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## FISCAL IMPACT REPORT

**BILL NUMBER:** CS/House Bill 70/HJCS

**SHORT TITLE:** PRC Support Agency

**SPONSOR:** House Judiciary Committee

**LAST UPDATE:** 2/05/2026      **ORIGINAL DATE:** 1/21/2026      **ANALYST:** Rodriguez

### REVENUE\*

(dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
Fees		\$19,263.0	\$19,488.0	\$19,699.0	\$19,895.99	Recurring	Utility Oversight Fund
Fees		(\$19,263.0)	(\$19,488.0)	(\$19,699.0)	(\$19,895.9)	Recurring	General Fund

Parentheses indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

State Treasurer's Office

Public Regulation Commission

New Mexico Attorney General's Office

### SUMMARY

#### Synopsis of HJC Committee Substitute for House Bill 70

The House Judiciary Committee substitute for House Bill 70 (HB70/HJCS) creates the utility oversight fund, a nonreverting fund administered by the Public Regulation Commission (PRC) and subject to appropriation by the Legislature, for PRC to carry out its duties pursuant to the Public Utility Act. The fund consists of inspection and supervision fees on public utility companies, regulatory fees on telephone and transmission companies, and pipeline operator fees.

Section 2 through 14 of the bill amend Chapter 62 NMSA 1978, relating to public utility regulation. While some changes are non-substantive and intended to clarify or reorganize existing statutory provisions, the bill also makes several substantive changes, summarized below:

- Direct PRC to initiate actions in district court when the commission believes a utility or person is violating the Public Utility Act, rather than directing the New Mexico Attorney General to do so;
- Establishes a new definition distinguishing the agency from the commission, where the agency consists of PRC staff and the commission consists of the three appointed

commissioners;

- Require commissioners and PRC employees to comply with the Gift Act;
- Reorganizes and clarifies the duties of the commission;
- Revises existing procedures for adopting, amending, or repealing rules to ensure compliance with the State Rules Act;
- Creates a new section outlining the duties of the chief of staff and repeals an existing section outlining similar duties;
- Specifies the commission can only meet and conduct business if more than half the members are present, and it can only make a final decision if more than half of all members vote in favor;
- Adds language clarifying that hearing examiners must stay independent and decide cases based only on the facts and the law—not on pressure from anyone, inside or outside the agency;
- Amends ex parte and allowable communication at the agency, such as requiring commissioners to follow Open Meetings Act rules when consulting with another;
- Repeals Sections 62-19-11 through 62-19-19 and Section 70-3-23, which establish required PRC divisions—the Administrative Services Division, Consumer Relations Division, Legal Division, Utility Division, Pipeline Safety Bureau, Telecommunications Bureau, chief of staff, and advisory staff—and outlines their responsibilities.

Non-substantive changes include:

- Clarifies distinctions between appointed commissioners and other PRC staff;
- Removes obsolete effective dates, such as requirements for commissioners to complete coursework beginning July 1, 2013;
- Authorizes hearing examiners to provide the commission with written recommendations;
- Revises the PRC's reporting deadline to May and requires inclusion of consumer complaint information.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

## FISCAL IMPLICATIONS

This bill creates a new reverting fund that would be administered by PRC and subject to appropriation by the Legislature to PRC to carry out its duties pursuant to the Public Utility Act.

***Impact on General Fund.*** The bill diverts revenue, representing a recurring loss to the general fund. If enacted, the bill would take effect on May 20, 2026, and would create the utility oversight fund in FY26. Fees would be collected on July 31, 2026 (FY27) and credited to the utility oversight fund in FY27 as well. However, PRC's FY27 operating budget is funded with general fund revenue. As a result, enactment of the bill would have a negative impact on the general fund in FY27. Additionally, if the Legislature continued to appropriate recurring funding to PRC from the general fund, the bill would continue to have a negative impact on the general fund in future fiscal years.

However, if the Legislature were to appropriate funding for PRC's operating budget from the utility oversight fund starting in FY28, the bill would stop having a negative impact on the general fund.

## SIGNIFICANT ISSUES

**Distinguishing Commissioners from PRC Staff.** For similar bills introduced in prior legislative sessions, the New Mexico Attorney General (NMAG) raised concerns regarding language distinguishing between the commissioners and PRC staff. NMAG noted that stakeholders often refer to the PRC collectively—including both staff and commissioners—as the “commission,” and that distinguishing between the “agency” and the “commission” may create confusion.

**Delegating Authority.** Current statute allows the commission to delegate authority “to subordinates” as it deems necessary and appropriate. HB70/HJCS removes the phrase “to subordinates,” which NMAG notes would allow the commission to delegate broad authority to any person or entity. NMAG further notes that the proposed amendment raises concerns regarding the constitutionality of the commission’s broad discretion to delegate authority.

**Recommended Decisions by Hearing Examiners.** Current statute requires hearing examiners to provide a recommended decision to the commission. HB70/HJCS makes this permissive by amending “shall” to “may” and replaces “recommended decision” with “written decision.” As drafted, HB70/HJCS appears to remove the requirement that hearing examiners provide the commission with a recommended decision and instead allows them to submit a written recommendation at their discretion.

NMAG notes that, under current practice, recommended decisions and filed exceptions are taken under advisement by the commission when determining the final order in a case, and that final orders are often largely based on the recommended decision. Hearing examiners are generally considered to be in the best position to communicate the relevant facts and legal issues to the commissioners. If HB70/HJCS were enacted, hearing examiners could choose not to provide a recommended decision. It is unclear whether this outcome reflects the bill’s intent.

## OTHER SUBSTANTIVE ISSUES

**Increased Fees.** Chapter 84, Laws 2025 increased inspection and supervision fees collected by PRC. Chapter 84 increased inspection and supervision fees on public utilities from 0.506 percent to 0.59 percent of gross receipts and increases regulatory fees on telephone companies from 0.511 percent to 0.59 percent. Legislation also granted PRC the authority to increase administrative hearing fees in amounts that do not exceed the cost of administrative proceedings and to adjust fees annually based on the employment cost index until July 1, 2031. Companies must pay fees by July 31 of every year.