

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>McQueen/Ortez</u>	LAST UPDATED <u>02/19/2025</u>	
	ORIGINAL DATE <u>02/12/2025</u>	
SHORT TITLE <u>Oil & Gas Act Violation Penalties</u>	BILL NUMBER <u>House Bill 259/aHENRC</u>	
	ANALYST <u>Gygi</u>	

REVENUE* (dollars in thousands)

Type	FY25	FY26**	FY27**	FY28**	FY29**	Recurring or Nonrecurring	Fund Affected
OCD Application Fees		\$4,124.5	\$4,124.5	\$4,124.5	\$4,124.5	Recurring	OCD Systems and Hearings Fund
Civil Penalties		Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

**Fees may be adjusted annually for inflation which could change the amounts.

Relates to House Bills 257 and 258 and Senate Bill 9

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Attorney General (NMAG)

Energy, Minerals and Natural Resources Department (EMNRD)

Agency Analysis was Solicited but Not Received From

Department of Environment (NMED)

SUMMARY

Synopsis of HENRC Amendment

The House Energy, Environment and Natural Resources Committee (HENRC) amendment to House Bill 259 sets the cap on administrative penalties at \$2.65 million. The current cap is \$200 thousand.

Synopsis of House Bill 259

House Bill 259 (HB259) amends Section 70-2-31 NMSA 1978 (Penalties) and Section 70-2-39 NMSA 1978 (Fees) of the Oil and Gas Act (Chapter 70 Article 2 NMSA 1978). The bill increases the maximum daily civil penalty for noncompliance with the act from \$2,500 to \$10

thousand per violation; in cases where a risk to public health and safety or the environment exists, the penalty is increased from \$10 thousand to \$25 thousand. Additionally, the existing \$200 thousand cap on administrative penalties is increased to \$3.65 million. The HENRC amendment reduced this cap to \$2.65 million.

The bill increases all but one¹ of the Energy, Minerals and Natural Resources Department's (EMNRD) Oil Conservation Division's (OCD) application fees by a factor of three and gives OCD authority, beginning in 2027, to annually adjust fees for inflation using the consumer price index. The bill also expands the allowable uses of the OCD systems and hearings fund, where application fees are deposited. Currently, money in that fund is appropriated to OCD "to develop and modernize the division's online application processing system, online case management system and online case file system and for other technological upgrades and hearing administration costs." The bill adds "data reporting and visualization systems" to the list of items the fund should be used to develop and specifies that appropriations may also be used for equipment upgrades and information technology personnel "necessary to support the efficient and transparent implementation and enforcement of the Oil and Gas Act."

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

Agency Revenues. Application fees collected by OCD are deposited in the OCD systems and hearings fund. HB259 increases the fees for four of the five application types by a factor of three. In FY24, revenue from the application fees amended by the legislation was \$2.06 million. EMNRD therefore estimates annual revenue to the systems and hearings fund would be three times that amount, or approximately \$6.19 million, in the first fiscal year after the bill's fee increases take effect. This would be a revenue increase of \$4.13 million beginning in FY26. OCD has seen the number of applications stabilize and anticipates the revenues will also remain the same. However, they could vary based on adjustments for inflation.

Other General Fund Revenues. Civil penalties assessed by OCD are reverted to the general fund. Raising the penalty caps may therefore increase general fund revenue, but by an indeterminate or negligible amount due to the unknown effect increased penalties will have on deterrence. In FY24, OCD proposed \$2.26 million in civil penalties but only assessed \$1.22 million. According to the division, pursuant to Section 70-2-31 NMSA 1978, most penalties are reduced from the proposed amounts due to additional operator investments into infrastructure, facilitating better future compliance. OCD does not anticipate the number of violations changing greatly due to capacity constraints. Since most notices of violation are resolved in settlement, the impact of penalty limits on the eventual amount assessed on an operator is likely minimal.

SIGNIFICANT ISSUES

OCD expects to see improved performance of its enforcement and regulatory duties under the reforms proposed by HB259. The division states:

The proposed changes to the penalty provisions are designed to make OCD's enforcement authority more nimble and responsive to the realities of the oil and gas

¹ The fee for commercial surface waste management facilities remains the same at \$10 thousand per facility.

development landscape. Given that most Notices of Violation are resolved in settlement, the existing daily and overall caps on penalties tend to result in enhanced bureaucratic workload for OCD to justify proposed penalty amounts, rather than limiting the penalties that non-compliant operators incur. The proposed changes to the penalties provision will serve to reduce that administrative burden on staff and increase the deterrent effect of the Oil and Gas Act’s penalty provision.

ADMINISTRATIVE IMPLICATIONS

Implementation of HB259’s reforms will require EMNRD to promulgate rules and update civil penalty policy documents.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 259 relates to House Bill 257, which places restrictions on oil and gas well transfers to mitigate risk to the state, and House Bill 258, which sets the state methane waste rule in statute requiring 98 percent capture of natural gas by 2027.

HB259 relates to Senate Bill 9, which increases the civil penalties for violations of the Pipeline Safety Act (part of the Oil and Gas Act) to conform to federal statutes and regulations.

HB259 relates to House Bill 133 introduced in 2024, which proposed to amend multiple sections of the Oil and Gas Act, including increasing penalties for violations of the act.

TECHNICAL ISSUES

NMAG states that the definition of “consumer price index” is unclear and recommends using a definition already present in other parts of New Mexico Statutes, for example:

“Consumer price index” means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30 (Section 7-2-18.34 NMSA 1978 and others); or

“Consumer price index” means the average of the monthly consumer price indexes for a calendar year for the entire United States for all items as published by the United States department of labor (Section 7-22-11-31 NMSA 1978).