State Corporation Commission
2013 Fiscal Impact Statement

1. **Bill Number:** HB2261

   House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Kilgore

3. **Committee:** Passed House

4. **Title:** Electric utility ratemaking.

5. **Summary:** Electric utility ratemaking. Revises certain incentives and other provisions applicable to investor-owned electric utilities under the 2007 Regulation Act. The measure (i) eliminates the 50 basis point performance incentive that has been available to utilities that attain the renewable energy portfolio standard goals; (ii) replaces the provision that has authorized the State Corporation Commission (SCC) to adopt a performance incentive that may increase or decrease a utility's combined rate of return by up to 100 basis points, based on a comparison of the utility's generating plant performance, customer service, and operating efficiency with nationally recognized standards, with a provision that authorizes the SCC to increase or decrease the utility's combined rate of return consistent with its precedent for incumbent electric utilities prior to the 2007 Regulation Act legislation; (iii) increases the threshold for determining whether the utility's earned combined rate of return on common equity is excessive or insufficient, for test periods commencing after December 31, 2012, for a Dominion (Phase II utility), and for test periods commencing after December 31, 2013 for Appalachian Power (Phase I utility), from 50 basis points above or below the return determined by the SCC to 70 basis points above or below such return; (iv) eliminates the provision that requires the SCC, when it determines that rates should be revised or credits applied to customers' bills, to combine a rate adjustment clause previously implemented to recover transmission-related costs with the utility's costs, revenues, and investments until the amounts that are the subject of the rate adjustment clause are fully recovered; (v) eliminates the provision that authorizes the SCC to include in a rate adjustment clause for environmental costs the enhanced rate of return on common equity that is provided for new generation facilities if the environmental costs reduce the need for constructing new generation facilities by enabling the continued operation of existing generation facilities; (vi) requires a utility seeking approval to construct a generating facility to demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process; (vii) eliminates the authorization for a utility to earn an enhanced rate of return on the costs of a new generation facility during the first portion of its service life if the facility does not utilize nuclear power or offshore wind, unless the SCC has approved a rate adjustment clause for the facility by July 1, 2013, or the utility filed a petition therefor on or before January 1, 2013; (viii) reduces the potential enhanced rate of return on the costs of a new generation facility utilizing nuclear power or offshore wind from 100 to 200 basis

points; (ix) requires certain costs related to impairment of generation plants, severe weather events, and natural disasters to be deemed to have been recovered through customer rates during the test period under review unless doing so would place the utility in an under-earning position, in which event the SCC is required to authorize deferred recovery of such costs and allow the utility to amortize and recover the deferred costs over future periods; (x) directs that the fair combined rate of return on common equity determined by the SCC in a biennial rate review shall apply to the entire two successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent biennial review filing for purposes of reviewing the utility's earnings on its rates for generation and distribution services; (xi) delays the filing of a Phase I utility's next biennial review from March 31, 2013, until March 31, 2014 and prohibits such Phase 1 utility from deferring on its books for future recovery certain costs incurred during calendar year 2011, and require subsequent biennial filings be made by March 31, 2016, and every two years thereafter; (xii) provides that if a Phase 1 utility's combined rate of return on common equity earned by generation and distribution services for the two successive 12-month test periods ending December 31, 2013, is no more than 50 basis points above or below the return determined for this utility, the combined return shall not be considered either excessive or insufficient, respectively; and (xiii) provides that for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I utility, if the utility has, during the test period or periods under review, earned below the return determined for the utility, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the State Corporation Commission for approval of an increase in rates as if it had earned more than 70 basis points below a fair combined rate of return. The bill states that an emergency exists and that the bill is in force from its passage.

6. **Budget Amendment Necessary**: No.

7. **Fiscal Impact Estimates:** No fiscal impact on the State Corporation Commission

8. **Fiscal Implications:** None on the State Corporation Commission

9. **Specific Agency or Political Subdivisions Affected:** State Corporation Commission

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** There is an emergency clause on this bill.

Date: 1/28/2013 SDL