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Author

Sears, Brad

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The Impact on the New Mexico Budget of Offering Domestic Partnerships to Same-Sex Couples

Testimony Before the Finance Committee of the New Mexico Senate

Presented by Professor Brad Sears, Esq.

**Executive Director, The Williams Institute, UCLA School of Law
Adjunct Professor of Law, UCLA School of Law**

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The Williams Institute, an academic research center of UCLA School of Law, advances sexual orientation and gender identity law and public policy through rigorous, independent research and scholarship, and disseminates it to judges, legislators, policymakers, media and the public.

Good afternoon. My name is Brad Sears and I am the Executive Director of the Williams Institute at UCLA School of Law. The Williams Institute is a national research center on sexual orientation and gender identity law and public policy. Today I am here to present an economic analysis of the impact of offering domestic partnership protections to same-sex couples on the New Mexico state budget.

Since 2003, Dr. M.V. Lee Badgett, myself, and other experts at the Williams Institute have conducted studies estimating the economic impact on state budgets of offering legal recognition to same-sex couples in sixteen states and Washington D.C. Five of these reports dealt with the impact of allowing same-sex couples to enter domestic partnerships with rights and obligations similar or identical to those offered by New Mexico's domestic partnership bill.

We recently had the opportunity to compare our estimate of the economic impact of same-sex marriage on the state budget and revenues in Massachusetts and the actual effects on the budget and revenues in the state in the five years after the bill passed. In line with our predictions, the Commonwealth of Massachusetts realized nearly \$100 million in savings and gains after allowing same-sex couples to marry.

The Williams Institute on Sexual Orientation Law and Public Policy

UCLA School of Law, Box 951476, Los Angeles, CA 90095-1476
t. 310/267-4382 · www.law.ucla.edu/williamsinstitute/



We have provided testimony to several state legislatures, including California, Massachusetts, and most recently New Jersey, based on the findings from these reports, when they have considered bills that would extend relationship recognition to same-sex couples. Two of these studies have been published in law and policy journals at Stanford and Rutgers. All of these studies concluded that extending the legal recognition to same-sex couples would have a positive impact on the state economy and budget.

Today, I would first like to focus on the savings that the state will realize because fewer people will be eligible for means-tested public benefits provided by the state. Then, I will address concerns that there will be increased demands on the state budget by looking at other economic implications of offering domestic partnerships to same-sex couples. I will finish by summarizing findings of a study we did in 2006 that showed that offering broad domestic partnership rights and responsibilities to same-sex couples has a positive net effect on businesses in the state and on the state economy.

I. PUBLIC BENEFITS PROGRAMS

First, I'd like to talk about the bill's impact on public benefits programs. For New Mexico, using the best data available, we estimated that extending broad legal recognition to same-sex couples will actually have a positive impact on the state budget of \$74,000 and \$569,000 per year.

To arrive at this figure, we first determined the number of same-sex couples expected to enter into registered domestic partnerships in the first three years after it becomes available. We rely on Census data for the number of same-sex couples living in each state, and data from other states that have extended broad legal recognition to same-sex couples to estimate the percentage of those couples we expect to enter into domestic partnerships.

Based on Census data, there are 4,496 same-sex couples in New Mexico. When we have looked at the uptake rate in other states that have offered broad relationship recognition to same-sex couples, as this bill would, we've found that approximately one-half of the state's couples choose to enter into the legal status within the first three years. That means roughly 2,248 of New Mexico's same-sex couples will enter into a domestic partnership in the first three years after it becomes available.

New Mexico funds several public benefits programs that provide assistance to low-income individuals and families. Currently, people with a same-sex partner are considered "single" when eligibility for these programs is determined. But, once two people enter into a registered domestic partnership, a partner's income and assets will be included in assessing an individual's eligibility for means-tested public benefits. This will reduce the number of people eligible for such benefits. When measuring the fiscal effect of this reduction, we have taken into account the possibility that losing public benefits may create a disincentive for some to enter into a domestic partnership and the fact that low-income couples might still qualify for benefits.

In order to estimate the savings that would be realized from the reduction in eligible state residents, we drew on Census data to determine how many people in same-sex couples in New Mexico are currently receiving income from "public assistance or welfare payments to from the state or local welfare office."



As of 1999, \$600,000 in public assistance went to members of same-sex couples in New Mexico. Census data does not tell us how many people in same-sex couples are enrolled in Medicaid or NewMexiKids, but we know that 1.1% of state Temporary Assistance to Needy Families (TANF) goes to people in same-sex couples. We can use that 1.1% share of spending for Medicaid and NewMexiKids to estimate the amount received by same-sex couples in New Mexico in those programs—approximately \$5,178,788.

To estimate the savings based on these figures, we assume that one-half of same-sex couples in New Mexico will enter registered domestic partnerships, or approximately 2,248 couples, and we assume that some of these couples will continue to receive benefits. We make our adjustment assuming that an equal proportion of married couples and domestic partnered same-sex couples will continue to receive benefits. According to the Census, in 1999 1.6% individuals in same-sex couples, but only 1.3% of married individuals, received “public assistance.” Thus, we expect that spending on public assistance will fall by roughly 20%.

The result is savings of between \$74,000 and \$569,000 per year in New Mexico’s public benefits programs, depending on how much discretion the State is granted to determine whether the income of same-sex domestic partners is included in Medicaid eligibility standards.

II. SALES TAX

I would like to take a moment to mention that when we evaluate state bills that would extend marriage to same-sex couples, we have measured the expected increase in sales tax revenue that would result from wedding-related spending. Because New Mexico is considering domestic partnerships, and not marriage for same-sex couples, we do not expect to see as much spending as we would predict if marriage were offered (for which we would expect approximately \$1,472,000 in the first three years). We do not expect that people will travel to New Mexico to register domestic partnerships, as we would expect out-of-state residents to do if marriage were offered to same-sex couples. Accordingly, there will not likely be a boost in tourist-related sales tax income as a result of this legislation. However, we do expect resident couples to increase spending on domestic partnership celebrations, which will in turn increase sales revenue for the state. Because we do not currently have an estimate for this increase, it is not included in the figure stated above.

III. OTHER ECONOMIC IMPLICATIONS

Now I would like to turn to other economic implications we considered when evaluating the extension of same-sex domestic partnerships in New Mexico that may have an effect on the state budget. I will briefly discuss the impact of extending employee benefits to same-sex domestic partners, income tax and estate tax consequences, administrative costs associated with providing domestic partnership registration forms, and the impact on New Mexico’s judicial system. We do not expect to see negative consequences for the state budget because of changes in these areas due to offering domestic partnerships to same-sex couples.

A. State Employee Benefits

We do not expect that the state will incur any additional costs due to extending employee benefits to same-sex domestic partners, because it is already required to provide these benefits to committed same-sex partners under executive order number 2003-10 issued by Governor Bill Richardson in 2003.

B. Income Tax

There will be no loss in tax revenue associated with same-sex domestic partnerships because the bill requires people to file state taxes as they would file their federal taxes. Because same-sex couples in state-recognized relationships are still required to file federal taxes singly, same-sex domestic partners in New Mexico will also have to file singly. Therefore, there will be no loss in revenue that may be expected where more couples are permitted to file jointly.

C. Estate Tax & Inheritance Tax

Further, offering domestic partnership to same-sex couples will have no impact on estate tax revenues because currently, there is no estate tax at either the federal level or at the state level in New Mexico. New Mexico has no inheritance tax.

D. Administrative Costs & the Judicial System

Additionally, we expect no increase in administrative costs and very little additional burden on the New Mexico judicial system if the domestic partnership bill passes. The state will incur the cost of printing domestic partnership applications and dissolution forms, but the fees paid by same-sex couples to obtain these documents will more than offset their costs.

Passing the bill will allow same-sex domestic partners to have the same access to the judicial system as married couples. Same-sex couples in New Mexico currently have access to some of these rights already, such as co-parent adoption, custody orders, and visitation rights. Thus, there will be no increased burden with regard to these proceedings.

There may be a small increase in testate proceedings if same-sex couples are allowed to enter domestic partnerships, but because we have estimated that an average of only 37 people in same-sex domestic partnerships in New Mexico would die each year, the burden associated with these proceedings would be very small.

Finally, we expect to see only a small increase in dissolution proceedings if same-sex couples are allowed to enter into domestic partnerships. We base our estimate of the number of dissolution proceedings that would be brought each year by same-sex couples on the dissolution rate of same-sex domestic partnerships in Vermont. 1.9% of same-sex domestic partnerships dissolve in Vermont each year. Applying this to the number of couples we expect to enter same-sex domestic partnerships in New Mexico, we expect that about 43 dissolution proceedings will be added to the docket each year.



Currently, New Mexico's courts handle over 13,000 divorce filings each year. Adding 43 filings to this caseload would be an increase of only three tenths of one percent (.0033).

IV. EFFECT OF OFFERING DOMESTIC PARTNERSHIPS ON BUSINESS AND THE ECONOMY

In 2006, we studied the effects on businesses and the economy generally when a state allows same-sex couples to enter registered domestic partnerships. We identified several potential benefits to the state accruing from the passage of same-sex domestic partnership legislation. We found that current employees will be healthier, more satisfied, and less likely to leave their jobs if they receive domestic partner benefits. We also find that domestic partner benefits will increase the competitiveness of employers in recruiting and retaining talented and committed employees. Even when we took into consideration the potential expenditures associated with complying with domestic partnership laws (such as offering benefits, etc.), we concluded that the net impact of equal treatment for same-sex couples is positive for businesses.

In closing, I wish to emphasize that we have thoroughly considered the economic implications of this bill and have concluded that there would be no negative impact on the state budget from offering domestic partnerships to same-sex couples in New Mexico. In fact, we have found that the state would actually realize savings of \$74,000 to \$569,000 because fewer people would be eligible for public benefits programs. Also, there is likely to be some increase in tax revenue due to increased spending by same-sex couples in New Mexico who choose to celebrate their domestic partnership with family and friends. Finally, studies have shown that business and the state economy in general will benefit from offering domestic partnership to same-sex couples.

Thank you.