0.20
Utah	0.245	0.245

NMDOT had hoped to increase its revenues from these proposals by $100 million. Passage of House Bill 15 (Laws 2003, 1st Special Session, Chapter 3) increased diesel fuel tax by 3 cents, making New Mexico third highest among surrounding states.

BUDGET ISSUES

FY05 Budget Request. The department request for $650 million is 2.4 percent higher than the approved FY04 operating budget. NMDOT requests a 9 percent increase for salaries and benefits, which includes funding for all of its vacant positions (more than 400 FTE) at mid-point. The agency did not apply a vacancy factor for any program. Additionally, the request reflects 11.8 percent growth in health insurance premiums. For contracts, the request grows by 3.3 percent, an additional $9 million funded entirely with state funds. Finally, the department requests use of $4.5 million from the 1 cent gas tax repeal to be dedicated for new debt service.

FY05 LFC Committee Recommendation and Use of New Revenue. At the time of the FY05 budget submission, NMDOT did not anticipate transportation-related taxes would be increased by $60 million, and as such, did not budget this amount. The LFC recommendation takes credit for the new revenue. With the 22.3 percent increase in state road fund, the LFC recommendation reflects an 11.4 percent increase over the FY04 operating budget. Use of the new revenue supports NMDOT need to fill vacancies, partially fund the state construction program, and pay for new GRIP debt service, as shown in the following table.

Use of $60 million New Revenue by Program (in thousands)

Category/Program	Construction	Maintenance	Program Support
Salaries/Benefits	$ 3,110	$ 1,000	$ 1,000
Contracts	-	$ 15,000	-
Debt Service	$ 40,000	-	-

Mindful of NMDOT testimony, the LFC recommendation provides some flexibility to the department to fill positions, none of which were eliminated. The recommendation includes 7.5 percent growth for the salaries and benefits category, very close to the department's request. Further, the committee provided $15 million to address critical maintenance and reconstruction needs throughout the state. This $15 million investment in the state construction program will allow the department to maximize the GRIP financing plan through preventive maintenance of the state's highway infrastructure.

OTHER SUBSTANTIVE ISSUES

Transition from Information Technology Lease to Purchase. NMDOT requests doubling its capital outlay budget for computer equipment from $1.4 million in FY04 to $3 million for FY05. According to NMDOT management, the increase is related to a policy decision to move away from lease agreements and toward purchasing the equipment. In the past, NMDOT entered into 3-year "refresh" lease agreements with IBM for desktop and laptop computers. Yet, the refresh option was not exercised and the remaining 15 percent of the original lease amount was paid to purchase the now 3-year-old computers. According to NMDOT, the agency did not get see value over the life of the lease or the buy out. NMDOT believes it can negotiate purchase agreements that will yield a better value to the agency. The FY05 budget was developed based on this policy shift.

Reorganization of the Department. NMDOT intends to reorganize from six to three programs:

1. Multimodal Programs and Infrastructure
2. Highway Operations
3. Program Support

The first program would encompass engineering and design, public transportation, rail transportation, aviation, and traffic safety. The second program, Highway Operations, would comprise the district offices. Program Support would remain essentially the same but would consolidate all finance functions into this program. Currently, finance related to the federal STIP program is under the Transportation Planning Bureau.

MFV/lg