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FISCAL IMPACT REPORT

ORIGINAL DATE 3/9/19

SPONSOR SCONC LAST UPDATED _____ HB _____

SHORT TITLE Tort Claim Maximum Liability SB CS643/SCONCS

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$7,500	\$7,500	\$15,000	Recurring	GSD Operating
		\$3,000	\$3,000	\$6,000	Recurring	School District Operating

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
General Services Department (GSD)

SUMMARY

Synopsis of Bill

The Senate Conservation Committee Substitute for Senate Bill seeks to increase the maximum liability for the Torts Claim Act in certain circumstances from \$750 thousand to \$2 million. The increase in liability would be applicable to real property damage and any other loss not related to real property or medically related expenses arising out of a single occurrence. The type of liability at issue arises from bodily injury, wrongful death, or property damage caused by the negligence of any public employee acting within the scope of their duties.

FISCAL IMPLICATIONS

Increasing the threshold from \$750 thousand to \$2 million has the potential to increase state expenditures related to tort claims by 267 percent.

The New Mexico Public Schools Insurance Authority (NMPSIA) estimates the changes contained in SB643 may result in the risk management program needing to increase premiums assessed to school districts by 5 percent to raise an additional \$3 million to cover the added

liability.

The General Services Department (GSD) estimates an increased liability of \$7.5 million based on an average of 12 claims settled at the cap. Such an increase in exposure will likely require raising of rates that all agencies pay in premiums to the risk management division each fiscal year.

SIGNIFICANT ISSUES

NMPSIA notes that, because the majority of large claims are filed in federal court,

The claims that would be encompassed by any expanded tort cap limits would involve premises liability matters-those situations where a third party is injured or suffers property damage as a result of inadequate maintenance or some other defect in the premises themselves that would cause an accident resulting in property damage or injury.

Also involved would be automobile liability coverages that would involve school owned and operated vehicles. NMPSIA has had large bus accident claims which resulted in payments of that met the tort cap limits.

A new large exposure for NMPSIA will be weapon related claims. Some school districts have already opted to hire employees and are carrying firearms and we expect more school districts will follow.

GSD notes increased caps/exposure can serve as a deterrent to bad behavior at state agencies, but it can also induce future litigation and, by association, litigation costs.

In addition to costs to the state, local governments will also face increased costs resulting from this legislation.

CJ/sb