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## FISCAL IMPACT REPORT

**SPONSOR** Brown/Nibert/Ezzell/Townsend/Mason **LAST UPDATED** 2/23/2023  
**ORIGINAL DATE** 2/8/2023  
**SHORT TITLE** Projects on Certain Highways **BILL NUMBER** House Bill 223  
**ANALYST** Simon

### APPROPRIATION\* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
	\$650,000.0	Nonrecurring	Appropriation Contingency Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to appropriation in the General Appropriation Act  
Conflicts with appropriation in the General Appropriation Act

### Sources of Information

LFC Files

Responses Received From  
Department of Transportation (NMDOT)

No Response Received  
Economic Development Department (EDD)

## SUMMARY

### Synopsis of House Bill 223

House Bill 223 appropriates \$650 million from the appropriations contingency to the Department of Transportation for road projects in transportation district 2. Any unexpended or unencumbered balances would revert at the end of FY26.

The appropriation would be effective from FY24 through FY26.

## FISCAL IMPLICATIONS

The appropriation of \$650 million contained in this bill is a nonrecurring expense to the appropriation contingency fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall revert to the appropriation contingency fund. However, the appropriation

contingency fund currently has insufficient unappropriated balances to cover the full \$650 million appropriated by the bill. Consensus revenue estimates from December 2022 (attached) show unappropriated balances of \$142.5 million in the appropriation contingency fund, which are available for legislative appropriation during the 2023 regular legislative session or at a future date. This amount is \$507.5 million less than the amount appropriated by HB223.

House Appropriations and Finance Committee Substitute for House Bills 2 and 3 includes a FY24 operating budget for the Department of Transportation of \$1.260 billion, a 3.5 percent increase from FY23. Notably, House Bill 3 included an additional \$27.1 million in state road fund revenue for design and construction of state road projects. In addition, the bill appropriates a total of \$232 million in nonrecurring general fund revenue for state, local, and tribal road projects, including for New Mexico highway 31.

## **SIGNIFICANT ISSUES**

HB223 includes an appropriation for acquisition of rights of way, planning, design, and construction to match federal and other state funds for infrastructure projects on three roadways in southeast New Mexico:

- U.S. highway 380, in Chaves and Lea counties;
- New Mexico highway 31 in Eddy County; and
- New Mexico highway 128 in Eddy and Lea counties.

NMDOT estimates the \$650 million included in the bill would be sufficient to complete corridor improvements on the stated roads.

NMDOT notes several road condition issues with these routes, stating:

Existing pavement in several locations along [these] corridors are showing signs of distress and deterioration. Once the pavement condition falls below fair, the rate of deterioration increases rapidly and, if actions are not taken to improve the surface conditions, the pavement will begin to fail. Approximately 35 percent of the 84-mile U.S. 380 corridor and 30 percent of the New Mexico 31 and New Mexico 128 corridors have low pavement conditions that require reconstruction or major rehabilitation.

The existing conditions along [these] corridors...do not meet current design criteria. Improvements at these locations will increase drivers' ability to safely navigate through the corridor. Improvements are also needed at the existing intersections and access points to enhance safety for vehicles turning in and out of the crossroad connections. Roadside barrier design standards have changed recently and, as such, all existing guardrail on the corridor will need to be replaced to meet current criteria.

NMDOT further reports these roads lack passing lanes, requiring drivers to move into the opposite direction driving lane to pass, which has the potential to result in severe, head-on collisions. Without passing lanes, the operational capacity of these roadways are reduced.

NMDOT notes if funding cannot be appropriated by the Legislature, the department will

implement a plan using multiple, standalone projects to complete the work. The department projects unspecified cost savings if projects could be consolidated into a single project.

NMDOT plans road construction projects through a multi-year plan known as the statewide transportation improvement program (STIP). Federal planning guidelines require the first four years of this plan to be “fiscally constrained,” meaning the department must reasonably anticipate there will be revenue available to cover the cost of the project. However, projects along these corridors are not currently within the fiscally constrained portion of the STIP.

Attachment

1. December 2022 Consensus Revenue Estimate

JWS/al/ne/rl