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## FISCAL IMPACT REPORT

SPONSOR	<u>Lovejoy</u>	ORIGINAL DATE	<u>2-24-09</u>	HB	<u></u>
		LAST UPDATED	<u></u>		
SHORT TITLE	<u>PRC Public Resource Use Procedures</u>	SJM	<u>37</u>		
		ANALYST	<u>Lucero</u>		

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of Bill

Senate Joint Memorial 37 requests that the Public Regulation Commission (PRC) develop and adopt administrative operating procedures to ensure accountability, consistency and the efficient and effective use of public resources. The procedures should clearly specify the responsibility for hiring, firing and supervising staff; the coordination of activities between division, offices and bureaus; and the conduct of meetings.

The bill asks that the PRC commissioners consider the structure and accountability measures undertaken by the Public Education Commission as model for the procedures.

### FISCAL IMPLICATIONS

The PRC acknowledges that there is no fiscal impact to the department, as the request can be accommodated with existing staff.

### SIGNIFICANT ISSUES

The PRC provides that:

The PRC presently already has in place extensive internal procedures and policies which comply with the directive of this Joint Memorial. The Commission follows all State Personnel Board Rules and Regulations, as authorized and stated in NMSA 1978 §§10-9-1 through 10-9-25, is a party to and is a full good faith participant in an AFSCME union Collective Bargaining Agreement. The Commission complies with all pertinent State and Federal statutes and regulations regarding supervision, hiring and firing of personnel.

In addition, the Commission holds meeting at least twice each week regarding administration of Commission business, and the Commission Chief of Staff holds monthly meetings of

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Division Directors to supervise the efficient execution of Commission responsibilities. Status reports are also communicated to the Commissioners as needed. Business meetings are conducted each Wednesday.

The Commission Chief of Staff is charged by statute to supervise and administer all day-to-day activity of the Commission. See NMSA §8-8-5. Pursuant to this statutory authority the Chief of Staff is "...responsible for the day-to-day operations of the commission staff under the general direction of the commission."

The Commission is bound by and complies with the provisions of the Open Meeting Act, NMSA 1978 §10-15-1 *et seq.*

The Commission follows the Governor's policy regarding exempt employees.

The Joint Memorial directs the PRC to "consider" the procedures adopted for similar purposes by the "Public Education Commission". The PEC is not an analogous organization to the PRC, and performs very different functions. Per information directly from the Public Information Officer for the Public Education Commission, the PEC is a group of advisors to the Secretary of the New Mexico Public Education Department. This group has no staff and performs no administrative functions. By statute (NMSA § 22-2-2.2) it is authorized only to provide advice to the Cabinet Secretary, to create and revise a five-year strategic plan for elementary and secondary public education in the State, to develop guidelines for training of local school boards, and to pass along concerns about policy and governance to the secretary. It does not hire or terminate any personnel, has no responsibility concerning supervision or administration of personnel, is not involved in execution or supervision of administration of NMPED business. The PEC has no authority or responsibility to "ensure accountability, consistency and efficient and effective use of public resources."

The Public Education Commission does have some general policy guidelines. These relate solely to the structure of the PEC and conduct of its meetings. They do not in any way relate to the policy concerns identified in the Joint Memorial. They do not in any way provide guidance as to administration of a governmental agency or policy as to supervision of employees.

The role, duties and relationship of the PEC to the NM Public Education Department are very different from the role of the Public Regulation Commission in relation to the conduct of business of the PRC as a whole. The role of the PEC is specifically and exclusively advisory, whereas the Commission is directly charged by statute with the full administration of its agency. NMSA 1978 §8-8-4A. The Commission may delegate authority, §8-8-4B(2), but may not abdicate it, nor may its lawful jurisdiction, responsibilities and duties be altered except by statute.

The direction to "...adopt administrative operating procedures to ensure accountability, consistency and efficient and effective use of public resources." is vague.

Assuming passage, present PRC staff can comply by revising existing policies or drafting new policies as necessary to address identified concerns, and thus no fiscal impact other than diversion from other duties is anticipated. This can be accomplished under 8-8-4