

1 AN ACT

2 RELATING TO TORTS; PROVIDING EXCLUSION FROM THE WAIVER OF
3 IMMUNITY FOR IRRIGATION AND CONSERVANCY DISTRICTS THAT
4 AUTHORIZE ANY PART OF THEIR PROPERTY TO BE USED AS PART OF
5 TRAILS WITHIN A STATE PARK, THE STATE TRAILS SYSTEM OR A
6 LOCAL PUBLIC TRAIL.

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

9 Section 1. Section 41-4-6 NMSA 1978 (being Laws 1976,
10 Chapter 58, Section 6, as amended) is amended to read:

11 "41-4-6. LIABILITY--BUILDINGS, PUBLIC PARKS, MACHINERY,
12 EQUIPMENT AND FURNISHINGS.--

13 A. The immunity granted pursuant to Subsection A
14 of Section 41-4-4 NMSA 1978 does not apply to liability for
15 damages resulting from bodily injury, wrongful death or
16 property damage caused by the negligence of public employees
17 while acting within the scope of their duties in the
18 operation or maintenance of any building, public park,
19 machinery, equipment or furnishings.

20 B. Nothing in this section shall be construed as
21 granting waiver of immunity for any damages arising out of
22 the operation or maintenance of works used for diversion or
23 storage of water.

24 C. All irrigation and conservancy districts and
25 their public employees acting lawfully and within the scope

1 of their duties that authorize any part of their property to
2 be used as part of trails within a state park, the state
3 trails system or a trail established and managed by a local
4 public body are excluded from the waiver of immunity under
5 Subsection A of this section for damages arising out of the
6 operation or maintenance of such trails if the irrigation or
7 conservancy district has entered into a written agreement
8 with the state agency or local public body operating or
9 maintaining the trail and that state agency or local public
10 body has agreed to assume the operation and maintenance of
11 that portion of the district's property used for the trail;
12 the state agency or local public body operating or
13 maintaining the trail shall be subject to liability as
14 provided in the Tort Claims Act." _____

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