

LFC Requester:	Simon
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1/16/24

Bill No: HB 42

Sponsor: Hochman-Vigil
Short Title: Transportation Trust Fund

Agency Name and Code SIC 337
Number: _____
Person Writing Iglesias
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
See fiscal implications			Recurring	State Road Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 428 seeks to create a Transportation Trust Fund (TTF) as a non-reverting fund in the state treasury, to be managed by the State Investment Officer in accordance with the Uniform Prudent Investment Act, in consultation with the State Treasurer and with oversight from the State Investment Council. Distributions from the TTF to the State Road Fund would begin in FY27 and are set at 5 percent of the average year-end market values of the trust fund for the last three calendar years, and monies from this distribution may only be expended for approved projects prioritized by the NM Department of Transportation (NMDOT). In addition to the regular distribution, money in the TTF may be appropriated to cover budgetary shortfalls following complete expenditure of the general fund, the general fund operating reserve, the appropriation contingency fund, the tobacco settlement permanent fund, the state-support reserve fund and tax stabilization reserve. Up to 1 percent of the 3-year average ending balance of the TTF may also be allocated by NMDOT for approved non-rail public transit projects.

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

FISCAL IMPLICATIONS

Depending on the size of the initial appropriation to the TTF, the fund would make annual distributions of 5 percent of the prior 3-year average ending value of the TTF to the State Road Fund, beginning in FY27.

The bill does not make an initial appropriation to the TTF, and as of this writing, staff was unable to identify funding for the TTF in either the LFC or executive budget recommendations. Therefore, staff is unable to identify the size of any potential distributions from the TTF to the State Road Fund.

Section 1-E(2) of the bill also includes a provision for NMDOT to allocate up to 1 percent of the TTF's three-year average for approved non-rail public transit. This allocation does not appear to require appropriation or approval from the Legislature. The bill does not specify how often such an allocation by NMDOT can be made (e.g. once per fiscal year, or an unlimited number of times in increments of 1 percent of the average, etc.). This provision could require the Council to maintain excess liquidity in the fund to accommodate the size of such allocations and the unknown frequency, which may require the TTF to be invested more conservatively than other permanent/trust funds in order to accommodate the uncertain liquidity needs of the fund.

Additionally, in the event of a fiscal emergency, the bill permits the Legislature to appropriate funds from the TTF to the General Fund in order "to avoid an unconstitutional deficit." However, this emergency appropriation from the TTF is only permitted after the Legislature has exhausted available funds from the appropriation contingency fund, the general fund operating reserve, the tax stabilization reserve and the tobacco settlement permanent fund.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

The State Investment Officer, with the approval of the State Investment Council would manage the TTF in accordance with the Uniform Prudent Investor Act and would seek to ethically optimize risk-adjusted returns and grow the fund over time.

The Council does not currently have a “boilerplate” asset allocation for any fund, including the proposed TTF, but it is a fair assumption that the new fund could/would be constructed in a manner similar to other permanent/trust funds managed by the SIC. However, given the above-mentioned uncertainty of liquidity needs for this fund, the TTF may need to be invested more conservatively (in more liquid assets) than other permanent/trust funds, which could reduce the fund’s performance relative to other funds.

ADMINISTRATIVE IMPLICATIONS

This bill will require additional time from investment and administrative staff at the State Investment Office. While likely to be significant, the additional resources required can be addressed through the SIO’s ordinary budgeting process.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Section 1-E(2) is unclear regarding the frequency in which NMDOT may allocate up to 1 percent of the 3-year average to approved projects (e.g. once per fiscal year, or an unlimited number of times in increments of 1 percent of the average, etc.). This uncertainty could affect the asset allocation (and therefore the performance) of the trust fund. Staff recommend including language to clarify the frequency of such allocations directly from the fund’s corpus, which will aid the Council in identifying the appropriate asset allocation.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

HB42 draws language identical to that in existing statute 6-4-2.2, which calls for the state investment officer to invest the Tax Stabilization Reserve (TSR) “...in consultation with the state treasurer.”

When the legislature changed law to transfer management of the Tax Stabilization Reserve from the State Treasurer’s Office to the State Investment Council several years ago, the inclusion of the Treasurer as a special advisor to the State Investment Officer was deemed appropriate. However, in this case, the TTF will be a completely new fund, to be managed and overseen by the 11-member Council, which already includes the State Treasurer. For the TTF, here is no particular reason to grant the Treasurer additional powers over and above the other 10-members of the Council.

It is important however, for the Council as manager of the TTF to properly understand the long-term goals and risk/return appetite of the fund’s “client” to appropriately allocate the funds in question. In this case, we would suggest the Secretary for the Department of Transportation would be properly consulted in this regard, and could replace the state treasurer (page 2, line 5),

who will already be involved in the management process around the TTF due to her ex-officio role on the State Investment Council.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS