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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 322

SHORT TITLE: Transportation Trust Fund and Program Fund

SPONSOR: Brown

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/9/2026 **ANALYST:** Simon/Faubion/Carswell

APPROPRIATION* (dollars in thousands)

FY26	FY27	Recurring or Nonrecurring	Fund Affected
	\$400,000.0	Nonrecurring	General Fund

*Amounts reflect most recent analysis of this legislation.

REVENUE* (dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
Capital Outlay Reversions	\$750.2 to \$3,001.2	\$12,110.3 to \$48,441.2	\$8,812.8 to \$35,251.0	\$7,132.6 to \$28,530.5	\$0.0	Nonrecurring	Transportation Trust Fund
Capital Outlay Reversions	See Fiscal Implications						General Fund
Motor Vehicle Excise Tax	\$0.0	\$62,500.0	\$64,700.0	\$101,300.0	\$105,200.0	Recurring	Transportation Trust Fund
Motor Vehicle Excise Tax	\$0.0	(\$91,900.0)	(\$95,000.0)	(\$200,500.0)	(\$208,300.0)	Recurring	General Fund
Motor Vehicle Excise Tax	\$0.0	(\$11,700.0)	(\$12,100.0)	\$4,200.0	\$4,400.0	Recurring	Transportation Project Fund
Motor Vehicle Excise Tax	\$0.0	\$41,100.0	\$42,500.0	\$95,000.0	\$98,700.0	Recurring	State Road Fund
Gross Receipts Tax	\$0.0	\$27,000.0	\$28,100.0	\$29,200.0	\$30,300.0	Recurring	Transportation Trust Fund
Gross Receipts Tax	\$0.0	(\$27,000.0)	(\$28,100.0)	(\$29,200.0)	(\$30,300.0)	Recurring	General Fund
Trans. Trust Fund Distribution	\$0.0	\$0.0	\$0.0	\$0.0	\$35,400.0	Recurring	Transportation Program Fund
TOTAL	\$0.0	(\$118,900.0)	(\$123,100.0)	(\$229,700.0)	(\$238,600.0)	Recurring	General Fund
TOTAL	\$1,875.7	\$119,775.5	\$114,831.5	\$148,331.0	\$135,500.0	R/NR	Transportation Trust Fund
TOTAL	\$0.0	\$41,100.0	\$42,500.0	\$95,000.0	\$134,100.0	Recurring	State Road Fund

TOTAL	\$0.0	(\$11,700.0)	(\$12,100.0)	\$4,200.0	\$4,400.0	Recurring	Transportation Project Fund
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Parentheses indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
State Investment Council			Up to \$100.0	Up to \$100.0	Recurring	Land Grant Permanent Fund and Severance Tax Permanent Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Conflicts with House Bill 247

Relates to Senate Bill 2

Sources of Information

LFC Files

Agency or Agencies That Were Asked for Analysis but did not Respond

State Investment Council

Department of Finance and Administration

Taxation and Revenue Department

Department of Transportation

SUMMARY

Synopsis of House Bill 322

House Bill 322 (HB322) creates a transportation trust fund and seeds the trust fund with a \$400 million appropriation from the general fund. The transportation trust fund would be managed by the State Investment Council and beginning in FY30 would distribute 5 percent of the balance of the fund to the Department of Transportation (NMDOT) to provide matching funds for federally funded transportation infrastructure projects authorized by the Legislature.

HB322 earmarks a portion of gross receipts tax revenue from the sale of electricity for transfer to the transportation trust fund, beginning with 1 percent if FY27 and rising to 2 percent by FY48. Additionally, the bill increases the revenue from motor vehicle excise tax to the state road fund and the transportation project fund, lowering the percentage directed to the general fund and transportation project fund in FY27 and FY28. Beginning in FY29, motor vehicle excise tax revenue to that transportation project fund would increase from its current rate and from the rate the bill includes for FY27 and FY28. From FY29, motor vehicle excise tax revenue distributions to the general fund would stop unless gross receipts tax revenue falls below ninety percent of the gross receipts tax in the previous years.

	Current	FY27 - FY28	FY29 and After	If GRT falls 10%
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	Distribution			(FY32 -FY41)
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%

HB322 also directs unexpended balances from capital outlay appropriations made by the Legislature from 2021 through 2024 would revert to the transportation trust fund.

The effective date of this bill is July 1, 2026.

FISCAL IMPLICATIONS

The appropriation of \$400 million contained in this bill is a nonrecurring expense to the general fund. The appropriation would provide seed funding for the trust fund and would not revert to the general fund. However, the transportation trust fund would make annual distributions to the transportation program fund.

HB322 creates a new fund and provides for legislative appropriation from the fund for transportation infrastructure projects. While LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, the fund created by this bill preserves the ability of the Legislature to establish spending priorities through annual appropriations.

Motor Vehicle Excise Tax. House Bill 322 modifies the distribution of the motor vehicle excise tax (MVX) receipts. The distribution of the motor vehicle excise tax was determined using the December 2025 consensus revenue estimate to determine gross collections and new distributions, resulting in the following revenue to the recipients:

	General Fund	State Road Fund	Transportation Project Fund	Transportation Trust Fund	Total MVX Revenue
FY 2027	93.78	109.41	46.89	62.52	312.61
FY 2028	97.02	113.19	48.51	64.68	323.40
FY 2029	-	168.83	67.53	101.30	337.66
FY 2030	-	175.36	70.14	105.21	350.71

Gross Receipts from Sale of Electricity. The bill specifies that a portion of the taxable gross receipts from electricity sales will be distributed to the transportation trust fund. Estimating the amount of gross receipts tax (GRT) revenue that will be redirected to the transportation trust fund under HB322 is challenging due to the lack of data on gross receipts from electricity sales. There is no publicly available data specifically detailing gross receipts from electricity sales in New Mexico, and utility companies typically report total gross receipts without itemizing sales by product type. Additionally, electricity sales are influenced by seasonal demand fluctuations, economic changes, and shifts towards renewable energy sources, making it difficult to project future revenue patterns accurately.

The language in HB322 introduces ambiguity in how the distribution is calculated. The bill specifies that a percentage of the "taxable gross receipts attributable to the sale of electricity" will be allocated to the transportation trust fund. However, it does not clearly define whether this

applies to residential and commercial sales, or if it is calculated on the gross sale amount or the net taxable amount after deductions. Moreover, the phrase "attributable to the sale of electricity" is open to interpretation. It could be interpreted to include direct sales to end consumers, wholesale transactions between utilities, or bundled services where electricity is sold along with other services, such as maintenance contracts. These ambiguities make it challenging to determine the precise revenue impact.

Another concern is the potential impact on local government revenue. The bill does not explicitly state whether the distribution to the transportation trust fund will come from the state's share of GRT revenue or if it will also affect local government allocations as all GRT revenue flows into the tax suspense fund prior to distributions. If the redistribution reduces the overall GRT revenue pool, local governments could experience a decrease in their GRT distributions, potentially straining local budgets and necessitating service cuts or budget adjustments. This concern may be addressed by TRD in a future fiscal impact report. LFC assumes this would only affect the state general fund.

To estimate the impact, LFC used the RP-80 GRT reports from TRD and identified the industry NAICs codes that could contain the sale of electricity. From those subsectors, LFC calculated one percent of all taxable gross receipts. This could represent an overestimate as many of those subsectors likely contain other activities than the sale of electricity.

Capital Outlay Reversions. HB322 would revise previous capital outlay bills to direct reversions of unspent general fund appropriations for capital outlay projects to the transportation trust fund. LFC estimated the potential benefit to the reserve fund using historical reversion rates compiled by DFA in fall 2025. DFA found approximately 1 percent of severance tax bond and general obligation bond appropriations reverted between 2019 and 2025 and 4 percent of general fund capital outlay appropriations reverted between 2020 and 2025. This analysis assumes general fund capital outlay appropriations will revert at a rate between 1 percent and 4 percent starting in 2026, increasing revenue to the transportation trust fund.

Additionally, while sending capital outlay reversions to the transportation trust fund could negatively impact the general fund, where those funds may otherwise revert, the Consensus Revenue Estimating Group expects reversions to the general fund to continue to hit an existing statutory cap and, therefore, does not include potential capital outlay reversions in its long-term revenue estimates. As a result, the change would not have a negative impact on current general fund revenue expectations.

Trust Fund Distributions. Appropriations from the transportation trust fund are governed by a specific mechanism outlined in the bill. Starting on July 1, 2029, and every July 1 thereafter, 5 percent of the average year-end market value of the fund over the preceding three calendar years will be transferred to the state road fund. These funds are earmarked exclusively for state matching funds for federal transportation grants, ensuring that the resources are directly invested in transportation infrastructure. Additionally, in exceptional circumstances where the general fund faces a shortfall that cannot be met by other reserves, the Legislature is permitted to appropriate funds from the transportation trust fund to prevent a constitutional deficit. However, this can only occur after exhausting other reserve funds and with legislative authorization. The outlook below was estimated without input from the State Investment Council. If agency analysis is submitted, this FIR could be updated. Based on LFC analysis distributions from the trust fund could be \$35 million in FY30, growing in future years. Notably, LFC's analysis projected total

recurring revenue into the fund of \$135.1 million, or \$100 million more than the distribution from the trust fund. This represents an important opportunity cost for the Legislature to consider. While fund distributions would grow over time, HB322 would be generally expected to generate more in investment earnings than it distributes to the program fund. As a result, the primary effect of the recurring revenue would be to grow the corpus of the trust fund. This allows the trust fund balance to grow rapidly, more than doubling the initial \$400 million infusion in the first three years of the fund.

Transportation Trust Fund Outlook				
(in millions)				
	FY27	FY28	FY29	FY30
Beginning Balance	\$400.0	\$545.8	\$693.6	\$884.1
MXV	\$62.5	\$64.7	\$101.3	\$105.2
GRT	\$27.0	\$28.1	\$29.2	\$30.3
Capital Reversion	\$30.3	\$22.0	\$17.8	
State Road Fund Distribution				(\$35.4)
Interest Earned	\$26.0	\$33.0	\$42.1	\$49.2
Ending Balance	\$545.8	\$693.6	\$884.1	\$1,033.4

SIC Operating Budget. HB322 could lead to additional operating budget requests from the State Investment Council, which would manage investment of the transportation trust fund. The House Appropriations and Finance Committee Substitute for House Bills 2 and 3 include \$11.8 million for SIC staff, a 173 percent increase since FY20 due in large part the significant growth in assets under management, which have grown even more rapidly. Longstanding practice of SIC is to pay administrative expenses equally from the land grant permanent fund and the severance tax permanent fund. Currently, SIC does not use investment earnings from other funds managed by the agency for operations, meaning additional operating expenses would probably not impact distributions from the transportation trust fund, but could, on a very small scale, impact distributions from the land grant permanent fund and severance tax permanent fund. Analysis from SIC on possible budget impacts is not yet available, but is likely to be minor when compared with the current \$73 billion managed by SIC.

SIGNIFICANT ISSUES

The bill seeks to address the need for infrastructure investment identified by the Department of Transportation (NMDOT). NMDOT’s operating budget comes primarily 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. From FY14 to FY25, total revenue into the state road fund grew at an average of 3.1 percent per year. However, NMDOT reports costs have grown more rapidly. According to the Federal Highway Administration, national highway construction costs have risen 92 percent over that same period.

PERFORMANCE IMPLICATIONS

NMDOT reports that as of 2024, 7,080 miles of roadways maintained by NMDOT were in poor

condition. As recently as 2021, the department reported that 1,451 miles of roadway were in poor condition. While 84 percent of interstate miles and 81 percent of National Highway System miles remain in fair or better condition, the reported conditions are significantly lower than in recent years. More information on NMDOT's reported road conditions over time can be found on LFC's report card [dashboard](#).

ADMINISTRATIVE IMPLICATIONS

In addition to the creation of the trust fund, HB322 creates the transportation program fund, a fund administered by NMDOT to provide matching funds for federal grant projects. Notably, NMDOT already administers a nonreverting fund used to match federal grant dollars, the state road fund. As a result, it may be unnecessary to create a new fund versus depositing trust fund distributions in the state road fund. Creating a new fund may make revenue tracking more transparent but would increase the complexity of NMDOT's budget. The titles of the funds could cause confusion in the future: funds in the transportation program fund could only be used to support state roads, while funds for transportation program support would continue to come from the state road fund.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB322 conflicts with House Bill 247, which establishes limitations on reauthorizations and new appropriations for capital outlay projects and directs reversions of general fund capital outlay appropriations to the capital development and reserve fund. Because both HB322 and HB247 direct these reversions to different funds, they are incompatible.

In January, the Legislature passed and the governor signed Senate Bill 2, which authorized the Transportation Commission to sell \$1.5 billion in bonds for road improvement projects such as those that could be funded by distributions from the trust fund.

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