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FISCAL IMPACT REPORT

SPONSOR: Thompson DATE TYPED: 2/14/01 HB 389
 SHORT TITLE: Limiting Action in Tort SB _____
 ANALYST: Rael

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
		See Narrative		

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
 Attorney General's Office (AG)
 Schmitz v. Smentowski, 109 N.M. 386 (1990)

SUMMARY

Synopsis of Bill

The Limiting Action in Tort bill would nullify a 1990 Supreme Court decision which recognized what is known as a Prima Facie Tort. A Prima Facie Tort exists when 1) the defendant acted or failed to act intentionally, 2) the defendant intended or knew with certainty that the act or failure to act would cause harm to the plaintiff, 3) that the act or failure to act caused plaintiff's harm, and 4) that the defendant's conduct was not justifiable under the circumstances.

Significant Issues

The Prima Facie Tort has historically been used to allow a plaintiff to recover for intentionally committed acts that, although otherwise lawful, are committed with the intent to injure.

FISCAL IMPLICATIONS

There is no palpable fiscal impact for this bill.

Personal injury damages that are *other* compensatory damages are generally included in gross income. To the extent that this bill would eliminate a legal remedy for those who would otherwise pursue it, it would decrease potential personal income revenue from that class of individuals.

FAR/njw