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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/14  
 SPONSOR HAGC LAST UPDATED 02/10/14 HB 165/HAGCS  
 SHORT TITLE Irrigation District Roadway Tort Liability SB \_\_\_\_\_  
 ANALYST Jorgensen

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

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General’s Office (AGO)

Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of Bill

The House Agriculture and Water Resources Committee substitute for House Bill 165 amends Section 41-4-11 NMSA 1978 of the Tort Claims Act to exclude irrigation and conservancy districts, and their public employees, from the waiver of sovereign immunity in Section 41-4-4 of the Act, under certain circumstances. A district that authorizes a part of its property for use as a public roadway, and the district’s employees, would continue to be protected by sovereign immunity, provided that the roadway is operated and maintained by a state agency or local public body pursuant to a written agreement with the district, and provided further that the state agency or local public body is otherwise subject to liability under the Tort Claims Act.

### FISCAL IMPLICATIONS

No fiscal impacts were identified.

### SIGNIFICANT ISSUES

The AGO raises the question why under similar circumstances other special districts created by law are not specifically excluded from the waiver of immunity in the same manner irrigation and conservancy districts are excluded for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of their employees while acting within the scope of their duties.

**DUPLICATION**

The provisions of this bill duplicate Senate Bill 100.

CJ/jl:ds:svb