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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Block/Lord/Vincent</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>01/21/2024</u>
<b>SHORT TITLE</b> <u>New Mexico-Mexico Border Barrier</u>	<b>BILL NUMBER</b> <u>House Bill 111</u>
	<b>ANALYST</b> <u>Sanchez</u>

### APPROPRIATION\* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	\$1,500,000.0	Nonrecurring	General Fund

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

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DHSEM	No fiscal impact	At least \$301.0	At least \$301.0	At least \$602.0	Recurring	General Fund
<b>Total</b>	No fiscal impact	At least \$301.0	At least \$301.0	At least \$602.0	Recurring	General Fund

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

### Sources of Information

LFC Files

Agency Analysis Received From

Office of the Attorney General (NMAG)

Department of Homeland Security and Emergency Management (DHSEM)

## SUMMARY

### Synopsis of House Bill 111

House Bill 111 appropriates \$1.5 billion from the general fund to the Department of Homeland Security and Emergency Management for the purpose of contracting for services for the construction of a border barrier at the New Mexico-Mexico border.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

## FISCAL IMPLICATIONS

As cited in analysis from the Department of Homeland Security and Emergency Management (DHSEM), the bill funds the construction of a border wall but does not provide funding for maintenance and operation. Whether intentional or not, the omission would leave the newly constructed wall without a source of funding for the personnel and other costs associated with operations. Assuming the wall needed to be staffed with at least 5 FTE for homeland security specialists (midpoint salaries for pay band 65 are \$60,568 according to the State Personnel Board's FY24 classified salary schedule: general) this would create a recurring cost of approximately \$301 thousand per year.

The appropriation of \$1.5 billion contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY28 shall revert to the general fund.

Although this bill does not specify future appropriations, multiyear appropriations, particularly if used to fund services and those services perform well, create an expectation the program will continue in future fiscal years; therefore, this cost could become recurring after the funding period.

## SIGNIFICANT ISSUES

The Department of Homeland Security and Emergency Management (DHSEM) expresses reservations about House Bill 111, citing concerns about cost-effectiveness, lack of integrated infrastructure, absence of a long-term strategic plan for wall maintenance, staffing, and operational management. DHSEM highlights broader deficiencies in the proposed border security methodology, emphasizing the need for holistic planning and long-term sustainability to avoid practical challenges and ensure future efficacy. Additionally, the allocation of \$1.5 Billion for the border barrier raises questions about prioritization, as DHSEM suggests redirecting resources to more pressing and universally beneficial public services in New Mexico.

Analysis from the Office of the Attorney General points out the construction of a border barrier is not clearly within the powers of the Department of Homeland Security and Emergency Management outlined in Section 9-28-5 NMSA 1978 but may fall under Section 9-28-2(A)(1) NMSA 1978 for coordinating homeland security functions. While no law explicitly prohibits the department from building a barrier, it does not squarely align with its enabling statute. The legality and practicality of constructing the barrier depend on available land, potential private ownership, and the federal government's claim of supremacy in border barrier construction. While HB111 suggests offering \$1.5 billion contingent on a federal agreement for barrier construction, it does not identify the mechanism through which such an offer would be made to the federal government.

## PERFORMANCE IMPLICATIONS

Analysis by DHSEM expressed concerns with the allocation of \$1.5 billion solely for wall construction and states that it raises concerns about fiscal responsibility, considering there is no comprehensive financial plan covering the total lifecycle cost, including maintenance and repairs. The absence of supporting infrastructure, such as surveillance technology and patrol

access, compromises the wall's effectiveness in providing border security. The lack of provisions for personnel and maintenance overlooks the essential human resources and long-term investment needed for the wall's operation. The three-year fund distribution without a clear plan for future appropriations poses challenges to continuity. DHSEM suggests that the funds could be better spent on more efficient and technologically advanced border security measures, including surveillance systems, drones, and rapid response teams. Reallocating the funds could enhance public safety, better prepare for emergencies, and invest in disaster mitigation strategies, making New Mexico more resilient to present and future challenges.

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