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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 165

SHORT TITLE: Payment Of Certain IRB Special Assessments

SPONSOR: Serrato/Dixon

LAST ORIGINAL
UPDATE: _____ **DATE:** 1/30/25 **ANALYST:** Torres

REVENUE*
(dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
Property Tax Assessments		No fiscal impact				Nonrecurring	Local Governments

Parentheses indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

New Mexico Attorney General

Economic Development Department

State Ethics Commission

SUMMARY

Synopsis of House Bill 165

House Bill 165 (HB165) amends the Improvement Special Assessment Act to clarify that special assessments imposed under the act must be paid by the property owner, or by the lessee when the property is subject to an industrial revenue bond (IRB) lease. The bill makes conforming changes to statutory definitions and enforcement provisions to ensure that lessees under IRB leases are explicitly responsible for payment of special assessments associated with eligible improvements.

Specifically, the bill amends Section 4-55D-2 NMSA 1978 to add property interests held by a lessee under eligible properties for special assessment improvements. The bill amends Section 4-55D-5 NMSA 1978 to explicitly state that a special assessment shall be paid by the lessee when property is under an IRB lease, and that under no circumstances shall a local government be responsible for payment of a special assessment. The bill also clarifies that counties and municipalities do not pledge their credit or assume liability for special assessment financing and reinforces existing immunity provisions.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

House Bill 165 has no direct fiscal impact on the general fund or state revenues. The bill does not impose new taxes, create new credits or exemptions, or authorize state expenditures.

At the local government level, the bill may have indirect fiscal implications by allowing properties under an IRB to access special assessment improvements. These assessments are used as a financing mechanism called Commercial Property Assessed Clean Energy (C-PACE) financing. C-PACE is a financing mechanism enabling owners of commercial, industrial, and multifamily properties to secure low-cost, long-term funding for energy efficiency, water conservation, and renewable energy upgrades. It provides up to 100 percent of project costs—often 20 percent to 35 percent of total development costs—repaid through a voluntary property tax assessment over 20-30 years. As a local assessment, there may be some additional, but de minimis administrative costs for local governments to administer another transaction.

Since properties under an IRB do not have a property tax assessment, the bill clarifies that the voluntary payment can be made by the lessee for the purpose of the improvements and allows IRB properties to engage with the C-PACE funding mechanism.

The strong protections included in the bill ensure IRB lessees—not counties or municipalities—are responsible for special assessments, and the bill reduces the risk that local governments could be exposed to payment obligations or collection shortfalls.

By expanding the pool of eligible candidates for C-PACE funding, the bill may improve the credit quality and enforceability of special assessment liens on IRB-developed property, lowering financing costs for development of such properties. To the extent this facilitates additional private financing of energy, water conservation, or resiliency improvements, there could be secondary economic activity with associated gross receipts tax and employment impacts from increased development activity.

SIGNIFICANT ISSUES

HB165 addresses a structural ambiguity that arises when publicly owned property subject to an IRB lease would like to participate in a special assessment financing program. Under IRB arrangements, legal title is held by a county or municipality, while the private lessee enjoys beneficial use and economic control. Without statutory clarification, this structure prevents IRB lessees from accessing certain financing mechanisms. This bill would allow lessees to access special assessment improvement financing such as C-PACE financing, as described in the fiscal implications section above. The bill also ensures clarity that a local government could not be deemed responsible for assessment payments.

By explicitly assigning responsibility to the lessee, the bill:

- aligns payment obligations with the party receiving the economic benefit of the improvements;
- reinforces the principle that IRBs should not expose local governments to financial

liability beyond their intended role; and

- reduces legal and financial risk to counties and municipalities participating in improvement special assessment programs.

The clarification may also increase participation by IRB lessees in special assessment programs by providing certainty to capital providers that assessments are enforceable against the appropriate obligor.

IT/dw/sgs