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## FISCAL IMPACT REPORT

SPONSOR Park DATE TYPED 2/15/04 HB 339/aHJC  
 SHORT TITLE Tort Claims Post-Judgment Interest SB \_\_\_\_\_  
 ANALYST Maloy

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |      | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|------|----------------------|---------------|
| FY04                    | FY05 | FY04                        | FY05 |                      |               |
|                         | NFI  |                             | NFI  |                      |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Offices of the Courts  
 The Department of Transportation

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 339 strikes that portion of the new provision requiring the interest be compounded daily.

#### Synopsis of Original Bill

The bill amends Section 41-4-19 of the Tort Claims Act (“TCA”) to all post-judgment interest at the rate of two percent over the prime rate on judgments in tort lawsuits brought under the TCA against governmental entities or public employees.

#### Significant Issues:

#### **The Department of Transportation notes:**

- Post-judgment interest is currently not provided under the TCA. Furthermore, NMSA 1978, Section 56-8-4(D), prohibits the award of post-judgment interest against the state and its political subdivisions unless it is provided by statute or common law. Construing Sections 41-4-19 and Section 56-8-4(D) together, the New Mexico Supreme Court has ruled that the award of post-judgment interest is prohibited under the TCA. Trujillo v.

City of Albuquerque, 1998-NMSC-031, 125 N.M. 721. This bill will change existing law and allow plaintiffs to collect post-judgment interest against governmental entities and public employees.

**The Administrative Office of the Courts notes:**

- This bill allows interest to be added to a judgment under the Tort Claims Act until the judgment is paid. The bill requires computing the interest rate daily. The bill does not state who will calculate the interest

**FISCAL IMPLICATIONS**

This bill does not contain an appropriation.

**The Department of Transportation states:**

- The bill amends Section 41-4-19 of the Tort Claims Act (“TCA”) by allowing post-judgment interest at the rate of two percent over the prime rate on judgments in tort lawsuits brought under the TCA against governmental entities or public employees.

**SJM/yr**