BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 1, 2024

Bill: HB-146, as amended by the HTPWC **Sponsor:** Representatives Cathrynn N. Brown and Randall T. Pettigrew

Short Title: Transportation Trust Fund

Description: This bill creates the Transportation Trust Fund in the State Treasury. It also adds a new section to the Tax Administration Act to distribute 1% of the taxable gross receipts attributable to the sale of electricity to the Transportation Trust Fund (see Technical Issues). Certain unused capital outlay funds are also transferred to the Transportation Trust Fund. It also amends Section 7-14-10 NMSA 1978 to change distributions of the Motor Vehicle Excise Tax (MVEX) prior to July 1, 2026 to 30% to the General Fund, 35% to the State Road Fund, 15% to the Transportation Project Fund, and 20% to the Transportation Trust Fund. On and after July 1, 2026, the distributions will be 50% to the State Road Fund, 20% to the Transportation Project Fund, and 30% to the Transportation Trust Fund. For the period after fiscal year 2029 and prior to fiscal year 2040, the bill adds a provision that if gross receipts tax revenues in a fiscal year are less than 90% of gross receipts tax revenues for the previous fiscal year as determined by the Secretary of the Department of Finance and Administration (DFA), 50% will go to the General Fund, 20% to the State Road Fund, 15% to the Transportation Project Fund, and 15% to the Transportation Trust Fund.

The *House Transportation, Public Works and Capital Improvements Committee* amendment changes the transfers from the Transportation Trust Fund to the State Road Fund starting July 1, 2027, and provides that such amounts shall be expended only to provide state matching funds for federal grants for transportation infrastructure projects.

Effective Date: July 1, 2024

Taxation and Revenue Department Analyst: Asif Rasool

Appropriation*		R or NR**	Fund(s) Affected
FY2024	FY2025		
--	($400,000)	NR	Section 5 - General Fund
--	$400,000	NR	Section 5 – Transportation Trust Fund

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	($20,935)	($21,600	($22,290)	($23,000)	R	Section 3 – General Fund
--	$20,935	$21,600	$22,290	$23,000	R	Section 3 - Transportation Trust Fund
--	($82,343)	($84,700)	($176,940)	($182,730)	R	Section 4 - General Fund
--	$36,817	$37,870	$83,835	$86,575	R	Section 4 - State Road Fund
--	($10,512)	($10,810)	$3,726	$3,844	R	Section 4 - Transportation Project Fund

--	$56,038	$86,460	$89,379	$92,301	R	Section 4 - Transportation Trust Fund

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Section 3: The Taxation and Revenue Department (Tax & Rev) utilized data from the U.S. Energy Information Administration (EIA) website[1] to establish the gross receipts tax (GRT) taxbase of the sale of electricity in New Mexico and determined that the average revenue growth for electricity generation over the past 12 years is 3.19%. Based on this figure, Tax & Rev applied a 30% deduction rate based on the RP-500 for public utilities, whose gross receipts are not taxable, to arrive at the taxable gross receipts and multiplied it by 1% to estimate the distribution to the Transportation Trust Fund from GRT.

Section 4: Tax & Rev applied the proposed distribution rates, allocating 30% to the General Fund, 35% to the State Road Fund, 15% to the Transportation Project Fund, and 20% to the Transportation Trust Fund. These rates apply prior to July 1, 2026. On and after July 1, 2026, the distribution rates will be 50% to the State Road Fund, 20% to the Transportation Project Fund, and 30% to the Transportation Trust Fund. The distributions are based on the current Consensus Revenue Estimating Group's (CREG) December 2023 Motor Vehicle Excise Tax (MVEX) forecast.

For the period after FY2029 and prior to FY2040, any annual 10% drop in GRT revenue leads to a reallocation of the MVEX revenue distributions at 50% to the General Fund, 20% to the State Road Fund, 15% to the Transportation Project Fund, and 15% to the Transportation Trust Fund. While the CREG December 2023 forecast only goes out to FY2028, during that time frame GRT revenues are not projected to decrease.

Section 1: For the fiscal impact under subsection D, Tax & Rev defers to the fiscal impact analysis of the State Investment Council.

Policy Issues: The General Fund is a primary operating fund that serves as the main source of funding for the state government's day-to-day operations and essential services. It is a centralized fund that collects revenue from various sources, such as taxes, fees, and other income, and allocates those funds to support various government programs and services. The General Fund plays a crucial role in financing a wide range of public expenditures, including education, healthcare, public safety, transportation, and other essential services. It is subject to annual appropriations by the state legislature.

The General Fund is distinct from other dedicated funds within the state's financial structure, which may have specific revenue streams and limitations on their use for designated purposes. The General Fund, on the other hand, provides a more flexible source of funding that can be utilized to address a wide array of government responsibilities and obligations.

Earmarking revenues to other funds like the State Road Fund, Transportation Project Fund, and a newly created Transportation Trust Fund, it will have a direct fiscal impact on the General Fund. The reduction in revenue may require state government to reassess and potentially prioritize its spending, leading to potential cuts or adjustments in different areas to compensate for the loss of funds.

Section 3: New Mexico's tax code is out of line with most states in that more complex distributions are made through the tax code. As an alternate to this proposal and revenue earmarks, the GRT tax revenue to the General Fund could remain intact without the 1% distribution, and regular appropriations of revenue to the Transportation Trust Fund could be provided for through general fund appropriations in HB2. The

[1] Electricity Data - U.S. Energy Information Administration (EIA)

more complex the tax code's distributions are, the costlier it is for Tax & Rev to maintain the GenTax system and the more risk is involved in programming changes.

Section 4: Directing all MVEX 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 MVEX 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 FY23, MVEX contributed $164.7 million to the General Fund, or approximately 1.4% of recurring General Fund revenue.

Technical Issues: **Section 3:** GRT returns indicate the location to which receipts are sourced and the amount of receipts the business had less any deductions. GRT returns do not identify whether receipts are due to the sale of electricity versus some other type of receipts. Therefore, Tax & Rev cannot identify the 1% of taxable gross receipts that this bill would require be distributed to the Transportation Project Fund. This distribution mechanism should be removed so that any enacted bill can be implemented.

Other Issues: None.

Administrative & Compliance Impact: This bill is anticipated to have a moderate impact on Tax & Rev's Administrative Services Division (ASD). Tax & Rev will update the Tapestry System's general ledger and reporting for the new distributions for the MVEX. This includes establishing new accounting and distribution functions to the new Transportation Trust Fund. It is anticipated this work will take approximately 260 hours split between 3 full-time equivalent (FTE) of a pay band 65, 70 and 80 at a cost of approximately $10,500.

This bill has a moderate overall impact on ITD, equivalent to approximately 650 hours or approximately 4 months, resulting in staff workload costs of $36,075. The ITD work involves a new GRT distribution on the GenTax system and implementing the new distributions in Tapestry.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
--	$10.5	--	$10.5	NR	Tax & Rev - ASD - contractual
$36.1	--	--	$36.1	NR	Tax & Rev - ITD - staff workload

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: Conflicts with SB-65 and SB-184