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## FISCAL IMPACT REPORT

SPONSOR: Larranaga DATE TYPED: 2/4/01 HB 196  
 SHORT TITLE: Vehicle Insurance Personal Responsibility Act SB \_\_\_\_\_  
 ANALYST: Rael

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
No Fiscal Impact					

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates: SB 60  
 Relates to: HB 197

### SOURCES OF INFORMATION

Public Regulatory Commission (PRC)  
 Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

The Vehicle Insurance Personal Responsibility Act would preclude an individual’s recovery from an auto accident that was not his or her fault under the following circumstances:

1. the injured person was convicted of DWI at the time of the accident,
2. the injured person fails to produce proof of financial responsibility,
3. the injured person was operating a vehicle and was in violation of the Mandatory Financial Responsibility Act,
4. the injured person was operating the vehicle with a suspended or revoked license,
5. the injured person was committing a felony or fleeing the crime scene at the time of the accident.

The bill also precludes recovery of any non-economic (such as diminished quality of life) damages unless the insured acted willfully or wantonly with the exception of the DWI and felony/crime scene circumstances.

Significant Issues

The current motor vehicle insurance system is based on traditional notions of tort law, that is, whoever is at fault in an accident pays damages to any person who suffers injuries as a result of the tortfeasor's negligence in proportion to fault. This Act would preclude recovery under the enumerated circumstances, regardless of the level of fault of the insured driver.

**FISCAL IMPLICATIONS**

No fiscal impact on the state.

**OTHER SUBSTANTIVE ISSUES**

The TRD believes that this bill could lower litigation expenses for insurance companies when the injured driver meets one of the criteria listed because they would be totally precluded from any recovery. The class of people not included in the list may experience decreased insurance rates as a result.

Under current New Mexico tort law, damages for the diminished quality of life or other non-“out-of-pocket” damages are normally awarded when the injured party can prove that he is entitled to them based on a preponderance of the evidence. For example, under the New Mexico Tort Claims Act, 41-4-19 NMSA 1978, and the Medical Malpractice Act, 41-5-6 NMSA 1978, both the state and doctors are required to pay traditional pain and suffering damages. This bill would provide an immunity to insurance companies under the Act that neither the state nor doctors enjoy.

**POSSIBLE QUESTIONS**

Currently, many insurance policies exclude coverage if the injury was the result of an intentional (willful or wanton) act. Would Section 4.B. have the effect of mandating insurance coverage for intentional acts?

FAR/njw