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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Brown</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>1/22/2024</u>
<b>SHORT TITLE</b> <u>Transportation Trust Fund</u>	<b>BILL NUMBER</b> <u>House Bill 146</u>
	<b>ANALYST</b> <u>Torres, Ismael</u>

### APPROPRIATION\* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	\$400,000.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
\*Amounts reflect most recent analysis of this legislation.

### REVENUE\* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Motor Vehicle Excise Tax		(\$82,345)	(\$84,721)	(\$176,900)	(\$182,700)	Recurring	General Fund
Motor Vehicle Excise Tax		\$36,816	\$37,878	\$83,818	\$86,566	Recurring	State Road Fund
Motor Vehicle Excise Tax		(\$10,507)	(\$10,810)	\$3,723	\$3,845	Recurring	Transportation Project Fund
Motor Vehicle Excise Tax		\$56,036	\$57,653	\$89,358	\$92,288	Recurring	Transportation Trust Fund
Gross Receipts Tax		(\$20,030)	(\$20,490)	(\$20,510)	(\$20,650)	Recurring	General Fund
Gross Receipts Tax		\$20,030	\$20,490	\$20,510	\$20,650	Recurring	Transportation Trust Fund
Capital Outlay Reversions			(\$1,246)	(\$1,372)	(\$16,409)	Recurring	General Fund
Capital Outlay Reversions			\$1,246	\$1,372	\$16,409	Recurring	Transportation Trust Fund
Transportation Trust Fund Distribution					\$25,396	Recurring	State Road Fund
<b>TOTAL</b>		(\$102,375)	(\$106,457)	(\$198,782)	(\$219,759)	Recurring	General Fund
<b>TOTAL</b>		\$36,816	\$37,878	\$83,818	\$111,962	Recurring	State Road Fund
<b>TOTAL</b>		(\$10,507)	(\$10,810)	\$3,723	\$3,845	Recurring	Transportation Project Fund
<b>TOTAL</b>		\$76,066	\$79,389	\$111,240	\$129,347	Recurring	Transportation Trust Fund

Parentheses ( ) indicate revenue decreases.  
\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files  
Taxation and Revenue Department *Report 80*

State Investment Council Investment Reports

Agency Analysis Received From  
State Investment Council (SIC)

Agency Analysis was Solicited but Not Received From  
Department of Transportation (NMDOT)  
Taxation and Revenue Department (TRD)  
Department of Finance and Administration (DFA)

**SUMMARY**

**Synopsis of House Bill 146**

House Bill 146 (HB146) appropriates \$400 million from the general fund to the transportation trust fund in fiscal year 2025 for the purpose of endowing the fund for future transportation distributions.

HB146 creates the transportation trust fund, to be invested by the State Investment Council, and provides for distributions to the state road fund each year. The newly created trust fund will distribute 5 percent of the preceding three calendar-year ending balances of the fund. The money transferred shall only be expended for projects that incorporate federally required measures, align with the department of transportations’ long-range plans, and address the multimodal needs of New Mexicans. Finally, the trust fund is a fund of last resort in the event general fund revenues and reserve balances are insufficient to meet appropriations.

HB146 also creates two new earmarks on funds otherwise distributed to the general fund. First, the bill creates a new earmark for all capital outlay balances appropriated from the general fund and that otherwise would revert to the general fund. This section conflicts with current law. The bill should be amended to resolve the conflict (see “Technical Issues” below).

Second, HB146 creates a new earmark of gross receipts tax revenues otherwise in the general fund. The bill requires a transfer to the newly created transportation trust fund equal to 1 percent of taxable gross receipts attributable to the sale of electricity.

Finally, HB146 amends distributions from the motor vehicle excise tax as follows:

	Current Law	Proposed FY25 and FY26	Proposed FY27 and Beyond	Proposed FY30-FY40 if GRT falls 10%
General Fund	59.39%	30.00%	0.00%	50.00%
State Road Fund	21.86%	35.00%	50.00%	20.00%
Transportation Project Fund	18.75%	15.00%	20.00%	15.00%
Transportation Trust Fund	0.00%	20.00%	30.00%	15.00%

The effective date of this bill is July 1, 2024.

## FISCAL IMPLICATIONS

HB146 includes an appropriation of \$400 million as a nonrecurring expense to the general fund to the newly created transportation trust fund. In addition to the \$400 million appropriation, the bill diverts or “earmarks” two different sources of revenue, representing a recurring loss from the general fund from both the motor vehicle excise tax and the gross receipts tax. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

The distribution of the motor vehicle excise tax was determined using the December 2023 consensus revenue estimate to determine gross collections and new distributions. The distribution of the gross receipts tax from the sale of electricity was determined from the Taxation and Revenue Department’s *Report 80*. Specifically, the revenues were estimated using the \$2 billion average annual taxable gross receipts filed under the 2211-electric power generation, transmission, and distribution code of the North American Industry Classification System.

The revenues to the trust fund from general funded capital project reversions was estimated using actual reversions from the 2019 general fund capital appropriations. About 1.8 percent of those appropriations have been reverted, to date. The proportion and spread of reversions were applied to the latest \$1.07 billion in general fund capital appropriations made in the 2023 legislative session.

Finally, State Investment Council analysis was used for expected investment returns and distributions from the new trust fund to the state road fund.

## SIGNIFICANT ISSUES

The bill seeks to address the significant need for infrastructure investment identified by the Department of Transportation (NMDOT). NMDOT’s operating budget primarily comes from two sources: formula funding from the U.S. Department of Transportation and revenue from gasoline and diesel taxes, fees on commercial trucking, and vehicle registration fees deposited into the state road fund. For several years, these revenues grew at a slow pace, with any additional revenue largely offset by increasing costs. Between FY14 and FY21, annual revenue into the state road fund grew by an average of 2.3 percent. Recent passage of the federal Infrastructure Investment and Jobs Act and state legislation dedicating a portion of the motor vehicle excise tax to the state road fund led to increased resources for state roads between FY21 and FY24, but NMDOT is projecting slower growth in the future. Additionally, since 2019, the Legislature has appropriated \$1.2 billion in nonrecurring general fund revenue for state road projects, including funds for road maintenance, new road construction, bridge replacement, and other projects.

Despite significant increases in state and federal funding for road projects, the department has reported a significant need to fund currently unfunded road projects across the state. Notably, the department reports many projects are high cost, in part due to recent increases in construction costs. According to the Federal Highway Administration, highway construction costs are up by 46 percent from FY20, reflecting the rising materials and labor costs seen across many industries.

NMDOT revenue projections forecast low growth for the road fund in future years and economists with the department have noted recent increases have been mostly due to commercial trucking, which can be subject to large swings in a volatile economic environment. Gasoline taxes, traditionally the department’s largest revenue source, are projected to fall, driven by increases in fuel efficiency. NMDOT reports state road fund growth could be stalled by high inflation, recession, or Federal Reserve efforts to curb rising prices.

This bill narrows the gross receipts tax (GRT) base by earmarking a portion of GRT revenues. Many New Mexico tax reform efforts over the last few years have focused on broadening the GRT base and lowering the rates. Narrowing the base leads to continually rising GRT rates, increasing volatility in the state’s largest general fund revenue source. Higher rates compound tax pyramiding issues and force consumers and businesses to pay higher taxes on all other purchases without an exemption, deduction, or credit.

## PERFORMANCE IMPLICATIONS

The conditions of state roads are key performance measures for NMDOT’s performance-based budget. NMDOT assesses all New Mexico roads each calendar year using a pavement condition rating (PCR) score to measure roadway conditions. A PCR score of 45 or less indicates a road in poor condition. In 2022, the average PCR score for the state was 65.9, down from the average 2021 score of 72.1 but up from the average 2020 score of 54.9. The number of lane miles with a rating of below 45 fell from 6,805 in 2020 to 2,824 in 2022. However, to continue recent gains, the department has noted a need for additional resources to keep up with routine maintenance needs.

2022 Road Condition Survey	2019 Actual	2020 Actual	2021 Actual	2021 Target	2022 Actual	Rating
Interstate miles rated fair or better	90%	88%	97%	>90%	92%	G
National highway system miles rated fair or better	88%	84%	97%	>86%	90%	G
Non-national highway system miles rated fair or better	85%	76%	95%	>75%	95%	G
Lane miles in poor condition	4,420	6,805	1,451	<5,425	2,824	G
<b>Program Rating</b>	<b>G</b>	<b>Y</b>	<b>G</b>			<b>G</b>

## TECHNICAL ISSUES

Section 2 of HB146 transfers reversions from capital appropriations made from the general fund to the transportation trust fund. However, Chapter 199 of 2023 session laws requires general fund reversions for the same projects transfer to the general fund, a direct conflict in language. HB146 cannot amend prior law by reference and should be corrected to ensure no conflicts in law.

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