



House Amendment to S. 2276: PIPES Act (Sen. Fischer, R-NE)

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FLOOR SCHEDULE:

June 8, 2016 under a suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

The [House amendment to S. 2276](#) would reauthorize the Pipeline and Hazardous Materials Safety Administration (PHMSA) through FY 2019, make changes to regulations regarding pipelines, and require several studies.

COST:

A Congressional Budget Office (CBO) estimate of the House amendment is not available.

In FY 2016, the bill would authorize \$146.623 million for Pipeline Safety Activities and \$21 million for Operating Expenses, for a total of \$167.623 million. Authorizations would increase each year, finally reaching \$157 million for Pipeline Safety Activities and \$23 million for Operating Expenses, for a total of \$180 million in FY 2019.

Comparison of Authorization of Appropriations for PHMSA in the House Amendment to S. 2276 vs. Most Recent Authorization and the Current Appropriated level, in Millions of Dollars					
Fiscal Year	Pipeline Safety Activities (Trust Funds)		Operating Expenses (General Fund)		Total
2015 (prior authorization)	109.252		*		109.252*
2016 (enacted appropriation)	146.623		21		167.623
Authorizations in the House Amendment to S. 2276					
2016	146.623		21		167.623
2017	150.123		22		172.123
2018	154		22		176
2019	157		23		180

* PHMSA Operational Expenses appropriated from the Treasury's General Fund were not explicitly authorized by law, however this account received appropriations of \$22.225 million in FY 2015.

CONSERVATIVE CONCERNS:

Some conservatives may be concerned that the bill would increase authorized spending without offsets. This is in violation of Rule 28(a)(5) of the [Rules of the House Republican Conference for the 114th Congress](#) which states that the Republican Leader shall not schedule, or request to have scheduled, any bill or resolution for consideration under suspension of the Rules which authorizes an increase in authorizations, appropriations, or direct spending in any given year, unless fully offset by at least an equal reduction in current spending.

Some conservatives may be concerned that a CBO estimate is not available for the bill in violation of the GOP Conference Rules. Rule 28 (a)(1) of [Rules of the House Republican Conference for the 114th Congress](#) states that the Republican Leader shall not schedule, or request to have scheduled, any bill or resolution for consideration under suspension of the Rules which fails to include a cost estimate. Rule 28 may be waived by a vote of the elected leadership.

- **Expand the Size and Scope of the Federal Government?** Yes, the bill would increase authorized spending and increase the regulatory authority of PHMSA.
- **Encroach into State or Local Authority?** Some conservatives may believe that some of the activities authorized by the bill would be more appropriately handled by state or local officials.
- **Delegate Any Legislative Authority to the Executive Branch?** Yes, the bill would give PHMSA additional authority to implement certain regulations.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) is responsible for regulating pipeline safety issues at the federal level. PHMSA was most recently reauthorized by the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011; the authorization lapsed in FY 2015, although it has continued to receive appropriations.

Authorization of Appropriations: The bill would authorize appropriations for PHMSA for the FY 2016-2019 period:

Comparison of Authorization of Appropriations for PHMSA in the House Amendment to S. 2276 vs. Most Recent Authorization and the Current Appropriated level, in Millions of Dollars						
Fiscal Year	From Fees Collected in the Pipeline Safety Fund	From the Oil Spill Liability Trust Fund	Subtotal, Pipeline Safety Activities (Trust Funds)	Operating Expenses (General Fund)	Total	
2015 (prior authorization)	90.679	18.573	109.252	*	109.252*	
2016 (enacted appropriation)	124.5	22.123	146.623	21	167.623	
Authorizations in the House Amendment to S. 2276						
2016	124.5	22.123	146.623	21	167.623	
2017	128	22.123	150.123	22	172.123	
2018	131	23	154	22	176	
2019	134	23	157	23	180	

* PHMSA Operational Expenses appropriated from the Treasury’s General Fund were not explicitly authorized by law, however this account received appropriations of \$22.225 million in FY 2015.

The prior authorization for pipeline safety activities was at \$90.679 million for each year over the FY 2012-2015 period. These activities are funded from two trust funds that are filled by user fees; PHMSA requires an appropriations law for the authority to spend these funds. The FY 2016 appropriation in the [Omnibus](#) for pipeline safety activities (from the Trust Funds) was \$146.623 million with an additional \$21 million for operational expenses (from the Treasury’s General Fund). According to [CRS](#), PHMSA has more than doubled its budget authority since FY 2006.

Regulatory Updates: The bill would require PHMSA to regularly publish updates of outstanding regulations that have yet to be finalized that were required by the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.

GAO Review: The bill would require a Government Accountability Office (GAO) report regarding the PHMSA Pipeline Safety: Safety of Natural Gas Transmission and Gathering Pipelines notice of proposed rulemaking and of the Pipeline Safety: Safety of Hazardous Liquid Pipelines notice of proposed rulemaking.

Inspection Report: The bill would require PHMSA to conduct a post-inspection briefing with the operator within 30 days of a pipeline facility inspection.

Improving Damage Prevention Technology Study: The bill would require the Secretary of Transportation to conduct a study on technological improvements in location and communications practices to prevent accidental excavation damage to a pipeline.

Direct Hire Authority: The bill would allow PHMSA to apply to the Office of Personnel Management for the authority to directly hire “qualified candidates to any position related to pipeline safety”.

Information Sharing Working Group: The bill would require the Secretary of Transportation to convene a working group made up of PHMSA, industry, safety advocacy groups, and other stakeholders, to “consider the development of a voluntary information-sharing system to encourage collaborative efforts to improve

inspection information feedback and information sharing with the purpose of improving gas transmission and hazardous liquid pipeline facility integrity risk analysis.”

Report on a Regulatory Database: The bill would require a report on the feasibility of establishing a pipeline regulatory inspection database.

Underground Storage Facilities: The bill would require PHMSA to develop minimum uniform safety standards for underground natural gas storage facilities including wellbores, geologic reservoirs, and aquifers.

Safety Data Sheets: The bill would require owners and operators of pipelines, in the event of an accident causing a spill of hazardous liquids, to provide the Federal On Scene Coordinator with safety data sheets within 6 hours.

Hazardous Materials Identification Numbers: The bill would require the Secretary of Transportation to issue an advanced notice of proposed rulemaking to take public comment on the petition for rulemaking titled “Corrections to Title 49 CFR 172.336 Identification numbers, special provisions”.

Emergency Order Authority: If PHMSA determines that an unsafe condition or practice constitutes or is causing an imminent hazard, then it may issue an emergency order imposing restrictions, prohibitions, and safety measures on pipeline owners without prior notice or opportunity for a hearing. The subject of such an order may seek expedited judicial review in a U.S. district court.

State Grants: The bill would allow PHMSA to withhold state grant funds if it determines that the state is not satisfactorily carrying out a safety program. If a state program is rejected, PHMSA may use available funds to carry out pipeline safety activities in the state.

Unusually Sensitive Areas: The bill would require the Code of Federal Regulations to explicitly state that the Great Lakes, coastal beaches, and marine coastal waters are USA ecological resources for purposes of determining if a pipeline is in a high consequence area.

Corrosion Prevention: The bill would require a GAO study on corrosion prevention technologies for pipelines.

Research and Development IG Report: The bill would require an Inspector General’s report on PHMSA’s research and development program.

Pipeline Integrity Assessments: The bill would require underwater pipeline operators in high consequence areas to complete pipeline integrity assessments at least every 12 months using internal inspection technology.

State Policies Regarding Natural Gas Leaks: The bill would require PHMSA to conduct a state by state review of policies regarding encourage the repair of leaking natural gas distribution pipelines as well as recommendations for federal and state policies to accelerate repair of leaking gas pipelines. If PHMSA determines that its regulations would work, it is required to implement them within one year.

Aliso Canyon Natural Gas Leak Task Force: The bill would establish an interagency Aliso Canyon Natural Gas Leak Task Force to report on the causes of a natural gas leak that occurred in California and recommendations to improve the response to future leaks.

OUTSIDE GROUP SUPPORT:

- [American Fuel & Petrochemical Manufacturers](#)
- [American Petroleum Institute](#)
- [Distribution Contractors Association](#)
- [Interstate Natural Gas Association of America](#)
- [Plastics Pipe Institute](#)
- [Power & Communication Contractors Association](#)

COMMITTEE ACTION:

S. 2276 was introduced on November 10, 2015, and referred to the Senate Committee on Commerce, Science, and Transportation. The Committee marked up and reported the bill by a voice vote on [December 9, 2015](#). The bill was passed by the Senate on March 3, 2016, by unanimous consent.

Two House Committees have also marked up and reported legislation regarding PHMSA's reauthorization. These bills have not been considered by the House; the House amendment to S. 2276 is generally based on them.

The House Committee on Transportation and Infrastructure marked up H.R. 4937, the Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016, on [April 20, 2016](#), and reported the bill by a voice vote.

The House Energy and Commerce Committee marked up H.R. 5050, the Pipeline Safety Act of 2016, on [April 27, 2016](#), and reported the bill by a voice vote.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

Bills that originate in the Senate do not require a constitutional authority statement.

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