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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/07

SPONSOR Espinosa LAST UPDATED \_\_\_\_\_ HB 395

SHORT TITLE Defining Marriage as the Union Between One Man and One Woman SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HJR2

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

#### No Responses Received From

Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

House Bill 395 seeks to define a valid marriage in New Mexico as that between one man and one woman and invalidate any claim to a marriage between persons of the same sex, even if the marriage or any right or claim is valid, binding or enforceable in another jurisdiction.

### SIGNIFICANT ISSUES

- 1) Section 40-1-1 NMSA 1978 defines marriage as a civil contract for which consent of the contracting parties is essential. The statute does not restrict the contracting parties to a man and a woman.
- 2) Section 40-1-4 NMA 1978 provides that all marriages celebrated outside New Mexico, which are valid according to the laws of the country where celebrated or contracted, are valid in New Mexico. The statute does not exclude same-sex marriages.

This bill does not consider the rights of domestic partners and would not allow for some equitable division of joint assets. This is particularly concerning when considering the plight of domestic partners who become trapped in violent relationships. In some circumstances, after spending many years working, raising children and building up assets together, a domestic violence victim is unwilling or financially unable to leave the relationship because the current state of New Mexico law would deny them their share of jointly gained assets, and leave them homeless or without the ability to provide for their children.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to HJR 2

EO/nt