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Final Fiscal Note

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Prime Sponsors: Rep. Mabrey; Mauro Bill Status: Signed into Law
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Bill Topic: RAILROAD SAFETY REQUIREMENTS

Summary of Fiscal Impact: [X] State Revenue [] State Transfer [X] Local Government
[X] State Expenditure [] TABOR Refund [] Statutory Public Entity

The bill establishes new safety requirements on railroads operating in the state and creates the Office of Rail Safety and rail safety advisory committees. It increases state and local government expenditures, and increases state revenue, on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires and includes an appropriation of \$391,057 to the Department of Regulatory Agencies.

Fiscal Note Status: This final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 24-1030

Table with 5 columns: Category, Sub-category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27. Rows include Revenue (Fixed Utility Fund, Total Revenue), Expenditures (Fixed Utility Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund).

Summary of Legislation

The bill establishes safety requirements on railroads operating trains in the state, as discussed below.

Railroad safety measures. The bill specifies that, with certain exceptions for class II and III railroads:

- on or before January 1, 2025, and each year thereafter, railroads must submit a report to the Public Utilities Commission (PUC) with certain information on installed wayside detector systems;
- trains and equipment must be operated to minimize obstruction of emergency vehicles at highway-rail crossings. The Department of Public Safety (CDPS) and any entity operating an emergency vehicle can request a railroad take any safe action necessary to clear a highway-rail crossing;
- any crew member of a train may report to the crew member's designated union representative a safety violation, injury, or death that occurred during the operation of a train. Upon receiving notice of a violation, the representative may enter a railroad's place of operation to investigate the report;
- each railroad must conduct at least two oil or hazardous substance containment exercises each year, including at least one scenario involving derailment and in coordination with local emergency management organizations and fire chiefs. The PUC must develop rules concerning training content, safety drills, and railroad incident response requirements;
- the PUC may impose a fine for a railroad's denying a union representative access to a railroad's place of operation ranging from \$10,000 to \$25,000 for each day of a continuing violation, and a fine of up to \$100,000 for repeated and/or intentional violations related to union activities; and
- the PUC must develop guidelines for determining, imposing, and appealing fines.

Front Range Passenger Rail District Maintenance and Safety Fund. The bill creates the Front Range Passenger Rail District Maintenance and Safety Fund, which will receive fines imposed by the PUC for violations of this bill's safety requirements. The money is continuously appropriated to the state treasurer for the purpose of safety planning and development during the research, development, and construction of a passenger rail system; maintaining a passenger rail system; and completing capital development projects to improve the safety of a passenger rail system.

Fire department training. The bill requires that by July 1, 2025, and at least once every three years thereafter, railroads offer training to each fire department with jurisdiction along railroad tracks. The training must address hazardous materials and emergency responder strategies for railroad incidents involving hazardous materials.

Emergency response. The bill requires railroads transporting hazardous materials to coordinate with the Department of Public Safety (CDPS) on emergency response planning. Railroads must also conduct at least two tabletop exercises with other federal, state, and local agencies on scenarios involving derailment and release of crude oil or other flammable materials. In addition, within 30 minutes after an emergency involving a train transporting hazardous materials, the

railroad must notify authorities with a detailed explanation of the emergency, help coordinate an emergency response, and provide follow-up reports.

Office of Rail Safety. The bill creates the Office of Rail Safety, which is administered by the PUC. Through the office, the bill requires the PUC to:

- enter into an agreement with the Federal Railroad Administration to participate in inspection and investigation activities;
- coordinate with CDOT and the CDPS on inspection and investigation activities for Class I railroads, passenger railroads, and intercity railroads;
- accept gifts, grants, and donations for purchasing training materials and other equipment;
- coordinate with CDOT, the CDPS, and other relevant state and local agencies and organizations on initiatives and federal grants to reduce the frequency of blocked highway-rail crossings, improve emergency preparedness, and improve rail safety;
- along with CDOT, the CDPS, and the Rail Safety Advisory Committee, provide a comprehensive report to the Governor and relevant legislative committees by December 1, 2024, on rail safety and emergency response. The report must include a legislative proposal concerning the creation of a fee structure and a governance body for the Office of Rail Safety that can be introduced as legislation by 2025 and begin operating no later than January 1, 2027; and,
- regularly engage with Class I railroads, railroad unions, and local governments of municipalities that contain railroads.

Advisory committees. The bill creates two advisory committees: the Community Rail Safety Advisory Committee and the Rail Industry Safety Committee. The Community Rail Safety Advisory Committee consists of seven members including representatives of union workers, disproportionately impacted communities, and statewide environmental organizations. The Rail Industry Safety Committee consists of nine members including representatives of railroad operators, first responder organizations, the PUC, the CDPS, and CDOT. Committee members must be appointed on or before August 1, 2024.

State Revenue

Beginning in FY 2025-26, the bill requires the PUC to create a fee structure to support the Office of Rail Safety. Fees will be assessed on regulated railroads and credited to the Fixed Utility Fund in an amount sufficient to cover the expenditures outlined below. Current railroad fee revenue to the Fixed Utility Fund can support these costs in FY 2024-25. The bill may also increase fine revenue to the Front Range Passenger Rail District Maintenance and Safety Fund by an indeterminate amount. Both revenue sources are subject to TABOR.

Fee impact on regulated railroad entities. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The fee amounts in Table 2 are estimates only and assume that 14 railroad companies pay fees to support the Office of Rail Safety. Actual fees will be set administratively by the PUC through rulemaking based on cash fund balance, administrative costs, and the number of entities subject to the fee.

Table 2
Fee Impact on Regulated Railroad Entities

Fiscal Year	Type of Fee	Fee Estimate	Number Affected	Fee Impact
FY 2025-26	Rail Safety Fee	\$31,434	14	\$440,070

Fine revenue. The bill may increase fine revenue to the newly created Front Range Passenger Rail District Maintenance and Safety Fund. The amount of fine revenue collected will depend on future enforcement actions and cannot not been estimated.

State Expenditures

The bill increases state expenditures in the PUC in the Department of Regulatory Agencies (DORA) by about \$467,000 in FY 2024-25, \$440,000 in FY 2025-26, and \$453,000 in FY 2026-27, paid from the Fixed Utility Fund. Expenditures are shown in Table 3 and detailed below.

Table 3
Expenditures Under HB 24-1030

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Regulatory Agencies			
Personal Services	\$359,897	\$359,897	\$365,914
Operating Expenses	\$4,480	\$4,480	\$4,480
Capital Outlay Costs	\$26,680	-	\$6,670
Centrally Appropriated Costs ¹	\$75,693	\$75,693	\$76,257
Total Cost	\$466,750	\$440,070	\$453,321
Total FTE	3.5 FTE	3.5 FTE	3.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. The bill increases staffing in the PUC by 3.5 FTE beginning in FY 2024-25. Standard operating and capital outlay costs are included for all staff.

- **Office of Rail Safety.** The PUC requires 3.0 FTE for a professional engineer, project manager, and environmental protection specialist to establish and administer the Office of Rail Safety. Staff will conduct rulemaking on hazardous materials and railroad safety exercises; work with the Federal Railroad Administration on the required agreement; establish and coordinate the rail safety advisory committees; and coordinate and help deliver the required report to the Governor’s Office and legislative committees. Expenditures assume a July 1, 2024 start date for this staff.
- **Legal assistance.** The PUC requires 0.5 FTE of an administrative law judge to assist with rulemaking development from July 2024 until June 2026.

- **Wayside detector compliance.** The PUC requires 0.5 FTE starting in July 2026 for professional engineering staff to review wayside detector reports; impose fines against railroads, officers, agents, or employees for violating the bill's requirements; determine proper levels of insurance coverage; review certificates of insurance showing compliance; and conduct compliance audits.

Supporting agencies. The bill increases workload for CDOT and the CDPS to support the PUC in administering the Office of Rail Safety, participate in required inspection activities, help produce the required report to the Governor's Office and relevant legislative committees, and represent CDOT and the CDPS on the Rail Safety Advisory Committee. The CDPS will must also coordinate with the PUC on emergency response planning and hazardous substance containment exercises. This workload increase is absorbable within existing resources.

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 include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Local Government

The bill will increase workload for local fire departments and emergency management organizations that participate in the training required by the bill. Some local governments may also collaborate with railroads, the CDPS, and the Office of Rail Safety on rulemaking and emergency response.

Effective Date

This bill was signed into law by the Governor on May 10, 2024, and took effect on July 1, 2024.

State Appropriations

For FY 2024-25, the bill requires and includes an appropriation of \$391,057 from the Fixed Utility Fund to the Department of Regulatory Agencies, and 3.5 FTE.

State and Local Government Contacts

Labor	Law	Local Affairs
Personnel	Public Health and Environment	Public Safety
Regulatory Agencies	Revenue	Transportation
Treasury		

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.