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## FISCAL IMPACT REPORT

SPONSOR Stewart DATE TYPED 3/8/05 HB 86/aHBIC

SHORT TITLE Domestic Partner Benefits SB \_\_\_\_\_

ANALYST Rosen

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
NFI	NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB340

### SOURCES OF INFORMATION

Responses Received From

- Attorney General’s Office (AGO)
- Department of Corrections (DOC)
- Retiree Health Care Authority (RHCA)
- Public Regulation Commission (PRC)

### SUMMARY

Synopsis of HBIC Amendment

House Business and Industry Committee amendment to House Bill 86 deletes part of the original bill’s definition of a domestic partner, striking: “A domestic partner is a family member, and domestic partners constitute a family; the dependent child of a domestic partner may be included as a family member at the election of the insured domestic partner; a domestic partner is included in the term "spouse".”

Significant Issues

PRC reports the deleted language was unnecessary.

RHCA reports the amendment should obviate debate on what constitutes a “family” and should limit the bill’s impact to coverage of unmarried partners.

Synopsis of Original Bill

This bill amends the Insurance Code and enacts new sections of law to allow for the purchase and coverage of health and life insurance for “domestic partners”. It also amends the Medical Care Savings Account Act (NMSA Section 59A-23D-2 1978 comp.) to allow coverage for domestic partners and children of domestic partners. The Act defines “domestic partner” and generally requires that they be an adult in a mutually exclusive domestic relationship, sharing a primary residence for twelve or more consecutive months with another person. The domestic partner must also be jointly responsible for the common welfare and share financial obligations with that other person. A “domestic partner” is defined as a family member and is included within the definition of “spouse” for insurance purposes. The Act does not make a distinction between same-sex and opposite-sex domestic partners.

The Act allows an insurer to require an affidavit of domestic partnership, confers an “insurable interest” in the life of a domestic partner upon the other partner, allows group health plans to voluntarily offer coverage to domestic partners, allows small employers to offer health insurance coverage to domestic partners of their employees, and allows employees with Medical Care Savings Accounts to pay health costs for their domestic partners, or children of domestic partners.

Significant Issues

This bill highlights the policy issue of whether to allow life and health insurance coverage of persons who meet the definition of “domestic partner”, regardless of marital status or gender.

**PERFORMANCE IMPLICATIONS**

Group health providers who choose to offer coverage for domestic partners would be required to process claims on their behalf. AGO indicates there has been concern expressed regarding a possible increase in premiums for those already participating in group health plans.

**CONFLICT, DUPLICATION, COMPANIONSHIP OR RELATIONSHIP**

RHCA reports SB340 proposes coverage of domestic partners specifically under the Retiree Health Care Act, Sections 10-7C-1 through -19.

**TECHNICAL ISSUES**

AGO indicates several insurance companies in New Mexico already offer domestic partner benefits and the federal ERISA law may pre-empt state law attempting to regulate employer sponsored benefit plans.

The Governor, by Executive Order 2003-010, required the extension of state insurance benefits to domestic partners effective July 1, 2003.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

AGO indicates the difficulties that unmarried domestic partners face now in procuring life and health insurance under current New Mexico law could continue.

**JR/yr**