

**NMDOT BILL ANALYSIS
2024 REGULAR SESSION**

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 2/1/2024

Bill No. SB 253

Sponsor: William E. Sharer

Agency/ Code: NMDOT - 805 - Rail Bureau

Person Writing Analysis: William Craven

Short Title Freight Line Project, STB

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
undetermined	undetermined	Nonrecurring	Severance Tax Bonds

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None identified.

Duplicates/Relates to Appropriation in the General Appropriation Act: None identified.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminable	Indeterminable	Indeterminable	Indeterminable	Indeterminable	Indeterminable

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 253 (SB 253) authorizes the state Board of Finance to issue up to \$100,000,000 in severance tax bonds between the years of 2025 and 2029 for a freight rail line project in McKinley and San Juan counties, provided that the New Mexico Department of Transportation (NMDOT) certifies the need for the issuance of the bonds and that federal matching funds have been or shall be provided for the project. The Board of Finance shall schedule the issuance and sale of the bonds

based upon a certification by NMDOT that the bonds are needed and that the “projects” [sic] can proceed to contract within a reasonable time. Proceeds from the sale of the bonds are appropriated to NMDOT for the project. Money from the bonds may not be used to pay indirect costs. Any unexpended balance from proceeds of the bonds shall revert to the severance tax bonding fund within six months of completion of the project. If NMDOT has not certified the need for the issuance of the bonds by December 31, 2029, the authorization shall expire.

FISCAL IMPLICATIONS

SB 253 authorizes the issuance of up to \$100,000,000 in severance tax bonds between 2025 and 2029, but it does not identify specific amounts to be issued in any given year. As a result, the budget impacts on the severance tax for specific years cannot be estimated.

Further, depending on ownership and management responsibilities, the NMDOT may need to hire additional staff once the project is complete. At this time, the NMDOT cannot estimate what impact this may have on its future budget.

SIGNIFICANT ISSUES

The language of SB 253 is similar to that in NMSA 7-27-12.4, which authorizes the Board of Finance to issue severance tax bonds for the local governments road fund, as created by NMSA 6-21-6.12, a statute that also defines how the funds are to be distributed. No existing or proposed statute identifies a similar fund or statutory authorization for the NMDOT undertaking the freight rail line project described in SB 253.

The \$100,000,000 maximum bond amount that could be issued pursuant to SB 253, even when matched with federal funding, would not completely fund the proposed freight rail line in McKinley and San Juan counties, which is expected to cost more than \$1,000,000,000 to construct. Existing federal funding sources that might be used for matching funds, such as the National Infrastructure Project Assistance (Mega) program, allow federal funds to finance no more than 80% of total project costs. If the SB 253 bonds are used as the local match for such a funding source, the maximum amount of federal funds that could be provided is \$400,000,000, for a combined total of \$500,000,000 in state and federal funds, less than half the expected total cost.

SB 253 does not indicate who would own the proposed freight rail line. There may be anti-donation clause concerns if the freight rail line is to be owned by an entity that is not the state or a political subdivision of the state.

PERFORMANCE IMPLICATIONS

None identified at this time.

ADMINISTRATIVE IMPLICATIONS

SB 253 does not indicate what entity would manage the development of the proposed freight rail line. If this is to be NMDOT, additional staff would be needed to manage the project. If another entity is to manage development of the project, some additional staff may be needed to administer the distribution of funds to that entity.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

On page 2, line 8, the second word is “projects” when it appears that singular “project” would be more appropriate.

OTHER SUBSTANTIVE ISSUES

SB 253 prohibits the use of bond proceeds to pay for indirect costs. If the intent is to use bond proceeds as a match for federal grant applications, this prohibition may conflict with federal grant cost eligibility.

ALTERNATIVES

None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There would be no explicit authority for the Board of Finance to issue bonds to finance the proposed freight rail line in McKinley and San Juan counties.

AMENDMENTS

None suggested.