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## FISCAL IMPACT REPORT

SPONSOR McQueen ORIGINAL DATE 2/25/15  
LAST UPDATED \_\_\_\_\_ HB 548  
SHORT TITLE Gas Pipelines & Eminent Domain Power SB \_\_\_\_\_  
ANALYST Armstrong

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 549

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Economic Development Department (EDD)

Public Regulation Commission (PRC)

Energy, Minerals and Natural Resources Department (EMNRD)

State Land Office (SLO)

### SUMMARY

#### Synopsis of Bill

House Bill 548 amends Section 70-3-5 to disallow the exercise of eminent domain by "any person, firm, association or corporation" for rights of way necessary for the construction, maintenance, and operation of pipelines carrying carbon dioxide (CO2) gas.

### FISCAL IMPLICATIONS

No fiscal impact.

### SIGNIFICANT ISSUES

Existing statute allows for the exercise of the power of eminent domain for rights of way necessary for the construction, maintenance, and operation of pipelines carrying petroleum, natural gas, and CO2 gas products provided the right of way is located "to do the least damage to

private or public property consistent with proper use and economical construction.” This authority does not apply to gathering lines other than those owned or operated by public utilities, interstate pipelines, or operators of pipelines whose rates are prescribed or whose operations are licensed by the PRC.

CO<sub>2</sub> is produced within New Mexico and nearby states and must cross New Mexico in pipelines for its use. EMNRD analysis states that although there are many existing pipelines others are probably needed if CO<sub>2</sub> is captured with the natural gas produced from coal beds in San Juan and Rio Arriba Counties and if it is captured prior to emission from coal fired power plants.

CO<sub>2</sub> is produced in New Mexico from the Bravo Dome located in Union and Harding Counties. The CO<sub>2</sub> is compressed and transported by existing pipelines to Oklahoma and the Permian Basin in Southeast New Mexico and West Texas. CO<sub>2</sub> is used primarily for injection into primary depleted oil and gas reservoirs to recover additional remaining reserves that cannot be recovered by any other means. Injection of CO<sub>2</sub> into these reservoirs has resulted in the recovery of millions of barrels of oil that would otherwise not have been produced.

There is also a CO<sub>2</sub> source in Catron County, which also extends into Western Arizona. This source is currently being developed and in order to transport this gas to markets in Oklahoma and Southeast New Mexico/West Texas, pipelines that cross the central portion of New Mexico will probably need to be constructed.

Outside of New Mexico, the McElmo Dome in Southwestern Colorado is also a major source of CO<sub>2</sub>. CO<sub>2</sub> from McElmo Dome is transported via existing pipelines that extend diagonally across New Mexico from San Juan County to Lea County. Also outside of New Mexico is the Sheep Mountain CO<sub>2</sub> source west of Trinidad, Colorado. This CO<sub>2</sub> is compressed and transported south across the state line to near the Bravo Dome, where it is then transported to Southeast New Mexico and West Texas.

EDD noted that the bill could have positive and negative effects. While limiting the use of eminent domain provides certainty and predictability to landowners that will encourage business development, it may also limit the extractive industries’ ability to construct infrastructure necessary to move products to market.

## **RELATIONSHIP**

House Bill 549 provides that eminent domain may only be exercised to acquire the right of way for the construction, maintenance, and operation of pipelines if at least 75 percent of the volume of petroleum, natural gas, or CO<sub>2</sub> gas carried by the pipeline originates, is processed, or is used in New Mexico.

## **TECHNICAL ISSUES**

AGO analysis notes the bill does not state whether it applies retroactively or only prospectively, and suggests clarification of this issue. If the bill applies retroactively, AGO suggests adding a provision regarding pipelines already carrying CO<sub>2</sub> gas.