

LFC Requester:

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AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/21/2026

Check all that apply:

Bill Number: HB70

Original Correction
Amendment Substitute

Sponsor: Rep. Kristina Ortez

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: PRC Support Agency

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

HB70 seeks to amend various Sections under Chapter 62, entitled “Electric, Gas and Water Utilities.” HB70 consists of 17 sections. In pertinent part:

Section 1 amends Subsection A and D of Section 62-8-9 NMSA 1978, dealing with the disposition of funds. Subsection A provides that fees and money collected under the Public Utilities Act are remitted by the commission to the State Treasury. HB70 would add language providing that such remitted fees and money would also be credited to the utility oversight fund. Subsection D provides that the attorney general has a duty to bring suits to collect unpaid fees, interests, and penalties. HB70 amends this Subsection by providing that the commission will have that duty instead.

Section 2 amends Section 62-12-1 NMSA 1978, dealing with mandamus and injunctive relief for utilities. Section 62-12-1 provides the commission with discretion to direct the attorney general to seek mandamus or injunctive relief in instances where the commission believes a person or public utility—(1) will violate, (2) has violated, (3) will fail to fulfill, (4) or has failed to fulfill—its obligations pursuant to the Public Utility Act, or pursuant to the commission’s orders. HB70 would amend this provision to give the commission the discretion to institute legal action directly, without the attorney general. HB70 also removes the court’s discretion to join corporations to the suit under Section 62-12-1.

Section 3 adds a new section to the Public Utility Act. This new section would establish a utility oversight fund, consisting of fees collected pursuant to Sections 62-8-8, 62-8-9, and 63-7-20 NMSA 1978. In addition, the utility oversight fund would contain appropriations, gifts, grants, donations, and investment earnings of the fund. The new section also provides the commission with the duty to administer the fund, subjects the fund monies to appropriation by the legislature to the commission, and requires that all fund disbursements be made by a warrant of the secretary of finance and administration, pursuant to vouchers signed by the chief financial officer of the commission.

Section 4 adds one new definition under Section 62-19-2. HB70 newly defines “agency” as “the organization supporting the commission, including all employees.” HB70 also modifies the definition of “commission,” providing that it means “the public regulation commission created by Article 11, Section 1 of the constitution of New Mexico. Likewise, to simplify, HB70 removes the phrase “public regulation” before “commission” within a subsequent definition of

“commissioner.”

Section 5 amends Section 62-19-3 NMSA 1978, which generally concerns the creation of the public regulation commission nominating committee, the appointment of committee members, and the obligations of the committee. Currently, Subsection D of Section 62-19-3 provides that “[a]dministrative support shall be provided to the committee by the staff of the commission.” Section 5 amends Subsection D by replacing “staff of the commission” with “agency.”

Section 6 amends Section 62-19-6 NMSA 1978, dealing with continuing education requirements for commissioners. Currently, Subsection A of Section 62-19-6 requires in part that commissioners complete an ethics training certificate course and at least one two-hour training course. HB70 amends this Section to provide that commissioners must complete at least six hours of ethics training and at least two hours of ethics training that is approved by the professional licensing board by which a commissioner is licensed. The Section also requires that continuing education courses be endorsed by the national association of regulatory utility commissioners or by a licensing or professional association for a qualifying area of study. HB70 amends this Section to include post-secondary educational institutions as an additional means of endorsing continuing education courses. The Section also provides that any failure to comply with the education requirements will result in the commission’s withholding of the commissioner’s compensation. HB70 modifies the Section to provide that the agency, not the commission, will withhold the compensation.

Section 7 amends Section 62-19-8 NMSA 1978, concerning prohibited acts of commissioners and employees. Subsection A of Section 62-19-8 provides definitions in addition to definitions under “Section 16 of this 2020 act.” HB70 replaces reference to “Section 16” with Section 62-19-2. HB70 also amends the definition of “intervenor” by removing from the definition persons who comment or intervene in a rulemaking matter. Subsection B provides that employees of the commission must comply with the applicable requirements of the Public Regulation Commission Act. HB70 replaces employees of the commission with employees of the agency. HB70 also removes Subsection D, which provide detailed restrictions on accepting anything of value. Instead, HB70 replaces that Subsection with a statement that commissioners and employees of the agency shall comply with the provisions of the Gift Act.

Section 8 amends 62-19-9 NMSA 1978, concerning the general powers and duties of the commission. HB70 consolidates the list of duties of the commission provided in two Subsections, and lists the obligations to—(1) appoint a chief of staff, (2) prepare an annual budget for submission to the legislature, (3) adopt rules to resolve cases efficiently, (4) provide a published phone number on the agency website, and (5) resolve complaints regarding telecommunications providers within 60 days, unless extended for good cause shown—under Subsection A. HB70 removes the commission’s discretion to (1) employ professional, technical, and clerical assistance, (2) retain attorneys, (3) organize into units, (4) conduct research on operational improvement, (5) apply for grants, and (6) enter into contracts to carry out its duties.

Section 9 amends Section 62-19-20 NMSA 1978, regarding hearing examiners. HB70 changes the obligation of hearing examiners to provide the commission with a recommendation to a discretionary function, and requires that the recommendation be in writing.

Section 10 amends Section 62-19-21 NMSA 1978, concerning commission rules. It amends the language of the entire Section to provide that rulemaking will be done in accordance with the State Rules Act, unless otherwise provided.

Section 11 amends Section 62-19-22 NMSA 1978 regarding the record of proceedings. It amends the Section to provide that the agency, rather than the commission, may charge a reasonable fee for the copy of the proceeding, and that such money collected will be deposited in the utility oversight fund.

Section 12 amends Section 62-19-23 NMSA 1978, concerning *ex parte* communications. HB70 would retitle the Section "Prohibited and Permitted Communications." HB70 also consolidates disconnected provisions to clarify that a commissioner or hearing examiner who receives, makes, or knowingly causes to be made a prohibited communication to promptly notify all other parties of the substance of communication and allow an opportunity to respond.

Section 13 amends Section 62-19-24 NMSA 1978, concerning commission reports. HB70 adds language providing that commission reports shall include information on consumer complaints and their status.

Section 14 would add a new section to the Public Regulation Commission Act, establishing a chief of staff. The chief of staff would function to serve at the pleasure of the commission and act consistent with its objectives. This would include being responsible for day-to-day operations of the agency, directing the staff and agency operations, and hiring personnel to serve as advisory staff, receive and investigate complaints, consult with other state agencies advise on identified consumer issues, help implement consumer policies and programs, and a variety of other duties. The chief would also have discretion to (1) employ staffing for professional, technical, and clerical assistance, and personnel to study, testify, and serve as advocacy staff with respect to residential and small business ratepayer classes, (2) hire experts or staff on a contractual basis, (4) retain attorneys to give advice and represent the commission and agency in legal matters, set minimum educational and experience requirements for staff, (6) research ways to improve agency operations, (7) apply for and accept grants and donations, and (8) enter into contracts on behalf of the agency. Note that some of these numbered discretionary functions were removed from the commission by way of Section 8.

Section 15 amends Section 63-7-21 NMSA 1978, concerning the disposition of fees. HB70 provides that money collected under Section 63-7-20 shall be deposited with the state treasurer, additionally adding that the collected money will be credited to the utility oversight fund.

Section 16 amends Section 70-3-2 NMSA 1978, governing the license of pipeline operators. HB70 provides that the public regulation commission will provide a license to pipeline operator applicants upon receipt of the application and license fee, which will be credited to the utility oversight fund. HB70 also clarifies that operators of a pipeline will also be required to pay a basic fee of \$500, plus fees based on the number of miles of pipeline operated in New Mexico.

Section 17 repeals Sections 62-19-11 through 62-19-19 and 70-3-20 NMSA 1978.

FISCAL IMPLICATIONS

None for this office.

Note: N/A

Note: N/A

SIGNIFICANT ISSUES

As proposed, the definition of “agency” appears ambiguous under Section 4. Any organization (private or public) which purports to support the commission could be construed as the agency contemplated by the bill.

In its existing form, the statute already distinguishes between the three appointed commissioners and the PRC staff who serve various supporting functions. Stakeholders and the public colloquially refer to the PRC, inclusive of the support staff and commissioners, as the “commission.” Needing to start distinguishing between the “agency” and the “commission” may be difficult and cause confusion. Many may find it simpler or as easy to continue referring to the appointed commissioners as “the commissioners,” and the support staff as either “support staff” or by their unique roles (administrative services, consumer relations, staff attorneys, general counsel, utility division, pipeline safety division, etc.).

Under Article XI, Section 2 of the New Mexico Constitution, “[t]he public regulation commission shall have responsibility for regulating public utilities as provided by law.” Under Section 8, HB70 seeks to provide the commission with the ability to delegate broad authority to any person or entity. In comparison, the original provision allows the commission to delegate authority only to subordinates, which appears less concerning. This proposed amendment raises some concern about the constitutionality of the commission’s wide discretion in delegating authority, to the extent that it is unclear how this provision, as amended by HB70, would comply with constitutional requirements.

The proposed change in Section 9 of the bill to 62-19-20(B) making it no longer mandatory for a hearing examiner to provide a recommended decision (“RD”) to the commissioners is likely to cause confusion. It appears that it makes it permissive, rather than mandatory, for a hearing examiner to provide their RD to the commissioners, yet it remains mandatory for the hearing examiner to provide an RD to the parties to the case so that they may file exceptions (in which the parties articulate ways in which they believe that the RD is wrong about the law or facts of the case). As the process currently exists, it is the RD and the filed exceptions which are taken under advisement by the commissioners in determining the final order of that case, and the final order is usually largely based on the RD. This is because it is the hearing examiners who have heard the evidence and legal arguments, and have therefore been deemed to be in the best position to communicate the facts and legal issues to the commissioners, which they do through the provision of an RD. If a hearing examiner chooses not to provide an RD (as it would no longer be required under the statute), it is unclear what will be provided to inform the commissioners about the details of the case on which they need to provide an informed vote.

PERFORMANCE IMPLICATIONS

Section 13 requires that commission reports include information and statuses of consumer complaints. This appears to implicate the consumer affairs division of the New Mexico Department of Justice, and perhaps an expectation that the consumer affairs division pursue more cases concerning utilities.

ADMINISTRATIVE IMPLICATIONS

Section 13 reporting requirements regarding consumer complaints may also suggest that the New

Mexico Department of Justice will have to engage in additional reporting requirements in tandem with the supporting agency established by HB70.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

Under Section 3 and Section 14, the bill does not designate a section number for the proposed enactment of a new section under the Public Utility Act.

OTHER SUBSTANTIVE ISSUES

Under Section 11, the reasonable fees to be collected are required to be deposited in the utility oversight fund. To the extent that what is allowed to be deposited in the oversight fund is governed by the Section 3, that section does not appear to account for the charge of reasonable fees for a copy of a proceeding.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.