

LFC Requester:

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION
WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/13/25 *Check all that apply:*
Bill Number: HB 146 Original Correction
 Amendment Substitute

Sponsor: Hochman-Vigil **Agency Name and Code:** Administrative Hearings Office, 34000
Short Title: Railway Safety Act **Number:** _____
Title: _____ **Person Writing:** Brian VanDenzen
Phone: 505-827-9714 **Email:** Brian.vandenzen@aho

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$174	Recurring	General Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$174	\$174	\$348	GF	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: This bill establishes the Railway Safety Act, a new chapter of law in NM Statute. The Railway Safety Act requires certain safety features be installed along a railway to monitor moving trains. In pertinent part to the Administrative Hearings Office, when there are safety violations, the Act gives the Department of Transportation the power to issue administrative penalties. Those administrative penalties can be challenged at a hearing before the Administrative Hearings Office. Under the bill, the Department of Transportation is to implement the administrative penalty and hearing provision through rulemaking.

FISCAL IMPLICATIONS

The Administrative Hearings Office has reached out to the Department of Transportation for an estimate about the volume of appeals it might receive in this area and complexity of those cases. This would also be a new area for DOT and as such they did not have much concrete data about potential hearing volume. However, DOT staff indicated that they believed that there would be a high percentage of appeals of any penalty imposition. The Administrative Hearings Office believes that given the sophistication of the railroad industry, federal regulations, and the amount of potential fines, there could be a substantial amount of appeals involving lengthy hearings (roughly equivalent to the Administrative Hearings Office tax docket, where an ALJ can handle approximately 50 cases of complex cases in a year). The Administrative Hearings Office is already at or near its hearing capacity limit with existing staffing and resources. Given this potential increase in caseload in this area, the Administrative Hearings Office believes another hearing officer/ALJ would be necessary to timely adjudicate these cases. The listed costs in the table about reflect this additional FTE ALJ position.

SIGNIFICANT ISSUES

The Administrative Hearings Office Act is silent on conducting this hearing type and would need to be amended to permit such hearings.

The bill's hearing provision lacks specificity as to the applicability of rules of evidence, rules of procedure, timeline for conduct of the hearing, decision deadline, or the nature of decision (final decision or recommended decision, although the appeal to district option implies it is a final decision and order). The Administrative Hearings Office Act does contain general hearing provisions related to tax hearings, motor vehicle code hearings, and Healthcare Authority hearings. This bill would not place Railway Safety Act hearings under any of those provisions. In the absence of specific hearing provisions, the Administrative Hearings Office would rely on its general hearing regulations to ensure a fair and impartial hearing consistent with due process requirements.

The bill allows the Department of Transportation to promulgate rules to implement the hearing provisions. However, that seems potentially inconsistent with the idea that the Administrative Hearings Office, which has its own rulemaking authority, would conduct an impartial appeal as a neutral agency. In other words, if AHO is the agency tasked with conducting the appeal hearing,

then AHO should be the one to write the hearing regulations for those appeal hearings.

PERFORMANCE IMPLICATIONS

Given AHO is currently near its hearing capacity, adding additional hearing programs without additional resources increases the likelihood that AHO will not be able to timely conduct and adjudicate hearings in many hearing programs, including in core performance measure areas.

ADMINISTRATIVE IMPLICATIONS

AHO would need to work with DOT on ways to incorporate this new hearing type into existing case management and electronic filing systems, as well as establishing basic procedures for referring cases and appeals to the agency.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS