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FISCAL IMPACT REPORT

ORIGINAL DATE 2/18/07

SPONSOR Rehm LAST UPDATED _____ HB 961

SHORT TITLE Law Enforcement High Speed Immunity SB _____

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Department of Public Safety (DPS)
 Municipal League

SUMMARY

Synopsis of Bill

House Bill 961 Synopsis: The bill amends Section 41-4-12, NMSA 1978 to extend immunity to law enforcement officers from liability for damages resulting from a high speed pursuit or a roadblock.

The bill defines:

- High speed pursuit is an attempt by a law enforcement officer in an authorized emergency vehicle to apprehend an occupant of a motor vehicle the driver of which is actively attempting to avoid apprehension by exceeding the speed limit
- Roadblock is a temporary installation or set up to control or block traffic along a road for the purpose of apprehending a fleeing suspect

The effective date of the bill is July 1, 2007.

FISCAL IMPLICATIONS

There is fiscal impact.

SIGNIFICANT ISSUES

High speed pursuits while infrequent occur in cases where an individual fails to heed a lawful attempt to stop the person for a legitimate police purpose. Usually, the police officers involved are attempting to stop the individual because they are a suspected DWI or felon subject to arrest.

Some Police Departments, because of fear of lawsuit as a result of an accident occurring as a result of a high speed pursuit have policies in place that prohibit an officer from engaging in such activity. Restraining an officers' ability to apprehend a fleeing suspect may, and often does, place the general public at more risk because the suspect remains at large or continues to drive while intoxicated.

To expose an officer and a governmental entity to liability based on the unlawful acts of a suspect is unfair to the officer and entity. The officer is acting to protect the public when pursuing a suspect or manning a roadblock.

The AGO notes current law waives the state's sovereign immunity for liability for personal injury, bodily injury, wrongful death or property damage resulting from assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, defamation of character, violation of property rights or deprivation of any rights, privileges or immunities secured by the constitution and laws of the United States or New Mexico when caused by law enforcement officers while acting within the scope of their duties. NMSA 41-4-12A. This bill would provide an exception from that waiver for damages caused by high-speed pursuits and roadblocks. The effect would be to prevent persons injured or otherwise damaged by those activities from suing the state or law enforcement personnel involved.

Presumably the immunity would prevent any person suffering injuries or damages during a high-speed pursuit or roadblock from suing the state or its employees, whether they are the fleeing suspect, an innocent third party, or another member of law enforcement, and regardless of the negligence of the officers involved.

DW/mt