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## FISCAL IMPACT REPORT

SPONSOR Hochman-Vigil LAST UPDATED 1/25/2024  
ORIGINAL DATE 1/22/2024  
BILL  
SHORT TITLE Railroad Operation Personnel Requirements NUMBER House Bill 119  
ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No Fiscal Impact	No Fiscal Impact	No Fiscal Impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Department of Transportation (NMDOT)

## SUMMARY

### Synopsis of House Bill 119

HB119 adds two new sections to Chapter 63, Article 3 NMSA 1978 and amends Section 63-2-2 NMSA 1978. As proposed, the first new section defines a “class 1 railroad” and “class 2 railroad” pursuant to federal law; “crew” as an engineer or conductor, qualified to operate a train pursuant to federal law and regulation; “helper” as a railroad locomotive that assists a train to climb a gradient; and “hostling” as shuttling a railway locomotive to the engine house and back.

Paragraph A in the second new section requires class 1 or class 2 railroads to operate freight trains with a crew of at least two workers. There are exceptions for certain engine moves, remote control locomotives in railyards, or as otherwise provided by federal law or regulation. Paragraph B in this second new section requires class 1 or class 2 railroads to operate freight trains containing radioactive material with a crew of at least three workers and requires radiation counters for those workers. This paragraph also requires such operations to be in accordance with federal standards for the handling of material licensed by the United States Nuclear Regulatory Commission.

Finally, the amendments and updates to Section 63-2-2 NMSA 1978 do not appear substantive.

The effective date of this bill is July 1, 2024.

## **FISCAL IMPLICATIONS**

Once the agency is identified for enforcement purposes, there may be staff time and resources required. The bill as written, however, appears to have no fiscal impact.

## **SIGNIFICANT ISSUES**

HB119 attempts to establish safer minimum requirements for the size of train crews in New Mexico, depending on the type of operation and materials being transported.

This bill states that the two-person crew requirement would not apply if there were federal law or regulation mandating crew size on trains. NMDOT explains that while there currently are no federal laws or regulations, on July 28, 2022, the Federal Railroad Administration (FRA) published a notice of proposed rulemaking that would mandate two-person crews for all railroads. Published news articles, as well as former FRA staff now working as consultants, have indicated FRA intends to publish its final rule in March 2024. A final FRA rule would preempt the requirements in this bill per federal statute as well as per this bill. Class 1 railroads oppose efforts to enact federal and state laws and regulations that would mandate crew sizes on trains.

The proposed three-person crew requirement for trains moving radioactive material does not include language addressing applicability in the event of federal law or regulation.

Also, NMDOT cautions that if this bill is enacted and no federal rule is adopted, trains operated by class 1 railroads across the state line could face crew size requirements in New Mexico that are different from crew size requirements in neighboring states. As of December 2023, 11 states have enacted statutes on crew size requirements, including Arizona and Colorado.

## **ADMINISTRATIVE IMPLICATIONS**

NMDOT commented that the bill does not identify the agency for enforcement, there are no civil penalties identified for violations, and there is no definition for radioactive material.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Duplicates in part HB105 in the 2023 legislative session. That bill died in the Senate after being substituted and passing in the House. As opposed to HB105, HB119 does not include a section that subjected a railroad to civil penalties for violating crew size requirements and adds a larger crew size requirement (of three) for trains managing freight containing radioactive materials.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Class 1 railroads in New Mexico would continue to set train crew sizes according to each railroad's operating rules and the terms of existing labor agreements with its unions.