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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/09/09

SPONSOR M. H. Garcia LAST UPDATED \_\_\_\_\_ HB 570

SHORT TITLE Create Economic and Rural Development Committee SB \_\_\_\_\_

ANALYST Hoffmann

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non- Rec	Fund Affected
<b>Total</b>		Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Energy, Minerals and Natural Resources Department (ENMRD)

#### No Response

Economic Development Department (EDD)

### SUMMARY

#### Synopsis of Bill

House Bill 570 would create in statute a new joint interim committee of the Legislature known as the "Economic and Rural Development Committee." The committee would be comprised of 16 members, appointed by the New Mexico legislative council, with eight coming from the Senate and eight from the House of Representatives. The Council will also be responsible for designating a chair and vice chair, and appointments to the committee will be made so as to give the two political parties in each house the same proportionate representation on the committee as that prevailing in each of the legislative houses. Committee members may be removed for

nonattendance pursuant to legislative council policy. Committee vacancies may be filled by the legislative council; however, the council would not be required to re-fill such vacancies if the council opts to reduce the overall size of the committee. In such cases there is no requirement to readjust party representation.

The purpose of the committee is to “conduct a continuing study of the programs, agencies, policies, issues and needs of the state relating to economic and rural development,” including studying the impact of rules and administrative procedures. The committee will report its findings and recommendations for legislation on an annual basis.

Additionally, a permanent subcommittee is to be created from “the members and advisors” of the committee, via appointment by the committee chair. The task of the subcommittee is to review and examine rules regarding economic and rural development impacts, and to evaluate the model Administrative Procedures Act regarding the same. The subcommittee is to be composed of at least one member from each house, with at least one member of the minority party on the subcommittee.

## **FISCAL IMPLICATIONS**

House Bill 570 makes no appropriations.

The ENMRD states that it does not anticipate that this legislation will have a significant fiscal impact on state agencies. Potential impact exists where the committee/subcommittee calls upon an agency to produce information, witnesses or the like in the course of it performing the specified tasks. Potential fiscal impact for the legislature, generally, exists relating to conducting meetings, acquiring information, and the possibility of consulting with experts.

## **SIGNIFICANT ISSUES**

The Economic and Rural Development Committee currently exists as an interim committee of the New Mexico Legislature, with 30 members.

The ENMRD shared the following concerns about House Bill 570.

The permanent “administrative procedures subcommittee” that is created under Section 3(A) is tasked with the important job of reviewing, examining and evaluating existing rules as well as the model Administrative Procedures Act in the context of the impact on economic and rural development of New Mexico. However, unlike the standard way in which a committee is formed – solely from the membership of the committee to which it relates – the members of this subcommittee are to be selected from “among the members and advisors of the economic and rural development committee.” The inclusion of “and advisors” in this language allows for the inclusion of subcommittee members who are not committee members, and potentially not even legislators. There is a structured way in which legislators participate in the legislative process, with the designation of and appointment of legislators to various committees. The proposed language of this section would permit the appointment of legislators not originally appointed to the economic and rural development committee to be appointed to its subcommittee, thus disrupting the established structure and process that is in place.

Moreover, of great significance is the fact that this language creates the option for appointment

of non-legislators to the subcommittee. The legislative process in New Mexico is dictated by Article IV of the New Mexico Constitution, which provides that lawmakers are elected by the people of the state, and that those lawmakers are then the individuals tasked with making determinations as to changes and additions to the laws of this state. To allow non-elected, non-legislators to participate in the lawmaking process would be contrary to Section IV of the Constitution.

The proposed Section does include language requiring that at least one member must be from the Senate and one from the House of Representatives and that at least one member of the minority party must be included on the subcommittee. However, this provision is inadequate for purposes of maintaining any sort of balance within the subcommittee (either between parties or between houses of the legislature) where other subcommittee members can be selected from amongst committee “advisors” and need not be members of the committee, or even elected lawmakers.

Additionally because the focus of the committee is on economic and rural development the committee may not be balanced. For example, environmental concerns may not be fully considered if the intent of the committee is to spur development. As quality evaluation of administrative procedures should include a balancing of interests, not just a pro-development bias or vice versa.

### **TECHNICAL ISSUES**

The ENMRD raised the question of who the “advisors” of the Economic and Rural Development Committee are, and suggested that the term be deleted for clarity.

CH/mt/mc