HOUSE BILL 428

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Dayan Hochman-Vigil and Harry Garcia and Cathrynn N. Brown and Patricia A. Lundstrom and Jason C. Harper

AN ACT

RELATING TO TRANSPORTATION; CREATING THE TRANSPORTATION TRUST FUND, WHICH SHALL MAKE ANNUAL DISTRIBUTIONS TO THE STATE ROAD FUND FOR CERTAIN PROJECTS PRIORITIZED BY THE DEPARTMENT OF TRANSPORTATION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] TRANSPORTATION TRUST FUND CREATED.--

A. The "transportation trust fund" is created as a nonreverting fund in the state treasury. The fund consists of distributions, appropriations, gifts, grants and donations. Income from investment of the fund shall be credited to the fund. Money in the fund shall be expended only as provided in this section.

B. The state investment officer, subject to the

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approval of the state investment council, shall invest money in the transportation trust fund:

(1) in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) in consultation with the state treasurer.

C. The state investment officer shall report quarterly to the legislative finance committee and the state investment council on the investments made pursuant to this section. Annually, a report shall be submitted no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committees.

D. On July 1, 2024, a distribution shall be made from the transportation trust fund to the state road fund in the amount of twenty million dollars ($20,000,000) and on each July 1 thereafter, a distribution shall be made from the transportation trust fund to the state road fund in an amount equal to the greater of five percent of the average of the year-end market values of the fund for the immediately preceding three calendar years or thirty million dollars ($30,000,000). Money distributed pursuant to this subsection shall be expended only for projects prioritized by a cooperative and comprehensive process of the department of transportation that incorporates federally required performance measures and national planning goals, aligns with the department's long-range plans and addresses the multimodal needs of New Mexico's transportation customers.

E. In addition to the distribution pursuant to Subsection D of this section, money in the transportation trust fund may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund, the tobacco settlement permanent fund, the state-support reserve fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, to avoid an unconstitutional deficit, the legislature may appropriate from the transportation trust fund to the general fund only in the amount necessary to meet general fund appropriations for that fiscal year and only if the legislature has authorized transfers from the appropriation contingency fund, the general fund operating reserve, the tax stabilization reserve and the tobacco settlement permanent fund that exhaust those fund balances.

SECTION 2. APPROPRIATION.--Two hundred million dollars ($200,000,000) is appropriated from the general fund to the transportation trust fund for expenditure in fiscal year 2024 and subsequent fiscal years to provide initial funding to the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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HOUSE TRANSPORTATION, PUBLIC WORKS AND CAPITAL IMPROVEMENTS COMMITTEE SUBSTITUTE FOR HOUSE BILL 428

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO TRANSPORTATION; CREATING THE TRANSPORTATION TRUST FUND; PROVIDING FOR DISTRIBUTIONS FROM THE TRANSPORTATION TRUST FUND TO THE STATE ROAD FUND FOR CERTAIN PROJECTS PRIORITIZED BY THE DEPARTMENT OF TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] TRANSPORTATION TRUST FUND CREATED.--

A. The "transportation trust fund" is created as a nonreverting fund in the state treasury. The fund consists of distributions, appropriations, gifts, grants and donations. Income from investment of the fund shall be credited to the fund. Money in the fund shall be expended only as provided in this section.

B. The state investment officer, subject to the

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approval of the state investment council, shall invest money in the transportation trust fund:

(1) in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) in consultation with the state treasurer and the secretary of transportation.

C. The state investment officer shall report quarterly to the legislative finance committee and the state investment council on the investments made pursuant to this section. Annually, a report shall be submitted no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committees.

D. Subject to the availability of funds, on July 1, 2026 and each July 1 thereafter, a distribution shall be made from the transportation trust fund to the state road fund in an amount equal to five percent of the average of the year-end market values of the fund for the immediately preceding three calendar years. Money distributed pursuant to this subsection shall be expended only for road projects prioritized by a cooperative and comprehensive process of the department of transportation that aligns with the department's long-range plans and addresses the multimodal needs of New Mexico's transportation customers.

E. In addition to the distribution pursuant to

Subsection D of this section, money in the transportation trust fund may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund, the tobacco settlement permanent fund, the state-support reserve fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, to avoid an unconstitutional deficit, the legislature may appropriate from the transportation trust fund to the general fund only in the amount necessary to meet general fund appropriations for that fiscal year and only if the legislature has authorized transfers from the appropriation contingency fund, the general fund operating reserve, the tax stabilization reserve and the tobacco settlement permanent fund that exhaust those fund balances.

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	HTPWC	ORIGINAL DATE	2/25/2023
SHORT TITLE	Transportation Trust Fund	BILL NUMBER	House Bill 428/HTPWCS
		ANALYST	Simon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		No fiscal impact	No fiscal impact			
Total						

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

Relates to House Bills 321 and 412 and Senate Bills 22 and 184

Sources of Information

LFC Files

Responses Received From
State Investment Council (SIC)
Department of Transportation (NMDOT)

SUMMARY

Synopsis of Substitute Bill

The House Transportation, Public Works, and Capital Improvements Committee substitute for House Bill 428 would create the transportation trust fund, to be invested by the State Investment Council (SIC) and make distributions to the state road fund, beginning in FY27, for transportation projects aligned with the Department of Transportation's (NMDOT) long-range plans.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

HB428 does not include an appropriation.

The bill would create a new trust fund to benefit transportation infrastructure projects. Beginning in FY27, the state road fund would receive an amount equal to 5 percent of the average value of the trust fund for the three preceding calendar years. Because HB428 does not include an appropriation, possible distributions from the fund are unknown. Any distributions from the trust fund would be deposited in the state road fund and available to the Legislature for appropriation as part of the annual budget process.

As with other trust funds created by the Legislature, HB428 would allow amounts in the trust fund to be used to avoid an unconstitutional deficit, but only after all other authorized revenues and transfers have been exhausted.

SIGNIFICANT ISSUES

HB428 seeks to address 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 have led to increased resources for state roads. Additionally, since 2019, the Legislature has appropriated $995 million 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 total of $5.75 billion in unfunded road projects across the state. Notably, the department reports a large number of high-cost projects, in part due to recent increases in construction costs. According to the Federal Highway Administration, highway construction costs are up by 30 percent from FY20, reflecting rising materials and labor costs seen across many industries.

NMDOT revenue projections continue to forecast modest growth for the road fund; however, 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. NMDOT reports state road fund growth could stall if high inflation causes consumer spending to decline or to shift from goods to services.

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. For calendar year 2021, road condition data shows significant improvement in New Mexico's roadways, which the department partially credits to significant additional resources appropriated by the Legislature for road maintenance activities. NMDOT notes there is a direct correlation between deteriorating road conditions and the cost of maintenance on those roadways.

CY21 Road Condition Survey	CY17 Actual	CY18 Actual	CY19 Actual	CY20 Actual	CY21 Target	CY21 Actual	Rating
Interstate miles rated fair or better	93%	95%	90%	88%	>90%	97%	G
National highway system miles rated fair or better	89%	97%	88%	84%	>86%	97%	G
Non-national highway system miles rated fair or better	79%	84%	85%	76%	>75%	95%	G
Lane miles in poor condition	4,606	3,783	4,420	6,805	<5,425	1,451	G
Program Rating	G	G	G	Y			G

A PCR score of 45 or less indicates a road in poor condition. In 2021, the average PCR score for the state was 72.1, up from the average 2020 score of 54.9 and average 2019 score of 57.4. The number of lane miles with a rating of below 45 fell by nearly 80 percent, from 6,805 in 2020 to 1,451 in 2021. However, to continue recent gains, the department has noted a need for additional resources to keep up with routine maintenance needs. NMDOT estimates a gap of $266.4 million between the department's FY23 operating budget and estimated need for routine maintenance.

ADMINISTRATIVE IMPLICATIONS

HB428 requires money in the fund to be managed by the SIC, in consultation with the secretary of transportation and the state treasurer. Funds distributed by the trust fund to be prioritized though a cooperative and comprehensive process that incorporates national planning goals, aligns with the department's long-term plans, and addresses multimodal needs. Federal guidelines require NMDOT to produce a fiscally constrained, four-year statewide transportation improvement program. Presumably, money in the fund would benefit projects from that program where the department has been unable to identify a funding source.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Several bills have proposed increases in revenue to the state road fund to support investments in transportation infrastructure. These include

- **House Bill 321**, which would increase the distribution of the motor vehicle excise tax from 21.86 percent to 50 percent, generating an additional $78 million in FY24 for the state road fund;
- **House Bill 412,** which would generate an estimated $570 thousand in FY24 (increasing in future years) for the state road fund through additional registration fees on electric and plug-in hybrid vehicles;
- **Senate Bill 22,** which is similar to HB412, but includes higher registration fees than HB412, raising an estimated $850 thousand; and
- **Senate Bill 184**, which would increase the distribution of the motor vehicle excise tax from 21.86 percent to 60 percent for the state road fund.
- **Senate Bill 275**, which would generate an estimated $17.7 million per year for the state road fund by increasing motor vehicle registration fees.

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SENATE BILL 184

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Gay G. Kernan and Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO TAXATION; AMENDING MOTOR VEHICLE EXCISE TAX DISTRIBUTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed as follows:

[~~A. fifty-nine and thirty-nine hundredths percent to the general fund;~~

~~B. twenty-one and eighty-six hundredths~~] A. sixty

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percent to the state road fund; and

[~~C. eighteen and seventy-five hundredths~~] B. forty percent to the transportation project fund."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Kernan/Gonzales	**ORIGINAL DATE**	2/19/23
SHORT TITLE	Motor Vehicle Excise Tax Distributions	**BILL NUMBER**	Senate Bill 184
		ANALYST	Torres

REVENUE* (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
	($164,600)	($167,700)	($173,900)	($178,400)	Recurring	General Fund
	$105,710	$107,670	$111,690	$114,540	Recurring	Road Fund
	$58,930	$59,960	$62,200	$63,880	Recurring	Transportation Project Fund (local governments)

Parenthesis ( ) indicate revenue decreases
*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Transportation (DOT)
Municipal League

SUMMARY

Synopsis of Senate Bill 184

Senate Bill 184 (SB184) amends Section 7-14-10 NMSA 1978 to remove the distribution of the Motor Vehicle Excise tax (MVX) to the general fund and increase the distributions to the state road fund and the transportation project fund (which funds local road projects). Current distributions and proposed distributions are illustrated in the following table:

Fund	Current Distribution of MVX	SB184 Proposed Distribution of MVX
General Fund	59.39%	0%
State Road Fund	21.86%	60%
Transportation Project Fund	18.75%	40%

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

The December 2022 Consensus Revenue Estimate was used for the forecasted costs on page 1. SB184 would distribute to the state road fund an additional $106 million in FY24, and an additional $108 - $112 million in FY25 onwards. As a result of that increase, the state road fund would receive MVX revenue totaling about $165-175 million per fiscal year, making MVX the largest revenue source for the state road fund.

SB184 would also distribute to the transportation project fund an additional $59 million in FY24, and an additional $60 - $63 million in FY25 onwards.

On the contrary, the State general fund revenue would be reduced by $165 million in FY24, and by about $168-175 million, in each of the following fiscal years.

This bill expands an earmark. LFC has concerns with including distributions of revenues in the statutory provisions because earmarking reduces the ability of the Legislature to establish spending priorities.

SIGNIFICANT ISSUES

Directing all MVX revenue to the state road fund and local governments road funds could be considered a user-fee supported spending program. Since the cost of maintaining roads is tied to vehicle sales which contribute to road deterioration, the maintenance of roads from the tax on the sale of vehicles passes on the cost of maintaining roads to those using them.

This proposal would eliminate a recurring general fund revenue source, reducing the Legislature's budgetary flexibility with respect to the broad appropriation needs of the general fund in future years. In FY22, MVX revenue made up 1.5 percent of all general fund recurring revenue.

The Municipal League adds:

> According to the TRIP report, New Mexico has over $5 billion in unfunded project backlogs[1] and approximately 56 percent of the state's major roads and highways are in poor or mediocre condition.
>
> Current growth in the roads funds is slow and insufficient to meet construction and maintenance needs. Motor vehicle excise tax revenue is a relatively stable and growing revenue source, making it a more favorable funding source for roads than gasoline tax (a flat $0.17 per gallon).
>
> Inadequate road funding has a direct impact on New Mexicans' finances, especially for lower-income New Mexicans. New Mexico's poor road quality costs drivers over $2,000 annually, over 4 percent of median household income.[2]

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[1] Source: TRIP Report, 2022

[2] Source: TRIP Report, 2022

HOUSE BILL 321

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Jason C. Harper and Dayan Hochman-Vigil and Jenifer Jones and Harry Garcia and Patricia A. Lundstrom

AN ACT

RELATING TO TAXATION; AMENDING DISTRIBUTIONS OF THE LIQUOR EXCISE TAX AND THE MOTOR VEHICLE EXCISE TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-1-6.40 NMSA 1978 (being Laws 1997, Chapter 182, Section 1, as amended) is amended to read:

"7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI GRANT FUND--CERTAIN MUNICIPALITIES--DRUG COURT FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to [~~forty-five~~] sixty percent of the net receipts attributable to the liquor excise tax shall be made to the local DWI grant fund.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 [~~of twenty thousand seven hundred fifty dollars ($20,750) monthly from the net receipts attributable to the liquor excise~~

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~~tax shall be made to a municipality that is located in a class A county and that has a population according to the most recent federal decennial census of more than thirty thousand but less than sixty thousand and shall be used by the municipality only for the provision of alcohol treatment and rehabilitation services for street inebriates~~] in an amount equal to thirty percent of the net receipts attributable to the liquor excise tax shall be made to the human services department to match federal funds for the state medicaid program and for no other purpose.

C. [~~Beginning July 1, 2019~~] A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to [~~five~~] ten percent of the net receipts attributable to the liquor excise tax shall be made to the drug court fund."

SECTION 2. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed as follows:

[~~A. fifty-nine and thirty-nine hundredths percent to the general fund;~~

~~B. twenty-one and eighty-six hundredths~~] A. fifty percent to the state road fund; and

[~~C. eighteen and seventy-five hundredths~~] B. fifty percent to the transportation project fund."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR	Harper/Hochman-Vigil/Jones/Garcia, H./Lundstrom	**LAST UPDATED**	
		ORIGINAL DATE	02/13/23
SHORT TITLE	Liquor & Motor Vehicle Tax Disbursements	**BILL NUMBER**	House Bill 321
		ANALYST	Faubion

REVENUE*
(dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
--	($25,100)	($25,300)	($25,600)	($25,800)	Recurring	General Fund - Liquor Excise Tax
--	$7,600	$7,700	$7,700	$7,800	Recurring	Local DWI Fund – Liquor Excise Tax
--	$15,200	$15,300	$15,500	$15,600	Recurring	Human Services Department – Liquor Excise Tax
--	$2,500	$2,600	$2,600	$2,600	Recurring	Drug Court Fund – Liquor Excise Tax
--	($249)	($249)	($249)	($249)	Recurring	Municipality (Farmington) – Liquor Excise Tax
--	($164,600)	($167,700)	($173,900)	($178,400)	Recurring	General Fund – Motor Vehicle Excise Tax (MVX)
--	$78,010	$79,470	$82,390	$84,540	Recurring	State Road Fund – MVX
--	$86,630	$88,260	$91,500	$93,880	Recurring	Transportation Project Fund (Local Governments) - MVX
--	**($189,700)**	**($193,000)**	**($199,500)**	**($204,200)**	**Recurring**	**Total -General Fund**

Parenthesis ( ) indicate revenue decreases
*Amounts reflect most recent version of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	$79.8	--	--	$79.8	Nonrecurring	TRD

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

Conflicts with HB230, SB259, SB220, SB61, SB38, and SB184.

Sources of Information

LFC Files

<u>Responses Received From</u>
Taxation and Revenue Department (TRD)
Department of Transportation (DOT)
Human Services Department (HSD)

SUMMARY

Synopsis of House Bill 321

House Bill 321 (HB321) redistributes the liquor excise tax to the local DWI grant fund, the drug court fund, and to the Human Services Department (HSD) to match federal funds for the state Medicaid program. This bill also redistributes the motor vehicle excise tax (MVX) to the state road fund and the transportation project fund.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

The total negative general fund revenue impact of House Bill 321 is $189.7 million in FY24 to $204.2 million in FY27.

Liquor Excise Tax
House Bill 321 distributes the liquor excise tax as follows: 60 percent to the local DWI grant fund (up from 45 percent); 10 percent to the drug court fund (up from 5 percent); and 30 percent to the Human Services Department for the state medicaid program (a new distribution). The bill removes the distributions to class A municipalities (currently only Farmington) and to the general fund (currently roughly 49.5 percent). This bill does not increase the liquor excise tax rate.

Based on the distribution changes, the general fund would no longer receive any revenue from liquor excise tax net receipts versus approximately 49.5 percent under current statute, resulting in a negative general fund revenue impact of $25.1 million to $25.8 million through the forecast period.

The amount to be distributed to municipalities that are located in a class A county with a population of more than 30 thousand but less than 60 thousand is amended to have no distribution instead of the $20,750 monthly in current law, resulting in $249 thousand of revenue loss per year. The increase in the amount distributed to the drug court fund would result in a revenue gain of $2.5 million and $2.6 million through the forecast period. The local DWI grant fund distribution would increase by $7.6 million to $7.8 million.

The new 30 percent distribution to HSD would result in approximately $15.2 million to $15.6 million in revenue through the forecast period. Importantly, this distribution will allow the state to receive federal match for Medicaid programs. The Human Services Department (HSD) notes the following regarding Medicaid matching:

> Assuming the state funds from the liquor excise tax can be used by the Medicaid program and matched with Medicaid federal funds, the revenue would bring an additional $57.9

million in federal funds to the state Medicaid program in FY24 and \$58.3 million in FY25. These matching amounts are based on the FY24 blended FMAP of 73.76 percent.

The Taxation and Revenue Department notes the following methodology for determining the fiscal impact:

> The new distribution proposes to include HSD as a new recipient of the liquor excise tax. This proposal will eliminate liquor excise tax revenue to the general fund since 100 percent of the net receipts will now be redistributed to other funds. The Taxation and Revenue Department (TRD) used the December 2022 Consensus Revenue Estimating Group (CREG) forecast for the liquor excise tax receipts to determine the impact of the new distributions. The estimated effect is based on the bill's new distribution percentages, which include the repeal of the distribution to a municipality located in a class-A county with a population of more than 30 thousand but less than 60 thousand. Currently, Farmington is the only municipality that meets such criteria.

Motor Vehicle Excise Tax

House Bill 321 distributes 50 percent of the motor vehicle excise tax to the state road fund (up from 21.86 percent) and 50 percent to the transportation project fund (up from 18.75 percent). The general fund would no longer receive any revenue from the motor vehicle excise tax net receipts versus approximately 59.39 percent under current statute, resulting in a negative general fund revenue impact of \$164 million to \$179 million through the forecast period. The road fund will receive an additional \$78 million to \$84 million, and the project road fund will receive an additional \$86 million to \$94 million.

TRD notes the following methodology for determining the fiscal impact:

> TRD used CREG's December 2022 forecast to estimate the impact of the proposed motor vehicle excise tax distribution changes. The bill repeals the distribution to the general fund and amends the distribution percentages to the state road fund and the transportation project fund, which benefits local governments. The CREG's forecast for motor vehicle excise tax was apportioned based on the proposal.

LFC has concerns with including continuing appropriation language in the statutory provisions for created funds because earmarking reduces the ability of the Legislature to establish spending priorities.

SIGNIFICANT ISSUES

Liquor Excise Tax

TRD notes the following policy issues:

> The bill's new distribution allocates more funds to treat drug and alcohol abuse and supports Medicaid in the state. Alcohol and substance abuse are among the costliest health problems in the United States. Different studies have shown that public investment reduces alcohol and substance abuse and delays abuse initiation at young ages. In that regard, the redistribution of revenue to targeted substance abuse funds may impact and support community programs. This would establish a consistent future fund balance for budgeting appropriations from these funds but would permanently divert gross receipts revenue from the general fund. The public investment may reduce future costs associated with alcohol and substance abuse.

New Mexico's tax code is out of line with most states in that more complex distributions are made through the tax code. In addition, the diversion of tax revenue directly to HSD for the support of Medicaid versus appropriating from the general fund through HB2 as is traditionally done reduces the transparency of Medicaid funding in the state. The more complex the tax code's distributions, the costlier it is for TRD to maintain the GenTax system and the more risk is involved in programming changes.

Finally, the bill repeals a distribution based on very targeted language, which at present allows only Farmington to meet the eligibility. This targeting does not meet equity principles of good tax policy regarding all cities being afforded the same distribution from the liquor excise tax. Many municipalities might face funding needs for alcohol treatment and rehabilitation services.

Motor Vehicle Excise Tax

TRD notes the following policy issues:

Directing all MVX revenue to the state road fund and local governments road funds is a supportable earmark since the cost of maintaining roads is directly tied to vehicle sales, which contribute to road deterioration. This would enable direct planning of budget use with forecasted MVX revenue. This proposal though would eliminate a recurring general fund revenue source, reducing the legislature's budgetary flexibility with respect to the broad appropriation needs of the general fund in future years. In FY22, MVX revenue made up 1.5 percent of all general fund recurring revenue.

ADMINISTRATIVE IMPLICATIONS

TRD will need to make information system changes that will have a moderate impact on the Information Technology Division (ITD). The estimated time to develop, test and implement the changes is approximately 240 hours or 1.5 months for an estimated $13,300 of staff workload cost, and $63 thousand in application and configuration changes in Tapestry to amend the distributions for MVX. This legislation will have a moderate impact on the TRD Administrative Services Division (ASD) of 60 hours for two ASD staff focused on testing and verifying the new distributions and reports.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB321 conflicts with SB61, SB220, SB259, and HB230 which also change the liquor tax revenue distributions.

HB321 conflicts with SB38, which repeals sections of the Motor Vehicle Excise Tax Act which includes the imposition of MVX and the distribution of MVX proceeds. HB321 conflicts with SB184, which also changes the distribution of MVX revenues by different percentages to the same NMDOT funds.

TECHNICAL ISSUES

TRD notes the distribution to HSD does not designate a specific fund for the distribution of revenue and for state accounting purposes.

Does the bill meet the Legislative Finance Committee tax policy principles? 1. **Adequacy**: Revenue should be adequate to fund needed government services. 2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax. 3. **Equity**: Different taxpayers should be treated fairly. 4. **Simplicity**: Collection should be simple and easily understood. 5. **Accountability**: Preferences should be easy to monitor and evaluate.

JF/rl/ne/mg