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## FISCAL IMPACT REPORT

SPONSOR Sanchez, B ORIGINAL DATE 02/06/08  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Commission on Uniform Legislation Duties SB 535  
ANALYST Hanika-Ortiz

### APPROPRIATION (dollars in thousands)

| Appropriation |      | Recurring<br>or Non-Rec | Fund<br>Affected |
|---------------|------|-------------------------|------------------|
| FY08          | FY09 |                         |                  |
| \$150.0       |      | Non-recurring           | General Fund     |

(Parenthesis ( ) Indicate Expenditure Decreases)

SB 535 relates to SB 57, SB 528, SJR 5, SJR 7, HB 310, HB 614 and HJR 12

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Commission of Public Records (CPR)  
NM Environment Department (NMED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 535 amends an Act relating to the Commission for the Promotion of Uniform Legislation in the United States. The amendment adds the director of the administrative law division from State Records to the NCCUSL. The bill requires the NCCUSL members to study and make recommendations regarding administrative procedures and related legislation in which it would be desirable to be in uniformity with other States; requires annual reports to the Legislature by November 1 of each year; and, appropriates \$150 thousand from the General Fund to the Legislative Council Service in FY08 and FY09 to facilitate the review of administrative procedures in the State.

SB 535 has an emergency clause for its effective date.

### FISCAL IMPLICATIONS

The appropriation of \$150 thousand contained in this bill is a non-recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of FY09 shall revert to the General Fund.

There could be significant performance implications if administrative procedural changes were made based upon Commission findings. Such changes would entail training and additional public outreach, which could all affect the performance of Department employees. Alternatively, it is possible that revisions to administrative procedures could make Department employee performance smoother and more efficient.

### **SIGNIFICANT ISSUES**

SB 535 will add another representative for New Mexico at NCCUSL and will require the review of regulatory processes in the state.

In order to pass an effective Administrative Procedures Act, the Commission for the Promotion of Uniformity of Legislation in the United States will need to study the current processes used by agencies in their administrative procedures. Agencies have a considerable knowledge base pertaining to the current administrative procedures and the efficiency of the current operating processes. The Commission could then use that knowledge as it considered a model administrative procedures act and related legislation.

### **PERFORMANCE IMPLICATIONS**

The current director of the administrative law division could not serve, given the requirements that state-appointed commissioners be attorneys (see technical issues).

### **ADMINISTRATIVE IMPLICATIONS**

SB 535 requires a report on or before November 1 of each year on the efforts performed by the NCCUSL members. This may cause administrative difficulty as NCCUSL has been holding drafting meetings on the Model State Administrative Procedure Act during November. CPR suggests requiring the report to be due in December so the latest news from NCCUSL could be included.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB 535 relates to SB 57, SB 528, SJR 5, SJR 7, HB 310, HB 614 and HJR 12

### **TECHNICAL ISSUES**

SB 535 will appoint the director of the administrative law division to NCCUSL. The CPR believes this will be problematic as NCCUSL requires its members to be attorneys and the director is not an attorney nor does the CPR have an attorney on staff.

The CPR provides the following entry taken from the NCCUSL website concerning qualifications for state-appointed commissioners.

*The National Conference of Commissioners on Uniform State Laws (NCCUSL), now 116 years old, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of the law. NCCUSL's work supports the federal system and facilitates the movement of individuals and the business of organizations with rules that are consistent from state to state.*

*Uniform Law Commissioners must be lawyers, qualified to practice law. They are lawyer-legislators, attorneys in private practice, state and federal judges, law professors, and legislative staff attorneys, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas where uniformity is desirable and practical.*

CPR further provides that should the attorney requirement not be applicable, the agency would prefer the member be the **State Records Administrator or the Administrator's designee**. It would likely be the intent of the current Administrator to designate the current director of the administrative law division because he has been active in the development of a new model administrative procedures act. However, should there be turnover in that position, it could be that the next person hired as the division director may not be as knowledgeable in that area. Further, the Administrator has the authority to reorganize the agency and, although not anticipated now, the administrative law division could be combined, renamed, etc. If the member is the State Records Administrator, she would have the flexibility to serve herself or appoint the most knowledgeable employee.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The consequences of not enacting this bill will be that the current administrative procedures will not be analyzed outside of internal agency analyses.

#### **AMENDMENTS**

Pg 3, Section 3, line 11 replace “November” with “December”

AHO/bb