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## FISCAL IMPACT REPORT

SPONSOR McCamley ORIGINAL DATE \_\_\_\_\_ LAST UPDATED \_\_\_\_\_ HB 33

SHORT TITLE Pipeline Safety Act Civil Penalties SB \_\_\_\_\_

ANALYST Sanogo

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

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

NM Public Regulation Commission (NMPRC)

Attorney General's Office (AGO)

### SUMMARY

HB 33 will amend Section 70-3-19 NMSA 1978, Subsection C, enforcement and penalties.

According to the PRC, the Pipeline Safety Bureau (PSB) enters into an annual agreement with the US Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA) assuring safety oversight of intrastate pipeline facilities on behalf of New Mexico.

As a result of the agreement, PHMSA provides a maximum of 80 percent funding of allowable expenditures, contingent upon the results of an annual program evaluation. Recently, PHMSA has changed its criteria for scoring state penalty levels for pipeline safety violations. In order to receive the full points related to this item, a state must have civil penalty amounts equivalent to the amounts established under Title 49 Code of Federal Regulations Part 190.223.

### FISCAL IMPLICATIONS

No direct fiscal impacts; see "consequences" for contingent fiscal impacts.

### SIGNIFICANT ISSUES

HB 33 proposes to set a maximum penalty for violations of the Pipeline Safety Act by incorporating by reference the maximum penalty established by "applicable federal law or

regulation.” As such, the maximum penalty for violations cannot be determined by looking only to the Pipeline Safety Act, but only by referring to a different law (federal statute or regulations).

The Attorney General’s Office (AGO) notes that legislation incorporating other law by reference is referred to as “blind legislation,” because its substance cannot be understood by reading the legislation itself. HB 33, as written, could violate Article IV, Section 18 of the New Mexico constitution, which states that, "No law shall be revised or amended, or the provision thereof extended by reference to its title only; but each section thereof as revised, amended or extended shall be set out in full."

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

The level of federal funding applied to PSB may possibly decrease if the civil penalty amounts in statute are not equivalent to the federal regulations.

AIS/bb