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FISCAL IMPACT REPORT

SPONSOR <u>Hochman-Vigil</u>	LAST UPDATED <u>2/13/2025</u>
	ORIGINAL DATE <u>1/29/2025</u>
SHORT TITLE <u>Railway Safety Act</u>	BILL NUMBER <u>House Bill 146</u>
	ANALYST <u>Hanika-Ortiz</u>

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Fines from NMDOT		Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Recurring	Other State Funds

Parenttheses () indicate revenue decreases.
 *Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMDOT		Indeterminate, moderate at first	Indeterminate but minimal		Recurring	Other State Funds
AHO		\$174.0	\$174.0	\$348.0	Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis was Solicited but Not Received From
 Department of Transportation (NMDOT)
 Workforce Solutions Department (WSD)
 Administrative Hearings Office (AHO)

SUMMARY

Synopsis of House Bill 146

House Bill 146 (HB146) enacts the Railway Safety Act (Act) to mandate the use of wayside detector systems to monitor passing trains for mechanical issues and safety hazards. Additionally, the bill requires the reporting of safety violations and prohibits retaliatory action against a railway worker for reporting. Further, the bill provides for administrative penalties.

By January 12, 2027, and annually thereafter, a railroad must submit a report that discloses the location of each detector and details of any defect messages along with inspection reports.

The effective date of this bill is January 1, 2026.

FISCAL IMPLICATIONS

The New Mexico Department of Transportation (NMDOT), after receiving a report alleging a safety violation, may investigate with due notice and assess fines up to \$25 thousand. NMDOT may also apply to district court for an injunction to restrain a railroad from; committing a future safety violation, prohibiting entry to investigate by NMDOT, or by refusing to comply with any rules NMDOT promulgates to enforce the act.

The Administrative Hearings Office (AHO) states thatm given the sophistication of the railroad industry, federal regulations, and amount of fines, there could be a substantial amount of appeals involving lengthy hearings. AHO said it is already at or near its hearing capacity limit with existing staffing and resources. Given this potential increase in caseload, AHO believes another hearing officer is necessary to adjudicate these cases timely. The table above reflects that cost which will likely require a special or supplemental appropriation. The agency’s appropriation in House Bill 2 and its operating fund balance does not suggest there is sufficient funding for more hearings.

SIGNIFICANT ISSUES

The bill includes definitions, including “dragging equipment detector” to refer to a device that alerts a train operator of an object dragging from a passing train; “hot bearings detector” to refer to a device that alerts an operator to any overheating of a passing train’s bearings, axles, or wheels; and “wayside detector system” to refer to a system that determines whether a passing train has a defect and includes both a dragging equipment detector and a hot bearings detector.

The bill requires a railroad to install a wayside detector system with a hot bearings detector and dragging equipment detector every 10 miles. If a train receives a defect message, the railroad operator must stop, inspect, and remedy the defect. If the defect cannot be immediately remedied and the train is safe to move, the operator may proceed at a low speed, especially if carrying hazardous materials. The bill requires the operator to set aside any defective car before resuming only after the defect is remedied. The bill will require operators to submit inspection reports.

NMDOT would create a protocol to allow the crew to anonymously report safety violations. The bill prohibits any retaliatory action against the crew for reporting a violation; testifying as part of an investigation; or for refusing to participate in any activity that constitutes a safety violation.

A railroad aggrieved by an adverse decision may appeal to the AHO. A railroad that continues to be aggrieved even after the AHO’s decision may appeal to district court.

PERFORMANCE IMPLICATIONS

The Federal Railroad Administration (FRA) under the federal Department of Transportation enforces railway safety, including establishing criteria for track maintenance, inspections, and speed limits. The Occupational Safety and Health Administration establishes safety standards for workers. The FRA conducts regular safety audits and inspections. Railroads must submit accident reports and comply with investigations. FRA may impose penalties for noncompliance.

ADMINISTRATIVE IMPLICATIONS

NMDOT will implement the administrative penalty and hearing provision through rulemaking. If the department issues an administrative penalty, it may be challenged at a hearing before AHO. AHO would work with NMDOT on procedures for referring cases and appeals. Further, the Administrative Hearings Office Act may need an amendment to permit these hearing types.

AHO believes the bill's hearing provisions may lack 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. The Administrative Hearings Office Act only contains general hearing provisions related to tax hearings, motor vehicle code hearings, and Healthcare Authority hearings.

TECHNICAL ISSUES

The bill allows NMDOT to promulgate rules to implement the hearing provisions. However, since AHO is tasked with conducting the hearing, AHO asks to write those hearing regulations.

OTHER SUBSTANTIVE ISSUES

Overall, there appears to be no nationwide mandate to require wayside detectors, and the adoption of such systems remains largely at the discretion of railroads and state legislatures.

AHO/sgs/hg/sgs/rl/SL2