

LFC Requester:

Joseph Simon

**NMDOT BILL ANALYSIS
2025 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:

Date Prepared: 2/5/2025

Original Amendment

Bill No. HB 148

Correction Substitute

Sponsor: Dayan Hochman-Vigil

Agency/ Code: NMDOT - 805 - Office of General Counsel

Person Writing Analysis: John Newell

Short Title Autonomous Vehicle Act

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Not applicable.

REVENUE (dollars in thousands)

Not applicable.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	N/A	Road Fund

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 148 (HB 148) creates the Autonomous Vehicle Act by enacting new sections of NMSA 1978, Chapter 66, Article 3A requiring human operators for an autonomous vehicle (AV). It amends NMSA 1978, Section 66-1-4.1 to define ‘automated driving system manufacturer’, ‘autonomous disengagement’ ‘autonomous vehicle incident’ ‘evidence of financial responsibility’ and ‘human operator’, and amends portions of NMSA 1978, Section 66-5-65 related to license classifications to reflect the addition of the anticipated testing and use of an AV, and includes financial responsibility amounts applicable to incidents involving AV.

The new section of the Motor Vehicle Code, NMSA 1978, Section 66-3A-1 ‘‘The Operation of Autonomous

Motor Vehicles—Human Operator—Prohibitions—Exceptions.-- “ sets forth the main elements of AV operation to include requiring a physically present human operator who has the ability at all times to take control of the vehicle; the human operator has the proper driver’s license and all necessary endorsements required for the type of vehicle being operated, that the human person is an employee, contractor or other person designated by the auto driving system manufacturer who is able to take control of the vehicle when yielding to an emergency vehicle or school bus, within a school or construction zone, within any park, playground, school, library, swimming or other sports facility or outside of the operating conditions approved by the New Mexico Department of Transportation (NMDOT) in its statement of approval required within Subsection B of NMSA 1978, Section 66-3A-3. Autonomous commercial motor vehicles may only operate on a public highway for the purposes of testing performed in accordance with the new Act until operation for purposes other than testing has been approved by the National Highway Traffic Safety Administration (NHTSA).

Another new section, Section 66-3A-3, is enacted under HB 148 to require operators, owners, or manufacturers of AVs to be operated in New Mexico to submit to the NMDOT certification and supporting data showing that the make and model of the AV being tested has been operated in autonomous mode with the same automated driving system (ADS) for at least ten thousand miles without incident. Additionally, an owner, operator or manufacturer of an AV must submit for approval by NMDOT a plan that describes how the owner or operator will minimize safety risks, describe operating conditions and geographical locations where the testing may be conducted, and demonstrates that the vehicle is capable of operating in these conditions. Under the bill, NMDOT would be responsible for developing criteria for review and approval of the plans submitted as described above.

Under HB 148, new Section 66-3A-4 describes the mechanical parameters to operate an autonomous motor vehicle on a public highway. New Section 66-3A-5 removes the limitation that the autonomous motor vehicle be commercial. Additionally, the bill amends Section 66-7-13 to meet all applicable state and federal motor vehicle safety standards and performance requirements, that the performance of such safety system required by state or federal law not be disabled or degraded.

In the event of an incident involving an AV, NMSA 1978, Section 66-3A-7 is amended under the bill to set forth the information that must be submitted to NMDOT, and it also requires NMDOT submit an annual report to the interim legislative transportation committee.

The bill also amends NMSA 1978, Section 66-5-65 to describe and define the commercial driver's licenses which may be issued and with what training the individual must attend and pass. Defines classes of commercial driver’s licenses (CDL) from A through K and introduces class “AV” which authorizes driving an autonomous commercial vehicle.

Under the bill, the Department of Taxation and Revenue (TRD) must require an application to be subject to a background check in order to request a hazardous material endorsement, shall promulgate rules governing the pre-requisites including certifications of the manufacturer and the applicant’s successful training.

Finally, the bill amends NMSA 1978, Section 66-5-208 Evidence of Financial Responsibility to set the amounts of financial responsibility which the must be carried apply and which for death, bodily injury and property damage by an autonomous motor vehicle is \$150,000 and is \$5,000,000 in the event one of the vehicles is an autonomous commercial vehicle.

FISCAL IMPLICATIONS

If passed and signed, HB 148 requires NMDOT to receive certifications and data, review and approve operating plans, and accept and track incident reports for AVs. These duties do not comport with the responsibilities of any existing unit with NMDOT, requiring realignment of duties or the creation of a new unit. This will require either additional FTEs or the reallocation of existing FTEs, and perhaps require new

office space and other operational resources. The potential fiscal impact to NMDOT cannot be known at this time as NMDOT has no data to suggest how many certificates, operating plans, and incident reports it may receive in a year if the bill were to become law.

NMDOT will need to promulgate new rules as well as amend Rule 18.24.1, which governs autonomous motor vehicle testing in New Mexico. Rulemaking will require additional FTEs and also rulemaking costs such as publication and holding public hearings.

An additional potential fiscal impact could result if the bill's section requiring TRD to create a new operator classification for CDL holders is determined to be in conflict with federal CDL regulations. Such conflict with the federal regulations could result in the loss of federal highway funding.

SIGNIFICANT ISSUES

Under HB 148, the NMDOT must approve operating plans. A significant part of the approval process will include assessing whether the safety certification made by the owner, operator, or manufacturer meets the requirements of the bill and whether the operating plan poses an unreasonable risk. This responsibility may open the Department to liability as a consequence of approving the operating plans.

PERFORMANCE IMPLICATIONS

NMDOT will either need to realign units or create a new unit to fulfill its responsibilities under this legislation. Also, NMDOT does not currently have sufficient safety data to develop criteria to ensure operating plans do not pose an unreasonable safety hazard to pedestrians or other motor vehicles.

ADMINISTRATIVE IMPLICATIONS

NMDOT will need to promulgate rules to establish how it will accept, evaluate, and approve or not approve operational plans, including how to measure whether an operating plan creates an unreasonable risk.

NMDOT would be required to establish a reporting process and system for AV operators and conduct annual analysis of the AV-involved crashes and evaluate the performance and impact of the vehicles on public safety and employment. The reporting requirements established in the bill for all AV incidents, including near-misses and video footage, is greater than current motor-vehicle reporting requirements administered by the Department.

Also, the bill requires the Department to determine if the operating plan presents an unreasonable risk of harm to pedestrians and other motorists. NMDOT does not currently have sufficient safety data or professional expertise to evaluate whether the operation of a given ADS presents such an unreasonable risk.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 148 poses the risk of conflict with federal regulations regarding the operation and safety of AVs, as well as with the classification of operators under federal CDL regulations.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

SB 148 requires NMDOT to determine whether the safety certification and operational plan for an AV is sufficient for operation on New Mexico highways pursuant to the criteria set forth in the bill. However, automotive equipment safety is regulated by the National Highway Traffic Administration (NHTSA). The

NMDOT would have to adhere to NHTSA's already established regulations. Further, any criteria for evaluating and approving AV operating plans would have to be consistent with NHTSA regulations.

ALTERNATIVES

Require AV owners, operators and manufacturers operating/testing AVs in New Mexico submit to the Motor Vehicle Division (MVD) of TRD a certification that the AV being operated meets or exceeds all federal safety requirements.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AVs will continue to be allowed to conduct tests on New Mexico Highways pursuant to Rule 18.24.1 NMAC.

AMENDMENTS

Amend all references to NMDOT in HB 148 to MVD.

Amend New Section 66-3A-3 to include a requirement that, upon approval of an operating plan by NMDOT, the owner, operator, or manufacturer indemnify NMDOT and the state from any liability that may arise from NMDOT's approval of the operating plan.