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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13
LAST UPDATED 02/26/13 **HB** 285/aHJC

SPONSOR McCamley

SHORT TITLE Pipeline Safety Act Violation Penalties **SB** _____

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	See Fiscal Implications			

(Parenthesis () Indicate Revenue Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of SJC Amendment

The House Judiciary Committee amendment to House Bill 285 strikes the reference to 49 Code of Federal Regulations Section 190.233(a) and replaces it with “the applicable federal law or regulation, as determined by the commission”.

Synopsis of Original Bill

House Bill 285 amends the Pipeline Safety Act Section 70-3-19(C) NMSA 1978 to remove the current penalties for pipeline safety violations and inserts a reference that the penalties shall not exceed the amount established in 49 Code of Federal Regulations Section 190.233(a).

FISCAL IMPLICATIONS

This bill does not create any new fiscal implications, but if it is not enacted into law federal funding for pipeline safety oversight of intrastate pipeline facilities would decline, necessitating additional state funds. The bill would keep federal funds at the current level.

SIGNIFICANT ISSUES

The PRC provides the following information regarding its Pipeline Safety Bureau.

The Pipeline Safety Bureau (PSB) enters into an annual agreement with the United States Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA) assuring pipeline safety oversight of intrastate pipeline facilities on behalf of the State of New Mexico. As a result of the agreement, the PHMSA provides a maximum of 80 percent funding of allowable expenditures. The amount of federal funds, up to the 80 percent, provided to the PSB is dependent upon the results of an annual program evaluation conducted by the PHMSA. The PHMSA has changed its criteria for scoring state maximum civil penalty levels for pipeline safety violations. In order to receive the full points related to this item, all states must have civil penalty amounts equivalent to the amounts established under 49 Code of Federal Regulations Section 190.223.

The Pipeline Law Blog reports the PHMSA issued a notice of proposed rulemaking in 2012 that would increase penalties for violations under 49 CFR Section 190.223 from \$100 thousand per violation per day and up to \$1 million for a series of violations to \$200 thousand per violation per day and up to \$2 million for a series of violations. Current New Mexico statute provides for penalties from \$25 thousand per violation per day and up to \$500 thousand for a series of violations.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill is not enacted, there will be a decrease in the amount of federal funding supplied to the PRC's Pipeline Safety Bureau, as the civil penalty amounts in statute are not equivalent to the federal regulations.

JC/svb