



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 25-162: RAILROAD SAFETY REQUIREMENTS

**Prime Sponsors:**

Sen. Cutter; Snyder  
Rep. Mabrey; Velasco

**Fiscal Analyst:**

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**Fiscal note status:** The revised fiscal note reflects the reengrossed bill, as amended by the House Finance Committee.

### Summary Information

**Overview.** The bill gives the Public Utilities Commission the sole authority to inspect and regulate railroads, requires the commission to collect data on railroad safety, and imposes a new fee on railroads.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Diversions
- State Expenditures
- TABOR Refunds
- Local Government

**Appropriations.** No appropriation is required.

**Table 1  
State Fiscal Impacts**

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$0	\$0	\$1,170,259	\$1,170,259
State Expenditures	\$0	\$0	\$858,182	\$1,339,638
Diverted Funds	\$0	\$453,222	\$453,222	\$453,222
Change in TABOR Refunds	\$0	\$0	not estimated	not estimated
Change in State FTE	0 FTE	0 FTE	3.4 FTE	7.5 FTE

**Table 1A  
 State Revenue**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	\$0	\$0	\$0	\$0
Cash Funds	\$0	\$0	\$1,170,259	\$1,170,259
<b>Total Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,170,259</b>	<b>\$1,170,259</b>

**Table 1B  
 State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	\$0	\$0	\$0	\$0
Cash Funds	\$0	\$0	\$795,746	\$1,193,652
Federal Funds	\$0	\$0	\$0	\$0
Centrally Appropriated	\$0	\$0	\$62,436	\$145,986
<b>Total Expenditures</b>	<b>\$0</b>	<b>\$0</b>	<b>\$858,182</b>	<b>\$1,339,638</b>
<b>Total FTE</b>	<b>0 FTE</b>	<b>0 FTE</b>	<b>3.4 FTE</b>	<b>7.5 FTE</b>

**Table 1C  
 State Diversions**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Fixed Utility Fund	\$0	-\$453,222	-\$453,222	-\$453,222
Office of Rail Safety Fund	\$0	\$453,222	\$453,222	\$453,222
<b>Net Transfer</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<sup>1</sup> The bill creates a new fund for purposes of rail safety regulation, diverting funds that would have been credited to the Fixed Utility Fund pursuant to House Bill 24-1030.

## Summary of Legislation

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### Railroad Emergency Notifications

The bill requires the state’s watch center in the Department of Public Safety (CDPS) to immediately notify the Public Utilities Commission (PUC) and the Office of Rail Safety (office) when it receives a notice from a railroad about an emergency involving a train. Within 30 days, the office must notify specified committees in the General Assembly, and the PUC must provide a report on train emergencies to specified committees by February 1, 2026, and each year thereafter.

## **Responsibilities of Railroad Crew Members**

Subject to federal regulations and the applicable code, the bill allows crew members of a train to communicate with first responders during an emergency situation after notifying the railroad dispatch. A crew member may determine the appropriate response to an emergency situation. Railroad employees and crew members are immune from civil liability and are not liable for civil damages for actions taken in good faith when responding to an emergency situation.

## **Railroad Regulation**

Under current law, the PUC, the CDPS, and the Department of Transportation (CDOT) share authority to inspect and investigate class I railroads and passenger railroads. The bill gives the Office of Rail Safety and the PUC this authority exclusively, and also gives them the ability to regulate these railroads under federal statute.

## **State Highway Fund**

Any fines levied on railroads for violating the bill are credited to the State Highway Fund for use by the Transit and Rail Division in CDOT for safety-related planning and improvements.

The bill also repeals the Rail District Maintenance and Safety Fund effective July 1, 2025, and requires its balance to be transferred to the State Highway Fund.

## **Office of Rail Safety Assessments**

The Office of Rail Safety must collect and analyze data to create a more comprehensive understanding of rail safety. This includes compiling existing data collected by the Federal Railroad Administration and collecting additional data on railroads and facilities, including data on train length, wayside detectors, blocked public crossing locations, and maintenance activities. The office will work with advisory committees on implementing recommendations that come from these analyses.

Beginning July 1, 2027, the bill requires the Office of Rail Safety to coordinate with the CDPS and the Department of Public Health and Environment to conduct a comprehensive assessment on the state's ability to respond to a large-scale release of hazardous materials from rail. The office must present its findings to the General Assembly by December 15, 2029, and work with advisory committees implementing the recommendations in the assessment.

The bill also requires the Office of Rail Safety to assess best practices for ensuring financial responsibility for response, cleanup, and damages from major rail events; and monitor and assess communication issues impacting rail lines, including communication with state entities, between crews working on long trains, and from wayside detectors to crews.

## **Rail Safety Fund and Railroad Fee**

The bill creates the Office of Rail Safety Fund and an annual rail safety fee to cover implementation costs, paid by class I railroads and passenger railroads beginning July 1, 2027. The bill specifies factors the PUC may use to calculate the fee, and total fee collection must not exceed \$2.9 million in a calendar year. Railroads subject to the fee must pay it in quarterly

installments, and a railroad that does not pay the fee is assessed a penalty of 10 percent of the installment plus interest until the full amount is paid. The bill prevents the Office of Rail Safety from expending money from the Rail Safety Fund on equipment or hiring staff until July 1, 2027.

### **Rail Safety Committee Compensation**

The bill allows members of the Rail Safety Industry Advisory Committee who are not compensated for acting in their official job roles to receive per diem compensation, paid from the Office of Rail Safety Fund.

## **Background and Assumptions**

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### **Class I and Passenger Railroads**

The PUC currently regulates three railroads that meet the criteria in the bill:

- BNSF Railway Company, a Class I railroad with 1,316 miles of track;
- Union Pacific Railroad Company, a Class I railroad with 1,734 miles of track; and,
- Amtrak, a passenger railroad that uses the BNSF and Union Pacific track.

Between these railroads, the PUC will inspect and regulate 3,050 miles of track annually.

### **Recent Legislation and Railroad Regulation**

[House Bill 24-1030](#) created the Office of Rail Safety and required the PUC to enter into an agreement with the Federal Railroad Administration to participate in inspection and investigation activities. This bill largely aligns with recommendations made in the [December 2024 Rail Safety Report](#) required by HB 24-1030.

This fiscal note assumes that by adding the word “regulate” to inspection and investigation activities—and giving the PUC the sole responsibility to do so—the PUC gains new authority to regulate railroads as set by the Code of Federal Regulations.

## **State Revenue**

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The bill increases state revenue to the PUC in the DORA by about \$1.17 million per year starting in FY 2027-28 from fees paid by the three railroads covered by the bill. Revenue will be deposited into the Office of Rail Safety Fund and is subject to TABOR.

### **Fee Impact on Railroads**

Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the Public Utilities Commission based on program costs and the number of railroads subject to the fee. The table below identifies the fee impact of this bill.

**Table 2**  
**Annual Fee Impact on Railroads**  
Starting in FY 2027-28

<b>Type of Fee</b>	<b>Estimated Fee<sup>1</sup></b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
Railroad Fee	\$390,086	3	\$1.17 million

<sup>1</sup> The fee shown is the average annual fee amount necessary to cover the costs of implementing the bill in the first three years starting in FY 2027-28. The fee paid by each individual railroad will vary based on the factors created in the bill, and will be paid quarterly.

## **Penalties**

The bill may increase revenue to the State Highway Fund from any fines levied to railroads for violating the bill. This revenue is required to be used by the Transit and Rail Division in CDOT. The fiscal note assumes most railroads will comply with the bill and any revenue impact will be minimal.

## **State Diversions and Transfers**

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The bill diverts an estimated \$453,222 per year from the Fixed Utility Fund to the newly created Office of Rail Safety Fund. This represents the fee revenue currently collected on regulated railroads pursuant to HB 24-1030.

The bill also requires any unexpended and unencumbered money from the Rail District Maintenance and Safety Fund to be transferred to the State Highway Fund on June 30, 2025. The fiscal note assumes this transfer will be minimal.

## **State Expenditures**

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The bill increases state expenditures in the PUC in the DORA by about \$858,000 in FY 2027-28 and about \$1.3 million in FY 2028-29 and ongoing years. These costs, paid from the Office of Rail Safety Fund, are summarized in Table 3 and discussed below. The bill also minimally affects workload in CDOT, CDPS, and the Judicial Department.

**Table 3  
 State Expenditures  
 Department of Regulatory Affairs**

<b>Cost Component</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Personal Services	\$0	\$0	\$270,618	\$634,690
Operating Expenses	\$0	\$0	\$3,840	\$8,960
Capital Outlay Costs	\$0	\$0	\$20,010	\$26,680
Equipment & Vehicle Costs	\$0	\$0	\$84,516	\$183,832
Travel Costs	\$0	\$0	\$9,270	\$156,300
HazMat Study Consultant	\$0	\$0	\$150,000	\$0
Computer Programming	\$0	\$0	\$150,500	\$54,800
Legal Services	\$0	\$0	\$106,992	\$128,390
Centrally Appropriated Costs	\$0	\$0	\$62,436	\$145,986
FTE – Personal Services	0.0 FTE	0.0 FTE	3.0 FTE	7.0 FTE
FTE – Legal Services	0.0 FTE	0.0 FTE	0.4 FTE	0.5 FTE
<b>Total Costs</b>	<b>\$0</b>	<b>\$0</b>	<b>\$858,182</b>	<b>\$1,339,638</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>	<b>3.4 FTE</b>	<b>7.5 FTE</b>

### Department of Regulatory Agencies

The Office of Rail Safety in the PUC requires staffing and legal services to implement the bill beginning July 2027.

#### Staff

In total, DORA requires 3.0 FTE in FY 2027-28 and 7.0 FTE in FY 2028-29 and ongoing years to perform the railroad inspections, as well as data analysis and reporting, required by the bill. Standard operating and capital outlay costs are included. These positions are summarized below.

#### *Railroad Inspectors*

In order to investigate, inspect, and regulate railroads, the office requires 6.0 FTE of inspectors (classified as environmental protection specialists) to inspect railroad tracks, crossing and train-control signals, rail cars and engines, hazardous materials, and railroad operating practices. Each inspector is expected to perform two inspections per week, with each inspection taking a minimum of two days to complete. Inspectors will also incur one-time equipment costs and annual travel costs. The fiscal note assumes 2.0 FTE of inspectors will begin work in July 2027, with the remaining 4.0 FTE inspectors beginning work in July 2028.

Each inspector has non-standard costs including vehicle leases (\$7,250 per vehicle, per year), initial equipment (\$24,000 per inspector), and travel-related costs (vehicle mileage and overnight stays).

### *Analysts*

Beginning July 2027, the office requires 1.0 FTE for a data analyst to collect, analyze, and compile data and information on rail safety, financial responsibility, and communication issues impacting rail lines. This staff will also help prepare annual reports to the General Assembly.

### Hazardous Materials Study

The PUC will hire a consultant in FY 2027-28 only to lead the assessment on the state's ability to respond to a large-scale release of hazardous materials from rail transportation at an estimated cost of \$150,000.

### Computer Programming

The PUC requires 700 hours of emerging computer programming at \$215 per hour in FY 2027-28 to create tracking databases, and 400 hours of established computer programming at \$137 per hour ongoing to maintain these tracking databases and perform data analyses. This work will be performed by the Office of Information Technology.

### Legal Services

The PUC requires 800 hours of legal services in FY 2027-28 and 960 hours in ongoing years to conduct rulemaking and provide general counsel. The State Services Unit in the PUC requires the majority of these legal services to assist with rulemaking and develop processes for the issuance and filing of civil penalty assessment notices for the Office of Rail Safety. Legal services are provided by the Department of Law at a rate of \$133.74 per hour.

### Rail Safety Committee Compensation

The bill may increase expenditures from the Office of Rail Safety Fund if certain members of the Rail Safety Industry Advisory Committee receive per diem compensation. The fiscal note assumes most members will be acting in their official job roles while serving the committee, and any impacts to the Office of Rail Safety Fund will be minimal.

### Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, leased space, and indirect cost assessments, are shown in the expenditure table above.

## **Other Agency Impacts**

### Department of Public Safety

The bill decreases workload for the CDPS, as it removes the requirement for the CDPS to collaborate with the Office of Rail Safety on inspecting and investigating railroads. It also may increase workload for the state's Watch Center to notify the Office of Rail Safety of any rail emergency incidents. Any impact on workload is expected to be minimal.

### Department of Transportation

The bill impacts the Division of Transit and Rail in CDOT in two ways. First, the bill decreases workload for the division by removing the requirement for CDOT to collaborate with the Office of Rail Safety. Second, the bill may also increase expenditures in the division due to any fines credited to the State Highway Fund, which must be spent by the division on safety planning and construction projects. Any impact from fine revenue is expected to be minimal.

### Judicial Department

The bill may impact workload for the trial courts. The number of civil filings may decrease as railroad employees or crew members acting in good faith during an emergency involving a train would be granted immunity from civil liability. Civil filings may increase for any action taken against railroads that fail to pay the fee. The fiscal note assumes a high level compliance, resulting in minimal additional cases. Any impact to the Judicial Department can be managed with existing resources.

## **TABOR Refunds**

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The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

## **Local Government**

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The bill increases workload for some local governments and local emergency services to coordinate with the Office of Rail Safety on safety assessments and the rulemaking process.

## **Effective Date**

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The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State and Local Government Contacts

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Judicial  
Law  
Personnel  
Public Safety

Regulatory Agencies  
Transportation  
Treasury