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FISCAL IMPACT REPORT

SPONSOR	Sens. Muñoz and Shendo/Reps. Dixon and Sanchez	LAST UPDATED	2/26/2025
		ORIGINAL DATE	2/11/2025
SHORT TITLE	Create Utility Oversight Fund	BILL NUMBER	Senate Bill 143/aSTBTC/aSFC
		ANALYST	Rodriguez/Graeser

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Fees	\$0.0	(\$16,340.0)	\$0.0	\$0.0	\$0.0	Nonrecurring	General Fund
Fees	\$0.0	\$0.0	\$19,260.0	\$19,490.0	\$19,700.0	Recurring	Utility Oversight Fund
Reversion	\$0.0	\$0.0	\$2,994.90	\$1,228.36	\$0.0	Nonrecurring	General Fund

Parentheses () indicate revenue decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill(s) 9 and 109

Sources of Information

LFC Files

Agency Analysis Received From
 Public Regulation Commission (PRC)
 New Mexico Office of the Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From
 State Treasurer's Office (STO)

SUMMARY

Synopsis of SFC Amendment to Senate Bill 143

The Senate Finance Committee amendment to Senate Bill 143 (SB143) strikes the amendments from the Senate Tax, Business, and Transportation Committee. As amended, the utility oversight fund consists of inspection, supervision, and regulatory fees, as intended in the original bill. The amendment mandates that the utility oversight fund revert to the general fund.

The amendment changes the collection date of fees to the last day of July instead of April.

The amendment adds an effective date of January 1, 2026.

Synopsis of STBTC Amendment to Senate Bill 143

The Senate Tax, Business, and Transportation Committee amendment to SB143 redirects the fees to the general fund, leaving the utility oversight fund without a revenue source.

Synopsis of Original Senate Bill 143

Senate Bill 143 establishes 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. Companies must pay fees by April 30 each year. The bill allows PRC to adjust fees annually based on the employment cost index until July 1, 2031. The bill also provides the authority to PRC to sue to collect unpaid fees, interest, and penalties, as opposed to the New Mexico Attorney General as is currently in statute.

SB143 increases 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. The bill also gives PRC the authority to increase administrative hearing fees in amounts that do not exceed the cost of administrative proceedings.

SB143 also directs excavation penalties to be deposited to the “current school fund” instead of the general fund.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

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.

Collection of Fees. As amended, the bill would have a negative impact on the general fund in FY26 as no fees would be collected in FY26. In FY25, fees would be paid by utilities on or before the first day of April 2025 and remitted to the state treasure no later than a day later. The bill would become effective January 1, 2026, and, therefore, no fees would be collected in FY26 since no fees would be collected in April 2026. The next deadline for fee collection would be on July 31, 2026, or in FY27. As intended, PRC would utilize fees collected on July 31, 2026, for its FY27 operating budget, subject to appropriations by the Legislature during the 2026 legislative session. The Legislature would need to consider projected fees during the 2026 legislative session for PRC’s FY27 budget.

As amended, the utility oversight fund would revert to the general fund at the end of the fiscal year, so anything not appropriated from the Legislature to PRC would revert at the end of fiscal year. The analysis assumes PRC’s budget would increase an average of 12.3 percent, as it has over the past four years. Based on the anticipated budget growth and the fees, the utility oversight fund would revert to the general fund in FY27 and FY28. However, if PRC’s budget grew at the average 12.3 percent, by FY29 PRC’s budget would utilize all fees in the utility oversight fund and, therefore, there would be no reversions to the general fund. However, this is contingent on appropriations by the Legislature and does not include possible fee adjustments as allowed in SB14.

Proposed Increase in Fees. SB143 increases inspection and supervision fees on public utilities from 0.506 percent to 0.59 percent of gross receipts and increases regulatory fees on telephone and transmission companies from 0.511 percent to 0.59 percent. PRC provides the following fee comparison between the fees collected in FY24 at the current rates and the projected fees with the rates proposed in SB143.

	Collected Fees in FY24	Projected Fees at Proposed 0.59 percent
Electric IOUs	\$9,542,302	\$11,126,400
Gas IOUs	\$2,733,748	\$3,187,572
Electric Coops	\$2,084,752	\$2,430,837
Telecom	\$1,264,596	\$1,460,101
Water Utilities	\$134,648	\$157,001
Total	\$15,770,870	\$18,361,911

The proposed increase on inspection and supervision fees on utilities and telecommunication companies would increase total amount collected by 16.4 percent.

Fee Adjustments. SB143 allows PRC to annually adjust inspection and supervision fees by no more than the prior year’s increase in the employment cost index for state and local government as published by the federal Bureau of Labor Statistics (BLS) until July 1, 2031. This employment cost index is not forecasted by S&P and, therefore, LFC uses the state and local compensation index from S&P to forecast possible increases.

BLS and S&P State and Local Compensation Index

	BLS State and Local Government Compensation		S&P State and Local Compensation Index
	Index	Year-over-Year Change	
FY20	2.88%	3.6%	4.1%
FY21	2.15%	-25.2%	5.2%
FY22	2.88%	33.7%	1.7%
FY23	4.80%	67.0%	0.1%
FY24	4.78%	-0.5%	2.1%
FY25	4.70%	-1.6%	4.2%
FY26			4.3%
FY27			4.2%
FY28			4.0%

Below is a breakdown of possible increases to inspection and supervision fees at the proposed 0.59 percent and with possible growth as adjusted by PRC based on the forecasted S&P State and Local Compensation index. Based on the proposed changes in SB143, fees could increase as much as 31 percent.

Projected Fees with Proposed 0.59 percent rate and Indexed at S&P State and Local Compensation (in thousands)

	Current and Projected Fees Collected	Projected Fees at Proposed 0.59 percent	Indexed Projected Fees
FY24	\$15,771.0		
FY25	\$16,118.0		

FY26	\$16,339.0	\$19,023.0	
FY27	\$16,545.0	\$19,263.0	\$20,096.0
FY28	\$16,738.0	\$19,488.0	\$21,150.0
FY29	\$16,919.0	\$19,699.0	\$22,170.0

SIGNIFICANT ISSUES

PRC’s Operating Budget. PRC’s recurring general fund revenue has increased by 49.1 percent over the past four years. This increase reflects an increase in the agency’s responsibilities due to growing workload, regulatory changes, and the state’s energy efficiency goals. For FY25, PRC’s operating budget consisted predominantly of general fund revenue with a portion from federal revenue for the Pipeline Safety Bureau. SB143, as noted by PRC, would allow the agency to rely on regulatory fees instead of general fund appropriations. If enacted and contingent on appropriations by the legislature, PRC’s FY27 would predominantly consist of other state funds—in other words, from revenue collected in the utility oversight fund.

Penalties. SB143 also directs excavation penalties to be deposited to the “current school fund” instead of the general fund. This language amends the statute to follow Section 22-8-32 NMSA 1978 which directs the state treasurer to deposit all fines and forfeitures under general laws into the current school fund. In practical effect, the “common school fund” is the general fund as a result of an agreement in the mid-1950’s for the general fund to make up the difference between dedicated revenues including the emergency school tax imposed on oil and gas, fines and forfeitures, and property taxes and needs.

Employment Cost Index for State and Local Government. SB143 allows PRC to annually adjust inspection and supervision fees no greater than the prior year’s increase in the employment cost index for state and local government until July 1, 2031. As demonstrated in the chart included in the “Fiscal Impact” section above (Chart: BLS and S&P State and Local Compensation Index), the BLS State and Local Government Compensation Index fluctuates significantly—increasing as much as 67 percent in some years and decreasing by 25.2 percent in other years. LFC recommends using a more stable index, such as the S&P State and Local Compensation Index.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB143 relates to Senate Bill 9, which changes the daily and maximum civil penalties for any person who owns or operates gas or oil pipeline facilities and is found to have violated regulations to mirror those under related federal pipeline regulations. SB143 also relates to Senate Bill 109, which cleans language in the Public Regulation Commission Act.