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FISCAL IMPACT REPORT

SPONSOR <u>Senate Finance Committee</u>	LAST UPDATED <u>3/21/2025</u>
	ORIGINAL DATE <u>3/13/2025</u>
SHORT TITLE <u>State Fees & Funds</u>	BILL NUMBER <u>CS/Senate Bill 535/SFCS/aHAFC</u>
	ANALYST <u>Gaussoin</u>

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Workers' Comp Employer Contributions and Employee Deductions		\$1,479.0	\$1,479.0	\$1,479.0	\$2,253.0	Recurring	Workers Comp Admin Fund
Telecommunications Relay Service Surcharge		\$892.0	\$892.0	\$892.0	\$892.0	Recurring	Telecommunications Access Fund
Telecommunications Relay Service Surcharge		\$3,570.0	\$3,570.0	\$3,570.0	\$3,570.0	Recurring	988 Lifeline Fund
Telecommunications Relay Service Surcharge		\$138.0	\$138.0	\$138.0	\$138.0	Recurring	TRD Operational Fund
Inspection and Supervision Fee		\$2,684.0	\$3,551.0	\$4,412.0	\$5,251.0	Recurring	Utility Oversight Fund
911 Surcharge		\$13,400.0	\$13,600.0	\$13,900.0	\$14,200.0	Recurring	911 Emergency Service Fund

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

Relates to Senate Bills 137, 143, 264 and 372. Relates to a transfer in the General Appropriation Act

Sources of Information

LFC Files

Agency Analysis on Related Legislation Received From
 Workers' Compensation Administration
 Commissioner for Deaf and Hard of Hearing Persons

Because of the short timeframe between the adoption of this substitute and its amendment and its subsequent hearing, LFC has yet to receive analysis from agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of HAFC Amendment to for Senate Bill 535

The House Appropriations and Finance Committee amendment to the Senate Finance Committee substitute for Senate Bill 535 (SB535) increases the Public Regulation Commission (PRC) inspection and supervision fee, charged to the utilities it supervises, from 0.506 percent to 0.59 percent of gross receipts, and creates an automatic annual increase based on a cost index. The amendment also gives PRC the authority to increase administrative hearing fees through rulemaking in amounts that do not exceed the cost of administrative proceedings.

The amendment also adds an increase in the 911 emergency surcharge billed to each customer line with a telecommunications provider, essentially doubling it from 51 cents a line to \$1 a line.

Synopsis of SFC Substitute for Senate Bill 535

The Senate Finance Committee substitute for Senate Bill 535 increases workers' compensation fees and the telecommunications relay service surcharge, creates a nonreverting fund to support the 988 crisis intervention hotline, and diverts most of the telecommunications relay service surcharge to the new fund.

The bill increases the quarterly employer payroll contributions and employee payroll deductions deposited into the workers' compensation administration fund starting in July 2025 and raises them to higher set amounts in 2028 and 2033.

SB535 also raises the telecommunications relay service surcharge, a tax on customer charges for intrastate telephone services, from 0.33 percent to 1.66 percent. The bill diverts 80 percent of the surcharge revenue to a newly created fund to support the 988 Lifeline, a hotline for emotional, mental, or substance use support and crisis intervention. The revenue in the fund is currently used to support telecommunication services for the deaf and hard of hearing, with the Commission for Deaf and Hard-of-Hearing Persons authorized to draw 10 percent of the annual deposits into the fund each year for administration. The bill would authorize the commission to draw 100 percent of the deposits.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

Workers' Compensation Assessments. The bill increases the quarterly employer payroll contributions and employee payroll deductions deposited into the workers' compensation administration fund by 11.6 percent over current rates starting in FY26, by 17.7 percent starting in FY29, and by 23.2 percent in FY34. The revenue table reflects those percentage increases over the current revenue of \$12.75 million without consideration of the workforce growing or shrinking.

Telecommunications Relay Service Surcharge. The Commission for Deaf and Hard-of-Hearing Persons reports the increase to the surcharge would put total revenue at about \$5.6 million, or about \$4.6 million more than the tax generates now. The Taxation and Revenue

Department, which collects the surcharge revenue, is authorized to set aside 3 percent for administration, or about \$138 thousand. Of the remaining about \$4.5 million, about \$3.6 million would be deposited in the 988 Lifeline fund and \$892 thousand would be deposited into the telecommunications access fund. The commission contends being able to draw 100 percent of the deposits for administration would not meaningfully increase the amount available to the agency but would deplete the fund more quickly.

The revenue generated by the telecommunications relay service surcharge has steadily declined partly due to, according to the commission, a 40 percent drop in the price of unlimited cell phone plans since 2010. If that decline continues, the revenue generated by the surcharge will also decline. The amounts estimated in the revenue table do not reflect that potential loss.

This bill creates a new fund and provides for recurring distributions to the fund from an existing, although increased, revenue source. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

PRC Inspection and Supervision Fee and Administrative Fee. PRC, in analysis for Senate Bill 143, which would create the same increase as in SB535 as amended by HAFC, sets the increase in revenue that would be generated by the increased inspection and supervision fee at about 16.4 percent. Based on projected revenue for FY26 and with the annual increase allowed under SB535—the employment cost index for state and local government published by the federal Bureau of Labor Statistics—LFC projects fee revenue would grow by \$5.83 million by FY29.

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

The HAFC amendment to SB535 addresses a timing issue raised in the fiscal impact report for SB143 that could have meant no fees would be collected for FY26, creating the need to draw on the general fund.

While SB535 as amended would also allow PRC to increase certain administrative fees by rule, those fees are not expected to increase significantly or generate significant revenue.

911 Emergency Surcharge. Current distributions to the enhanced 911 fund were used to calculate the revenue gain from the proposed increase in the surcharge from 51 cents to \$1 per line per month. The historical growth rate of these distributions was employed to grow the fiscal impact.

SIGNIFICANT ISSUES

Workers' Compensation Assessments. The base assessment for workers' compensation has not increased since it was first established in 1993. Revenue from the \$4.30 per employee per quarter assessment is used to operate the Workers' Compensation Administration (WCA) and consists of a \$2.30 employer contribution matched with a \$2 employee payroll deduction. While total employment in New Mexico in FY24 was 4 percent higher than prepandemic FY19 levels, revenue into WCA has remained relatively flat.

Revenue was \$13.83 million in FY19, \$13.91 million in FY24, and is projected at \$13.94 million for FY26. The House Appropriations and Finance Committee substitute for House Bills 2 and 3 (the General Appropriation Act) supplements the revenue from the assessment with \$1 million from the balance in the workers' compensation administration fund, thereby using nonrecurring funding for a recurring cost. The expected depletion of the fund means the Workers' Compensation Administration will be unable to maintain current spending levels without additional revenue. The substitute for House Bills 2 and 3 includes a one-time transfer of \$6 million from the general fund into the workers' compensation fund, enough to sustain the department through FY29.

WCA reports increases proposed in Senate Bill 264, the same as those proposed in SB535, are based on agency projections:

Research was conducted to anticipate the impact on raising the fee on micro, small, medium, and large New Mexico businesses. The monetary values provided in SB264 are incremental in nature, staggered over a number of years, and permit the WCA to sustain operational needs through at least FY34, at which time the issue can be reviewed by the Legislature. The incremental raises outlined in SB264 will not require the Legislature to review WCA funding until FY 2036.

Telecommunications Relay Surcharge. The Commission for Deaf and Hard of Hearing Persons reports the revenue collected from the telecommunications surcharge dropped from \$4 million in FY11 to \$1 million in FY24, and the agency has had to rely on transfers from balances in the fund and general fund appropriations for its operations budget. The agency received about \$1.2 million in surcharge revenues for FY25, supplemented with \$1.7 million from the general fund about \$400 thousand in balance transfers. The commission notes the surcharge was intended to fully support the commission when the commission was created in 1991.

In addition, the \$3.6 million that HB535 would raise for the 988 Lifeline fund might be insufficient for the program. The crisis line was among those launched nationwide in 2023 with federal funds with the expectation states would assume the costs after the first year. The program was supported in FY25 with a \$6 million appropriation in the General Appropriation Act. The commission notes revenue for the 988 Lifeline fund is also at risk of declining if the revenue generated by the telecommunications relay service surcharge continues to decline.

As an alternative to increasing the percentage of the surcharge, the commission supports changing the fee to a set amount of 51 cents per telecommunications services bill. That approach raises about \$13 million a year for the 911 emergency services fund.

PRC Inspection and Supervision Fee. 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. PRC, in analysis for SB143, states the increase in the inspection and supervision fee would allow the agency to rely on regulatory fees instead of general fund appropriations. PRC suggests its FY27 budget could predominantly consist of other state funds—in other words, from revenue collected in the utility oversight fund.

However, the index used to increase the fees annually in SB535 is problematic. SB535 as amended would allow 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 published by the federal Bureau of Labor Statistics. That index fluctuates significantly—increasing as much as 67 percent in some years and decreasing by 25.2 percent in other years—and other, more stable, indices might be more appropriate.

911 Emergency Surcharge. The original Enhanced 911 Act was passed and implemented in 1989. The assessment has not increased in the ensuing 35 years, despite the overwhelming technological improvements in smart-phone technology. The Taxation and Revenue Department (TRD), in analysis of SB137, which includes an identical increase in the surcharge, reports:

The bill enhances statewide emergency communications capabilities by increasing the 911 emergency surcharge, which has not been updated for inflation since 1989. Compared to states with similar populations like Utah and Nevada, New Mexico currently charges a lower fee for emergency communications, although the proposal would place New Mexico above these states.¹ Adopting new technologies for emergency communications requires significant investments in infrastructure updates and changes in maintenance and operation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB535 duplicates a section of Senate Bill 264, which raised the workers’ compensation fees along with hunting and fishing license fees and environmental services fees. The bill conflicts with Senate Bill 372, which also raises the telecommunication relay services surcharge but at a fixed rate per transaction rather than a percentage. HB535 also relates to a one-time transfer of \$6 million from the general fund to the workers’ compensation administration fund in the General Appropriation Act as passed by the House and Senate.

The bill also relates to SB143, which creates an identical increase in the PRC’s inspection and supervision fee, and SB137, which increases 911 emergency surcharge to \$1 per line.

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¹ <https://www.fcc.gov/sites/default/files/15th-annual-911-fee-report-2023.pdf>, Nevada currently has fees between \$0.75 -\$1.00; Utah is at \$0.96.