

1 SENATE BILL 540

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 Mary Kay Papen

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10 AN ACT

11 RELATING TO TORT CLAIMS; PROVIDING COVERAGE FOR MEMBERS OF  
12 COUNTY VALUATION PROTESTS BOARDS; AMENDING A SECTION OF THE  
13 TORT CLAIMS ACT; DECLARING AN EMERGENCY.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 Section 1. Section 41-4-3 NMSA 1978 (being Laws 1976,  
17 Chapter 58, Section 3, as amended) is amended to read:

18 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

19 A. "board" means the risk management advisory  
20 board;

21 B. "governmental entity" means the state or any  
22 local public body as defined in Subsections C and H of this  
23 section;

24 C. "local public body" means all political  
25 subdivisions of the state and their agencies, instrumentalities

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1 and institutions and all water and natural gas associations  
2 organized pursuant to Chapter 3, Article 28 NMSA 1978;

3 D. "law enforcement officer" means a full-time  
4 salaried public employee of a governmental entity whose  
5 principal duties under law are to hold in custody any person  
6 accused of a criminal offense, to maintain public order or to  
7 make arrests for crimes, or members of the national guard when  
8 called to active duty by the governor;

9 E. "maintenance" does not include:

10 (1) conduct involved in the issuance of a  
11 permit, driver's license or other official authorization to use  
12 the roads or highways of the state in a particular manner; or

13 (2) an activity or event relating to a public  
14 building or public housing project that was not foreseeable;

15 F. "public employee" means an officer, employee or  
16 servant of a governmental entity, excluding independent  
17 contractors except for individuals defined in Paragraphs (7),  
18 (8), (10), [~~and~~] (14) and (16) of this subsection, or of a  
19 corporation organized pursuant to the Educational Assistance  
20 Act, the Small Business Investment Act or the Mortgage Finance  
21 Authority Act and including:

22 (1) elected or appointed officials;

23 (2) law enforcement officers;

24 (3) persons acting on behalf or in service of  
25 a governmental entity in any official capacity, whether with or

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1 without compensation;

2 (4) licensed foster parents providing care for  
3 children in the custody of the human services department,  
4 corrections department or department of health, but not  
5 including foster parents certified by a licensed child  
6 placement agency;

7 (5) members of state or local selection panels  
8 established pursuant to the Adult Community Corrections Act;

9 (6) members of state or local selection panels  
10 established pursuant to the Juvenile Community Corrections Act;

11 (7) licensed medical, psychological or dental  
12 arts practitioners providing services to the corrections  
13 department pursuant to contract;

14 (8) members of the board of directors of the  
15 New Mexico medical insurance pool;

16 (9) individuals who are members of medical  
17 review boards, committees or panels established by the  
18 educational retirement board or the retirement board of the  
19 public employees retirement association;

20 (10) licensed medical, psychological or dental  
21 arts practitioners providing services to the children, youth  
22 and families department pursuant to contract;

23 (11) members of the board of directors of the  
24 New Mexico educational assistance foundation;

25 (12) members of the board of directors of the

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1 New Mexico student loan guarantee corporation;  
2 (13) members of the New Mexico mortgage  
3 finance authority;  
4 (14) volunteers, employees and board members  
5 of court-appointed special advocate programs; ~~and~~  
6 (15) members of the board of directors of the  
7 small business investment corporation; and  
8 (16) members of county valuation protests  
9 boards;

10 G. "scope of duty" means performing any duties that  
11 a public employee is requested, required or authorized to  
12 perform by the governmental entity, regardless of the time and  
13 place of performance; and

14 H. "state" or "state agency" means the state of New  
15 Mexico or any of its branches, agencies, departments,  
16 boards, instrumentalities or institutions."

17 Section 2. EMERGENCY.--It is necessary for the public  
18 peace, health and safety that this act take effect immediately.