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The Fiscal Impact of Creating Civil Unions on Colorado's Budget

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EXECUTIVE SUMMARY

Recognizing civil unions between same-sex partners in Colorado would positively impact the state budget by nearly \$5 million over three years.

This analysis by UCLA's Williams Institute estimates the impact on Colorado's state budget of introducing civil union rights for same-sex and different-sex couples. Using the best data available, we estimate that a law recognizing civil unions for same-sex and different-sex partners will garner the State \$4.8 million over the three years following the law's implementation. The benefits accrued will change every year, as the number of couples entering civil unions each year will change. The State will gain approximately \$1.4 million in the first year after offering these rights (Year 1), \$1.6 million in the second year (Year 2), and \$1.8 million in the third year (Year 3). This net impact will be the result of savings in expenditures on state means-tested public benefit programs, an increase in state license fees, and sales tax revenues.

We base this analysis on the following estimates:

Approximately 3,500 same-sex couples and 2,500 different-sex couples would form civil unions that would be recognized in Colorado in the first three years.

According to 2009 American Community Survey data, Colorado has 12,558 same-sex couples and 90,282 different-sex unmarried couples. Based on the experiences of other states, we estimate that 28 percent of same-sex couples and 2.8 percent of different-sex couples will enter a civil union over the next three years. For same-sex couples, 1,899 will enter a civil union in Year 1, 914 will enter a civil union in Year 2 and 703 will enter a civil union in Year 3. For different-sex couples, 1,354 will enter a civil union in Year 1, 652 will enter a civil union in Year 2, and 501 will enter a civil union in Year 3. Over a three-year period, we predict that the State will recognize the civil unions of 3,516 same-sex couples and 2,507 different-sex couples.

Sales tax revenues will rise as a result of new spending on civil union ceremonies.

We predict that Colorado's same-sex couples would spend nearly \$19 million on civil union ceremonies over three years. Out of state guests would generate an additional \$6 million in spending, including accommodations. This spending would generate state sales tax revenues of nearly \$726,000 over three years. We do not estimate the impact on Colorado sales tax for different-sex couples because the demand for civil union ceremonies in this population is uncertain. However, if different-sex couples held ceremonies similar to those of same-sex couples, the State could realize an additional \$517,000 in sales tax revenues over three years.

The cost of State employee healthcare and dental benefits will increase.

Colorado already provides same-sex domestic partners state healthcare and dental benefits. However, the State would see increased expenditures on healthcare and dental premium contributions for different-sex couples who enter civil unions. We estimate the increased cost to the State from different-sex couples enrolling partners to their state benefits plans is approximately \$980,000 over three years.

State expenditures on means-tested public benefits programs will fall.

Civil unions for same-sex and different-sex couples would reduce the State's public assistance expenditures. Just as married spouses are obligated to provide for one another's basic needs, a same-sex or different-sex partner's income and assets would be included in assessing an individual's eligibility for means-tested public benefits after entering a civil union. This will reduce the number of people eligible for such benefits. We estimate that civil unions for same-sex and different-sex couples will save the State over \$4.8 million in its spending on public benefit programs over three years, or \$1.1 million in Year 1, \$1.7 million in Year 2, and \$2.1 million in Year 3.

Colorado will receive increased revenue from civil union license fees.

Civil union licenses would require the same fee as a marriage license in Colorado, currently \$30. Thus, civil unions between same-sex and different-sex partners would generate over \$180,600 from these fees over three years.

Summary of three year impact of civil unions on Colorado

Type of Expenditure/Revenue	Year 1	Year 2	Year 3	Total Fiscal Impact on the Budget
Sales Tax	\$391,895	\$188,690	\$145,146	\$725,731
State Employee Benefits	(\$226,300)	(\$334,800)	(\$418,500)	(\$979,600)
Public Assistance	\$1,122,766	\$1,663,357	\$2,079,196	\$4,865,319
Civil Union License Fees	\$97,590	\$46,980	\$36,120	\$180,690
TOTAL	\$1,385,951	\$1,564,227	\$1,841,962	\$4,792,140

INTRODUCTION

As of early 2011, Colorado does not offer civil unions to different-sex or same-sex couples.¹ One potential concern about expanding legal partnership rights may be the fiscal impact of such a change. Relationship recognition comes with a variety of rights and obligations that might affect Colorado's expenditures and revenues. In other states, the budgetary effect of extending relationship rights to same-sex couples has become a concern.² Similar concerns may arise when expanding the relationship forms available to different-sex couples. This study estimates the overall impact of creating a comprehensive civil union status for different-sex and same-sex couples on the Colorado budget over the next 3 years.³

Assuming civil unions confer rights equal to marriage, allowing different-sex and same-sex couples to enter civil unions will affect both state revenues and expenditures in various ways. In terms of revenues, the effects of civil union rights on income, estate and sales taxes must be analyzed. State expenditures may also be affected by civil unions, since legal relationship recognition will affect eligibility for public assistance and for state employee benefits.

Our analysis for Colorado relies in part on the same methods that we used in previous studies on California,⁴ Connecticut,⁵ Iowa,⁶ Maine,⁷ Maryland,⁸ New Mexico,⁹ New Hampshire,¹⁰ New Jersey,¹¹ Oregon,¹² Vermont,¹³ and Washington.¹⁴ The full methodology for our analysis is set out in *Putting a Price on Equality? The Impact of Same-Sex Marriage on California's Budget*.¹⁵ In those studies, we have concluded that extending the rights and obligations that are comparable to marriage to same-sex couples would have a positive impact on each state's budget. Similar conclusions have been reached by legislative offices in

Connecticut¹⁶ and Vermont¹⁷ and by the Comptroller General of New York.¹⁸ In addition, the Congressional Budget Office has concluded that if all fifty states and the federal government extended the rights and obligations of marriage to same-sex couples, the federal government would benefit by nearly \$1 billion each year.¹⁹ This report shows similar results are achieved by extending civil unions to both same-sex and different-sex couples.

Section I of this report estimates the number of different-sex and same-sex couples in Colorado and the number of couples who will enter civil unions if allowed. In Section II, we present our predictions of the tax-based budgetary impact on the State, separating our analysis into each category of taxation that civil unions could affect. Section III outlines the costs of expanding benefits to the partners of state employees. In Section IV, we estimate the state savings that civil unions will likely bring to Colorado's public benefits programs. In Section V, we discuss revenues from civil union licenses. Finally, we summarize the expected policy impact for each expenditure or revenue category we address.

In general, we estimate the net effect of costs and benefits conservatively. In other words, we choose assumptions that are the most cautious from the State's perspective, those which tend to predict higher costs to the State and lower benefits. Even so, we find that the net effect of allowing couples to enter civil unions will be a positive impact on the state budget of \$4.8 million over the next three years.

I. The Number of Couples Affected

In order to assess the economic impact of extending civil unions to different-sex and same-sex couples, we must first estimate the number of couples who will enter civil unions. We first calculate the number of same-sex couples who will likely enter civil unions based upon data from states that have previously extended civil unions to same-sex couples. We then estimate the number of different-sex couples who will likely enter civil unions based upon data from states that have extended civil unions to both same-sex and different-sex couples.

A. Same Sex Couples

According to the 2009 American Community Survey (ACS), there are 12,558 same-sex couples in Colorado. Not all of these couples will choose to enter civil unions, even when the option is afforded to them. At the very least, the decision to do so is likely to include a weighing of the symbolic value of public and legal recognition of the relationship with the particular rights and responsibilities implied by the legal status. Moreover, Colorado currently has a system of designated beneficiaries that is open to same-sex couples. Some couples who have entered into designated beneficiary agreements may be satisfied with the benefits they currently receive and may choose not to enter civil unions. Here we draw upon the experience of other states that have permitted civil unions between individuals of the same-sex or similar legal statuses to estimate the number of same-sex couples who might elect to enter a civil union in Colorado.

Currently, only one state, New Jersey, offers civil unions to same-sex couples. Accordingly, we use data from New Jersey to estimate the number of same-sex couples who will enter civil unions. While

California, Oregon, Washington and Nevada have broad domestic partnership laws that resemble civil unions,²⁰ only New Jersey offered a more limited status of domestic partnerships, similar to Colorado's designated beneficiaries law, before introducing civil unions.

In New Jersey, a reported 4,392 same-sex couples entered civil unions over three years. We therefore conservatively estimate that a little over 28% of New Jersey's same-sex couples entered civil unions over three years.²¹ This estimate is similar to detailed data regarding rates at which couples enter legally recognized unions in other states.²² Thus, based on the experience of New Jersey, we predict that 28% of same-sex couples in Colorado, or 3,516 couples, will enter civil unions over three years.

Note that not all of these couples will enter civil unions within the first year that these rights are recognized, an outcome that will affect the timing and degree of any fiscal impact. We use data from New Jersey to predict the timing and adjust our results throughout this report. Out of the total civil unions that have taken place in New Jersey in the three-year period following 2007, 54% of unions occurred in the first year, 26% in the second year, and 20% in the third year.²³ Therefore, when calculating the impact in a given year, figures must be adjusted to reflect that timing. Should Colorado offer civil unions, we project that 54% of 3,516 same-sex couples will enter a civil union in the first year (Year 1) after Colorado offers these rights, or 1,899 couples. An additional 26% will enter a civil union in the second (Year 2), bringing us to 80% of 3,516, or 2,813 couples. And finally, all 3,516 couples will have entered a civil union by the end of the third year (Year 3).²⁴

B. Different Sex Couples

There are 90,282 unmarried different-sex couples in Colorado according to the 2009 ACS. Predicting the number of different-sex couples who will enter civil unions is somewhat more complex than for same-sex couples. Certain states, such as California and New Jersey, have offered civil union benefits only to those different-sex couples that are 62 and older. Only one state, Nevada, has offered domestic partnership benefits that resemble civil unions to all different-sex as well as same-sex couples. We estimate the number of different-sex couples likely to enter civil unions in two different ways: using data from states that only allow couples older than 62 to enter civil union-like statuses, and using data from Nevada, which allows all different-sex couples to enter domestic partnerships.

Of the states that allow different-sex couples above the age of 62 to marry, only New Jersey has provided exact figures. Based on these figures, we calculate that 1.8% of age-eligible different-sex couples entered civil unions in New Jersey in the first year.²⁵

However, we might expect older different-sex couples to enter civil unions at a different rate than younger different-sex couples. For example, older couples may prefer not to marry to avoid problems with inheritances or pensions.²⁶ Thus, we also analyze Nevada data to estimate the number of different-sex couples who will enter civil unions, and compare our results to our estimate from the New Jersey data.

Nevada provides data regarding how many couples have entered civil union-equivalent domestic partnerships. However, it does not retain data on whether the couples entering a domestic partnership are same-sex or different-sex. Accordingly, we cannot

directly obtain the number of different-sex couples that have entered into domestic partnerships in Nevada. To determine how many different-sex couples have entered domestic partnerships in Nevada, we first subtract the total number of *same-sex* couples estimated to have entered partnerships in Nevada from the total number of individuals who have entered domestic partnerships. This will provide us with an estimate of the number of different-sex couples who have entered domestic partnerships.

To determine the number of same-sex couples who entered domestic partnerships in Nevada, we examine the rate at which same-sex couples entered civil unions or their equivalent in other states. Of these states, Oregon's relationship recognition system is most analogous to Nevada's, and provides the best basis for calculating the number of same-sex couples who have entered domestic partnerships in Nevada.²⁷

In Oregon, 22% of same-sex couples obtained a domestic partnership within a year of it being offered.²⁸ Applying this rate to Nevada, we estimate that 22% of Nevada's 5,504 same-sex couples, or 1,210 same-sex couples, obtained domestic partnerships within the first year of it being offered. In all, 2,189 couples received domestic partnerships in Nevada. If 1,210 of these couples were same-sex couples, the remainder, or 978 couples, would be different-sex couples who entered into civil union-equivalent domestic partnerships. This constitutes nearly 1.5% of Nevada's 67,007 unmarried different-sex couples, according to 2009 ACS data. This estimate improves upon our calculation from the New Jersey data of 1.8% of different-sex unmarried couples over age 62, which, as we noted above, might overestimate the number of different-sex couples who would enter civil unions in all age groups.

Accordingly, we estimate that 1.5% of the unmarried different-sex couples in Colorado, or 1,354 couples will enter civil unions within the first year of civil unions being offered. Assuming that the three-year pattern for different-sex partners entering civil unions will follow that of same-sex partners in other states, we estimate that 1,354 couples constitute 54% of the different-sex couples entering civil unions over a three year period. Accordingly, 2.2% of unmarried different-sex couples, or 2,006 different-sex couples, will have entered into a civil union by Year 2, and 2.8%, or 2,507 different-sex couples, will have entered into a civil union by Year 3.

II. Impact on Tax Revenues

Allowing couples in Colorado to enter civil unions could affect the State's taxes on property transfer and inheritance. Because civil unions will also trigger an increase in taxable civil union ceremony spending by couples, we include the impact on Colorado's sales tax revenue in our analysis in this section. The proposed civil union bill will not permit couples in civil unions to file Colorado income taxes jointly. Hence we do not estimate the impact on income tax revenue.

A. Impact on Estate Tax

Colorado's estate tax is tied to the federal estate tax state credit.²⁹ This credit was phased out in 2005 by the Economic Growth and Tax Relief Reconciliation Act of 2001.³⁰ Since then, Colorado has lacked an estate tax. While federal legislation reinstated the federal estate tax, it is unclear whether the state tax credit will be reinstated. Accordingly, under current Colorado law, the ability of individuals to enter civil unions will not cause a loss of estate tax revenue.

B. Impact on Realty Transfer Tax Revenue

In Colorado, a transfer tax is imposed on the conveyance of a deed to real property in excess of \$500 at the rate of 0.01%.³¹ Individuals in unmarried same-sex and different-sex couples, therefore, can already transfer real estate without being subject to the transfer tax if no money is paid when property is transferred to one another. Further, Colorado does not have a state gift tax. Consequently, civil unions should not have an effect on revenue generated by transfer taxes, given that couples can already transfer property without becoming subject to these taxes.

Further, it is possible that the right to enter civil unions could generate additional sales of homes to same-sex and different-sex couples, which would increase transfer tax revenue, as argued in a study by the New York State Comptroller's Office.³² The emotional stability and financial security associated with greater relationship options may encourage couples to purchase houses, and those sales to couples will generate new tax revenue. However, given the uncertainty of the size of this effect, we do not attempt to estimate the fiscal impact of additional home sales.

C. Impact on Sales Tax

Civil unions would likely increase spending on ceremony-related goods and services by in-state couples. We assume that same-sex couples entering a civil union would have a ceremony in celebration of their union similar to a marriage ceremony. States near Colorado offer same-sex couples similar rights through domestic partnerships, therefore we do not take into account spending by out-of-state couples. Because different-sex couples have other relationship recognition options, we believe these couples would be less likely than

same-sex couples to have a civil union ceremony celebration. Therefore, in this section we estimate the impact on sales tax and lodging tax for same-sex couples and separately estimate the potential impact for different-sex couples if they were to hold celebrations of their civil unions similar to same-sex couples.

The average spending on weddings in Colorado for 2008 was \$21,232.³³ However, same-sex couples in may have already held commitment ceremonies and may receive less financial support from their parents and other family members to cover ceremony costs. Additionally, only spending that comes from couples' savings would truly be "new spending" for the State's businesses, rather than money diverted from some other expenditure. Accordingly, we conservatively estimate that same-sex couples entering a civil union will spend 25% of this figure, or \$5,414 per civil union ceremony, after adjusting to 2010 dollars. As discussed in Section I, we predict that 3,516 same-sex couples will enter civil unions over the first 3 years, for a total of 3,516 ceremonies. Accordingly, these couples would spend over \$19 million, in ceremony expenses. We estimate the revenue impact based on Colorado's state sales tax of 2.9% would yield total revenue accruing from ceremony expenses at approximately \$552,000 over the next three years.³⁴

Additionally, out of state visitors for civil union ceremonies for same-sex couples will bring tourism revenue to the State. Based on a Williams Institute study of weddings by same-sex couples in Massachusetts, we predict that each ceremony will attract approximately 16 out-of-state guests.³⁵ The estimated total of out-of-state guests for 3,516 civil union ceremonies is 56,256.

To calculate the average spending and tax revenue received per out of state visitor, we

assume that each visitor spends only one night in a Colorado hotel and one day in the State.

We draw hotel expenditures and non-hotel expenditures from two different sources. According to a hotels.com report, the average cost of a 2010 Colorado hotel room is \$115.³⁶ We assume that only half as many rooms as there are out-of-state guests will be rented, since many guests will travel as a couple or a family and stay in the same room. As a result, we estimate that 28,128 rooms will be rented, resulting in hotel expenditures of over \$3.2 million. Taxed at Colorado's sales tax rate of 2.9%, the State will collect over \$93,800 in sales tax revenues.³⁷

These guests will also engage in other forms of spending in Colorado, contributing to the State's sales tax. According to *Colorado Travel Year 2009 Final Report*, visitors spend \$48 per day trip in the State in 2009, which is \$48.96 in 2010 dollars.³⁸ Assuming that out-of-town ceremony guests spend this amount during their one-day visit, they would spend a total of over \$2.75 million over three years. Taxed at the sales tax rate of 2.9%, this spending would garner the State nearly \$80,000 in revenue. When added to the hotel sales tax revenues, out-of-state guests would yield total revenues of \$173,700.

In total, we predict a total of over \$725,000 in increased sales tax revenues over three years. We can also spread this number across the three years depending upon the number of civil union ceremonies per year, as determined in Section I, garnering approximately \$392,000 in Year 1, \$189,000 in Year 2 and \$145,000 in Year 3. Note that sales taxes only capture the most direct tax impact of increased tourism. Businesses and individuals will also pay taxes on the new earnings generated by

civil union ceremony spending, providing a further boost to the state budget.

Demand for civil union ceremonies is likely to be lower for different-sex couples than same-sex couples since different-sex couples have the option of marrying. Since demand for ceremonies for different-sex couples is uncertain, and because different-sex couples might opt for a civil union to avoid the expectation of a large wedding, we do not include the impact on sales tax revenue from these ceremonies in our overall calculations.

We can, however, estimate the potential impact of ceremonies for different-sex couples on Colorado sales tax revenues if we assume different-sex couples would have civil union ceremonies at the same

rates and with the same expenditures as same-sex couples. In that case, different-sex couples would spend over \$13.5 million, which yields additional sales tax revenue of \$393,600 over three years. If out-of-state guests attend these ceremonies with the same frequency and with the same expenditures as out-of-state guests for same-sex couples' ceremonies, these guests would spend \$4.27 million on hotels and trip expenditures, yielding \$124,000 in sales tax revenues over three years. Therefore, the potential sales tax revenue from different-sex civil unions is \$517,000 over three years. This figure is likely an upper-bound estimate and we do not include this potential impact in the overall fiscal impact to the State.

Table 1: Summary of Sales Tax Impact for Colorado

Year 1	Year 2	Year 3	Total Fiscal Impact on the Budget
\$391,895	\$188,690	\$145,146	\$725,731

III. Expansion of State Employee Benefits to Colorado's Unmarried Couples

A. Healthcare Benefit Plans

Colorado provides certain fringe benefits to state employees, employees' spouses, and their dependent children.³⁹ The State offers a choice of four healthcare plans to its employees, and the State contributes toward the premium of all four plans.⁴⁰ An employee has the option to provide healthcare coverage to a spouse under all of these plans. Colorado also provides certain retirement and death-related benefits to the spouses of employees and retirees. The State continues to subsidize

health insurance for retirees, offering plans for their employees' spouses.⁴¹ Colorado already offers health care and retirement benefits to employees' same-sex domestic partners, so civil unions for same-sex couples will likely not result in a rise in the State's contribution to health insurance benefits.⁴²

However, Colorado does not offer healthcare benefits to different-sex couples, so civil unions for different-sex couples would likely increase state expenditures on healthcare benefits.

Retirement pension plans already provide coverage for employees' same-sex and different-sex partners by means of the "co-beneficiary" provision in the retirement plans.⁴³ Therefore, the state would not see

an increase in expenditures on employee retirement pension plans.

Therefore, an increase in state expenditures could come about in state healthcare spending via two scenarios. Some employees will move from covering only themselves to covering themselves and a different-sex partner, in which case the State's contribution for health benefits would increase. Other employees might move from covering only themselves to covering both their different-sex partner and their partner's children. We estimate the change in the State's contributions, bearing both of these possibilities in mind.

According to the 2009 American Community Survey, approximately 30% of different-sex unmarried couples in Colorado have children. We assume that all of the children of Colorado's employees are those employees' biological or adopted children who would be already covered under the state employee health benefits plan.

The State offers four types of coverage: 1) Employee Only, 2) Employee Plus Children, 3) Employee Plus Spouse, and 4) Employee Plus Spouse and Children.⁴⁴ We assume that an employee who enters a civil union would change their coverage in one of two ways: he or she would move from the Employee Only plan to the Employee Plus Spouse plan, or, for those who have children, the employee would move from the Employee Plus Children plan to the Employee Plus Spouse and Children plan. The annual increase in state premium contributions would be \$2,951 per employee for either change in coverage.⁴⁵

According to the 2009 American Community Survey, 5.4% of all couples in Colorado have one state employee as part of the couple. Assuming that different-sex couples who would enter civil unions are state employees at the same rate as all Colorado

couples, we estimate that 135 of the 2,507 different-sex couples who would enter a civil union over three years have one state employee as part of the couple.

To calculate the increase in state expenditures for state employee healthcare premiums, we make the conservative assumption that these 135 couples would add their partner to their healthcare benefits plan. The increase in premium expenditures for the State would accumulate over three years, with 73 (54%) of the 135 couples entering civil unions in Year 1, 108 (80%) of the couples having entered civil unions by Year 2, and all 135 having entered civil unions by Year 3.

Assuming premiums remain the same and all employees remain in the state healthcare benefits plan over the three years, we multiply the per-employee increase in state premium contributions (\$2,951) by the number of state employee couples entering civil unions over three years. State expenditures on healthcare premiums would increase by \$215,400 in Year 1, \$318,700 in Year 2, and \$398,400 in Year 3. The total increase in state expenditures over three years is \$932,500.⁴⁶

B. Dental Benefits

Turning to dental benefits, Colorado offers two dental plan choices: Dental Basic and Dental Basic Plus.⁴⁷ The annual increase in state expenses resulting from adding a spouse to a dental plan is \$149 per employee, regardless of plan. Once again, we make the conservative assumption that the state employee in 135 couples would add their partner to their dental benefits plan.

Assuming dental premiums remain the same and all employees remain in the state dental benefits plan over the three years, we multiply the per-employee increase in

state premium contributions (\$149) by the number of state-employee couples entering civil unions over three years. State expenditures on dental premiums would increase by \$10,900 in Year 1, \$16,000 in Year 2, and \$20,100 in Year 3. The total increase in state expenditures over three years is \$47,000.⁴⁸

C. Total Change in Health and Dental Coverage

As summarized in Table 2, civil unions would increase state contributions to health and dental plans from by approximately \$980,000 over three years.

Table 2: Total Increase in State Expenditures on Health and Dental Plans

Type of Expenditure	Year 1	Year 2	Year 3	Total Fiscal Impact on the Budget
Healthcare Premiums	(\$215,423)	(\$318,708)	(\$398,385)	(\$932,516)
Dental Premiums	(\$10,877)	(\$16,092)	(\$20,115)	(\$47,084)
TOTAL	(\$226,300)	(\$334,800)	(\$418,500)	(\$979,600)

D. Offsetting the Costs of Increased State Employee Benefits

Some of the added employee benefit costs to the State will be offset by lower spending on Medicaid and uncompensated health care and by lower training and recruitment costs.

Offering benefits to partners of public employees will likely reduce the number of people who are uninsured or who are currently enrolled in Medicaid and other government-sponsored health care programs. A recent study shows that people with unmarried partners—either same-sex or different-sex—are much more likely to be uninsured or on Medicaid than are married people.⁴⁹ People in unmarried different-sex couples were nearly three times as likely as married people to be uninsured; one third of those with a different-sex unmarried partner do not have medical insurance.⁵⁰ The study also finds that if employers offer benefits for different-sex unmarried couples, then some people who are currently uninsured are likely to receive

insurance. Therefore, it is likely that the State is already responsible for at least some of the costs associated with uncompensated care for the uninsured.⁵¹ Similarly, some members of different-sex unmarried couples who receive Medicaid might become eligible for a partner's state health insurance and will shift to such coverage. Both effects will tend to offset the cost of providing coverage to the different-sex partner of state employees.

The State may also see lower costs associated with worker turnover from allowing state employees to enter civil unions and enroll their different-sex partner in health benefit plans. A recent study shows that retention of employees is the one of the top objectives of employers in providing employee benefits.⁵² This objective is supported by data provided in the same study, which shows that 74% of surveyed employees reported that health benefits were an important driver in their continued loyalty to the company.⁵³ The same loyalty effect is likely to be present if the State allowed its employees to enter

civil unions and receive the same benefits offered to different-sex spouses of employees.

The State's position as an employer will be further strengthened in its labor market since its compensation policies will be better aligned with current practices of other employers in Colorado's labor market. As of 2008, 54% of Fortune 1000 corporations offered health benefits to employees' same-sex and different-sex partners.⁵⁴

This evidence suggests that giving different-sex couples the right to enter civil unions will help the State compete for talented and committed employees who are unmarried. As a result, some of the State's recruitment and training costs will likely fall. Recruitment and turnover are costly for employers, although the cost varies from job to job.⁵⁵ For example, one recent study calculated the training, vacancy, hiring, and recruiting costs for a registered nurse to be \$62,000 to \$67,000.⁵⁶ These potential savings are likely to help offset some of the State's higher employee benefit costs, although it is not possible to estimate the savings precisely.

IV. Public Assistance Benefits

A civil union implies a mutual obligation of support that is reflected in public assistance eligibility calculations. Civil unions mean these couples are less likely to need public assistance and are less likely to qualify for it. This Section looks at the savings the State may accrue from some same-sex and different-sex partners leaving the public assistance rolls.

A. Public Assistance Programs

Colorado funds an array of public benefits programs that provide subsidies and assistance to low-income individuals and families with state and federal sources.

Colorado's main cash assistance program is Colorado Works, the name for the State's Temporary Assistance to Needy Families (TANF) program. Programs administered through Colorado's Department of Human Services, Office of Self-Sufficiency also include the Food Assistance Program (FAP), Child Support Enforcement, Employment First (Job Assistance Program), the Low-Income Energy Assistance Program (LEAP), and the Food Distribution Program.⁵⁷ Cash assistance is also available to low-income people through Supplemental Security Income (SSI).⁵⁸

Colorado also provides medical assistance through the Department of Health Care Policy and Financing. The main medical assistance program is Colorado's Medicaid program. Other medical coverage is provided through the Child Health Plan Plus (CHP+), which is Colorado's CHIP (Children's Health Insurance Program) program, and the Colorado Indigent Care Program (CICP).⁵⁹

Assistance that is not directly provided in cash is also available through an assortment of programs administered through the Colorado Department of Human Services. These include, but are not limited to, assistance programs that serve people with disabilities, the aging population, those who need assistance with substance abuse and mental health issues, those who are homeless, and those who are blind.⁶⁰

B. Savings and Civil Unions

Eligibility for public assistance is means-tested and, therefore, dependent on the individual applicant's income and assets, as well as, for many programs, those of the applicant's family. For the many programs that consider a spouse's income and assets, a married applicant is generally less likely to qualify for assistance than single applicants. Couples who are not married are likely to be

considered “single” when eligibility for these programs is assessed. This “single” classification results in unmarried partners being more likely to qualify for public assistance. If unmarried same-sex and different-sex couples were able to enter civil unions, however, both partners’ income and assets could be counted in determining eligibility. Thus if these couples enter civil unions, they would be less likely to need assistance and be eligible for assistance, since their income and assets would exceed program thresholds. With fewer couples participating in public benefits programs, state expenditures will fall.

For TANF, Colorado will consider the income of an unmarried partner if the unmarried partner is the biological or adoptive parent of a child who lives in the assistance unit.⁶¹ Therefore, some unmarried low-income couples would likely still be eligible (or ineligible, as the case may be) for benefits after civil unions are granted. Therefore, we consider the continuing eligibility of these low-income couples in our calculations of savings to the State. Colorado already will include same-sex and different-sex unmarried partners as part of the household unit if an individual lists their partner as part of the household on the application for the Food Stamp Program.⁶² Therefore, no savings will accrue to the State in the Food Stamp program after civil unions are granted.

In Colorado, the main assistance programs that take marital status into account in eligibility determinations are Colorado Works, Medicaid, Child Health Plan Plus (CHP+), and Supplemental Security Income (SSI). Our calculations below, therefore, focus on these programs. Yet because permitting civil unions is likely to trim state spending on many public assistance programs not included in our calculations, the estimates below are conservative.⁶³

For Colorado Works and CHP+, the State generally determines applicant eligibility standards.⁶⁴ With respect to these programs, then, the State will be able to count a civil union partner’s income and assets in determining the eligibility of an individual or family. For SSI and Medicaid, however, the federal government determines the generally applicable eligibility standards, restricting the State’s discretion in developing its own application standards and procedures. Because the federal Defense of Marriage Act (DOMA) has been interpreted to limit the definition of the word “spouse” to different-sex marriages for federal benefits, Colorado may be prohibited from including a civil union partner in eligibility determinations for those programs.⁶⁵ Nonetheless, in assessing eligibility for Medicaid and SSI, Colorado may still be able to take into account the resources of civil union partners under state and federal regulations that require Colorado to consider the resources of third parties who are legally liable for health care costs.⁶⁶ Medicaid is a provider of last resort, and federal and state law require the State to assure that Medicaid recipients utilize all other available resources, i.e., third parties, to pay for all or part of their medical care needs before turning to Medicaid. Third parties are entities or individuals who are legally responsible for paying the medical claims of Medicaid recipients.⁶⁷ They include any “individual who has either voluntarily accepted or been assigned legal responsibility for the health care” of a Medicaid applicant or recipient.⁶⁸ The income and assets of a partner in a civil union might be considered under this “third party” category, resulting in essentially the same eligibility determinations as if a “spouse” category was applied.

C. Calculation of Savings

To estimate the impact of civil unions, we first calculate the amount spent per

participant by the State after removing the federal share. We include the federal block grant for Colorado Works in our calculation of savings for that program. The total expenditures for Colorado Works, Medicaid, SSI, and CHP+ were divided by their overall participation in the same fiscal or calendar year to yield a per-participant annual expenditure figure.⁶⁹

Next, we calculate the rate at which same-sex partners and different-sex partners receive public assistance before and after Colorado offers civil unions. To calculate the rate of participation for Colorado Works, CHP+, and SSI, we draw on data from the 2008 American Community Survey (ACS). This survey asks respondents to report the amount of income they received in the past 12 months from any sources, including Supplemental Security Income (SSI) and "any public assistance or welfare payments from the state or local welfare office."⁷⁰ These income data were used to calculate the rate at which same-sex unmarried couples, different-sex unmarried couples, and different-sex married couples receive SSI and public assistance income in the United States. Due to the small sample size available from the American Community Survey for Colorado, we use these national rates of public assistance receipt in our calculations. We assume that Colorado residents receive income from these sources at the same rate as individuals in the United States as a whole. Because the ACS does not define with any precision "public assistance," we utilize the rate of public assistance receipt for both Colorado Works and CHP+. SSI income is reported separately in the ACS, therefore we use that rate to calculate SSI savings. Rates of Medicaid receipt are based on prior research on Medicaid participation among unmarried different-sex and same-sex couples and married different-sex couples.⁷¹

Of same-sex unmarried couples, 1.03% received public assistance income, 1.20% received SSI income, and 4% received Medicaid. Therefore, of the 12,558 same-sex couples in Colorado, in any given year, 129 have an individual receiving a form of public assistance, 150 have an individual receiving SSI, and 502 have an individual receiving Medicaid.

Of different-sex unmarried couples, 2.01% received public assistance income, 1.49% received SSI income, and 8.1% received Medicaid. Therefore, of the 90,282 different-sex unmarried couples in Colorado, in any given year, 1,814 have an individual receiving a form of public assistance, 1,345 have an individual receiving SSI, and 7,312 have an individual receiving Medicaid.

Next, we calculate the decrease in this rate of participation for same-sex and different-sex couples in civil unions. Note that some unmarried partners would continue to qualify for benefits even after they enter a civil union.⁷² According to 2008 ACS data, 0.46% of different-sex married couples received public assistance income and 0.82% received SSI income.⁷³ According to prior research on Medicaid participation rates, 2.5% of different-sex married couples received Medicaid.⁷⁴ We assume that after civil unions, unmarried partners will qualify for benefits at the same rate as different-sex spouses currently do. Therefore, after three years, only 0.46% of same-sex and different-sex couples in civil unions will receive public assistance benefits, 0.82% will receive SSI income, and 2.5% will receive Medicaid.

We assume again that by the third year after civil unions are offered, 28% of all same-sex couples will have entered a civil union.⁷⁵ Therefore, those same-sex couples will receive public assistance, SSI, and Medicaid at the same rate as different-sex married couples. As a result, by Year 3, of

the 129 same-sex couples who receive public assistance in any given year, approximately 36 would have entered a civil union, and 20 will no longer receive benefits.⁷⁶ Of the 150 same-sex couples who receive SSI, 42 would enter a civil union and 13 will no longer receive SSI benefits. Finally, of the 502 same-sex couples who receive Medicaid, 140 would have entered a civil union and 52 would no longer receive Medicaid. Adding together public assistance, SSI, and Medicaid savings for those same-sex couples who would no longer receive benefits, Colorado will save \$671,000 in Year 3. As in earlier sections, after discounting for the lower take-up rates of civil unions in Years 1 and 2, we find that the State saves \$362,300 in Year 1 and \$536,800 in Year 2.⁷⁷ Total savings to the State for same-sex couples over three years is almost \$1.6 million.

We assume that by the third year after civil unions are offered, 2.8% of all different-sex couples will have entered a civil union.⁷⁸ Similar to same-sex couples, we assume that after civil unions, different-sex unmarried couples will receive public assistance and SSI at the same rate as different-sex married couples, i.e. at 0.46% for public assistance, 0.82% for SSI, and 2.5% for Medicaid. As a result, by Year 3, of the 1,814 different-sex couples who receive public assistance in any given year, approximately 50 would have entered a civil union, and 38 will no longer receive benefits. Of the 1,345 different-sex couples who receive SSI, 37 would enter civil unions and 16 will no longer receive SSI benefits. Of the 7,312 different-sex couples who

receive Medicaid, 203 would enter a civil union and 140 would no longer receive Medicaid. Adding together public assistance, SSI, and Medicaid savings for those who would no longer receive benefits, Colorado will save over \$1.4 million in Year 3. As in earlier sections, after discounting for the lower take-up rates of civil unions in Years 1 and 2, we find that the State saves \$760,000 in Year 1 and \$1.13 million in Year 2.⁷⁹ Total savings to the State for different-sex couples over three years is over \$3.3 million.

In sum, we anticipate the total savings to the State in public assistance expenditures to be \$4.9 million over three years, as summarized in Table 7. Note that TANF monies should be calculated as savings as the TANF block grant Colorado receives from the federal government is not likely to be reduced if fewer people in civil union couples qualify. That is, if civil unions mean fewer TANF recipients, but not less federal funding, savings will accrue to the State. These calculations also assume that DOMA will not bar the State from including a same-sex partner's income and assets to calculate eligibility for Medicaid and SSI. Note, however, even if DOMA prevents the State from directly counting civil unions for same-sex couples, the State may still be able to count both partners' incomes and assets via regulations concerning the financial obligations of legally responsible third-parties as discussed above. Moreover, DOMA presents no bar to the State in accruing these savings with respect to different-sex couples.

Table 3: Expenditures and Savings on Public Assistance Programs

Program	Estimated Savings in State Funds after Civil Unions for Same-Sex and Different-Sex Couples			
	Year 1	Year 2	Year 3	TOTAL
TANF	\$839,983	\$1,244,419	\$1,555,524	\$3,639,927
CHP+ (CHIP)	\$11,893	\$17,619	\$22,023	\$51,535
Medicaid	\$270,206	\$400,305	\$500,381	\$1,170,891
SSI	\$684	\$1,014	\$1,267	\$2,965
TOTAL	\$1,122,766	\$1,663,357	\$2,079,196	\$4,865,319

V. Civil Union License Fees

Those wishing to enter a civil union will have to pay a civil union license fee. Under the proposed civil union bill, the State will charge the same base amount for a civil union license as for a marriage license.⁸⁰ Additionally, a small annually varying surcharge is assessed on marriage licenses, which we assume will also be charged for civil union licenses.⁸¹ Accordingly, those entering civil unions will have to pay a license fee of \$30. We multiply this fee by our estimates of the number of same-sex and different-sex couples who will enter civil unions in Colorado during the first three years.

Civil unions by same-sex couples will create \$105,480 from these fees. Spread across three years, the annual fee revenue would be nearly \$56,970 in Year 1, \$27,420 in Year 2, and over \$21,090 in Year 3. Those by different-sex couples will create \$75,210, or \$40,620 in Year 1, \$19,560 in Year 2 and \$15,030 in Year 3. In total, \$180,690 will be generated.

Of course, some of the revenues of these fees will be offset by the costs of processing the additional civil union licenses. However, other states that have extended marriage, civil unions, or domestic partnerships have experienced very small increases in administrative costs.⁸²

Summary and Conclusions

In this study, we drew on U.S. Census Bureau data on Colorado residents and the experience of New Jersey and other states to quantify the likely fiscal and economic effects of allowing same-sex and different-sex couples to enter civil unions in Colorado.

Type of Expenditure/Revenue	Year 1	Year 2	Year 3	Total Fiscal Impact on the Budget
Sales Tax	\$391,895	\$188,690	\$145,146	\$725,731
State Employee Benefits	(\$226,300)	(\$334,800)	(\$418,500)	(\$979,600)
Public Assistance	\$1,122,766	\$1,663,357	\$2,079,196	\$4,865,319
Marriage License Fees	\$97,590	\$46,980	\$36,120	\$180,690
TOTAL	\$1,385,951	\$1,564,227	\$1,841,962	\$4,792,140

- The State will experience an increase in sales tax revenues of \$725,731 over three years.
- Employee benefits for same-sex partners are already covered in Colorado, so introducing civil unions will not affect the State expenditures on employee benefits for same-sex partners. The State will see an increase in health and dental benefits expenditures for different-sex couples, which will cost the State nearly \$980,000 over three years.
- The State will likely save \$4.9 million in public assistance expenditures over three years from granting civil unions to same-sex and different-sex couples.
- Civil unions will also increase revenue from license fees, adding over \$180,690 over three years.

Our analysis projects that granting civil union rights to same-sex and different-sex couples will have a positive impact on the State budget of \$1.4 million in the first year after passing the measure (Year 1), \$1.6 million in Year 2, and \$1.5 million in Year 3, totaling to \$4.8 million over three years.

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ENDNOTES

¹ NATIONAL GAY AND LESBIAN TASK FORCE, RELATIONSHIP RECOGNITION FOR SAME-SEX COUPLES IN THE U.S. (2010) *available at* http://www.thetaskforce.org/downloads/reports/issue_maps/rel_recog_9_10_color.pdf.

² Perry v. Schwarzenegger, 704 F. Supp. 2d 921, 941 (N.D. Cal. 2010) (citing M.V. LEE BADGETT, MONEY, MYTHS, AND CHANGE: THE ECONOMIC LIVES OF LESBIANS AND GAY MEN (2001); M.V. LEE BADGETT, WHEN GAY PEOPLE GET MARRIED: WHAT HAPPENS WHEN SOCIETIES LEGALIZE SAME-SEX MARRIAGE (2009); BRAD SEARS & M.V. LEE BADGETT, THE WILLIAMS INSTITUTE, THE IMPACT OF EXTENDING MARRIAGE TO SAME-SEX COUPLES ON THE CALIFORNIA BUDGET (2008); M.V. LEE BADGETT & R. BRADLEY SEARS, *Putting a Price on Equality? The Impact of Same-Sex Marriage on California's Budget*, 16 STAN. L. & POL. REV. 197 (2005)).

³ All dollar values in this report are in 2010 dollars. We use the Bureau of Labor Statistics to adjust for inflation, accordingly inflating 2006 dollars by 1.08, 2007 dollars by 1.05, and 2008 and 2009 dollars by 1.01. *See* Bureau of Labor Statistics, Databases, Tables & Calculators by Subject, CPI Inflation Calculator, http://www.bls.gov/data/inflation_calculator.htm, (last visited Oct. 20, 2010).

⁴ R. BRADLEY SEARS & M.V. LEE BADGETT, THE WILLIAMS INSTITUTE, THE IMPACT ON CALIFORNIA'S BUDGET OF ALLOWING SAME-SEX COUPLES TO MARRY (2004) *available at* <http://www.law.ucla.edu/williamsproj/publications/CASameSexMarriage.pdf>.

⁵ M.V. LEE BADGETT ET AL, THE WILLIAMS INSTITUTE, COUNTING ON COUPLES: FISCAL SAVINGS FROM ALLOWING SAME-SEX COUPLES TO MARRY IN CONNECTICUT (2005) *available at* <http://www.law.ucla.edu/williamsproj/pdf/CountingOnCouples.doc>.

⁶ M.V. LEE BADGETT ET AL, THE WILLIAMS INSTITUTE, THE IMPACT ON IOWA'S BUDGET OF ALLOWING SAME-SEX COUPLES TO MARRY (2008) *available at* <http://www.law.ucla.edu/williamsinstitute/publications/IowaFiscalImpact.pdf>.

⁷ CHRISTOPHER RAMOS ET AL, THE WILLIAMS INSTITUTE, THE IMPACT ON MAINE'S BUDGET OF ALLOWING SAME-SEX COUPLES TO MARRY (2009) *available at* <http://www.law.ucla.edu/williamsinstitute/publications/MEfiscalAnalysis.pdf>.

⁸ M.V. LEE BADGETT ET AL, THE WILLIAMS INSTITUTE, THE IMPACT ON MARYLAND'S BUDGET OF ALLOWING SAME-SEX COUPLES TO MARRY (2007) *available at* <http://www.law.ucla.edu/williamsinstitute/publications/MarylandFiscalImpact.pdf>.

⁹ M.V. LEE BADGETT ET AL, THE WILLIAMS INSTITUTE, THE IMPACT ON NEW MEXICO'S BUDGET OF ALLOWING SAME-SEX COUPLES TO MARRY (2006) *available at* <http://www.law.ucla.edu/williamsinstitute/publications/new%20mexico%20econstudy.pdf>.

¹⁰ M.V. LEE BADGETT, R. BRADLEY SEARS & ELIZABETH KUKURA, THE WILLIAMS INSTITUTE, THE IMPACT ON NEW HAMPSHIRE'S BUDGET OF ALLOWING SAME-SEX COUPLES TO MARRY (2005) *available at* <http://www.law.ucla.edu/williamsproj/publications/NewHampshire%20Econ%20Study.pdf>.

¹¹ M.V. LEE BADGETT, R. BRADLEY SEARS & SUZANNE GOLDBERG, THE WILLIAMS PROJECT, SUPPORTING FAMILIES, SAVING FUNDS: A FISCAL ANALYSIS OF NEW JERSEY'S FAMILY EQUALITY ACT (2003) *available at* <http://www.law.ucla.edu/williamsproj/publications/NJ-DPAStudy.pdf>.

¹² M.V. LEE BADGETT ET AL, THE WILLIAMS INSTITUTE, THE IMPACT ON OREGON'S BUDGET OF INTRODUCING SAME-SEX DOMESTIC PARTNERSHIPS (2008) *available at* <http://www.law.ucla.edu/williamsinstitute/publications/OregonFiscalAnalysis.pdf>.

¹³ M.V. LEE BADGETT, INSTITUTE FOR GAY AND LESBIAN STRATEGIC STUDIES, THE FISCAL IMPACT ON THE STATE OF VERMONT OF ALLOWING SAME-SEX COUPLES TO MARRY (1998), *available at* <http://www.iglss.org/media/files/techrpt981.pdf>.

¹⁴ M.V. LEE BADGETT ET AL, THE IMPACT ON WASHINGTON'S BUDGET OF ALLOWING SAME-SEX COUPLES TO MARRY (2006) *available at* <http://www.law.ucla.edu/williamsinstitute/publications/washington%20econ%20study.pdf>.

¹⁵ M.V. Lee Badgett & R. Bradley Sears, *Putting a Price on Equality? The Impact of Same-Sex Marriage on California's Budget*, 16 STAN. L. & POL. REV. 197 (2005)

¹⁶ CONNECTICUT GENERAL ASSEMBLY, OFFICE OF LEGISLATIVE RESEARCH, OFFICE OF FISCAL ANALYSIS REPORT ON HB 5001 (2002) available at http://www1.law.ucla.edu/~williamsproj/connstudy_files/connstudy.htm.

¹⁷ OFFICE OF LEGISLATIVE COUNCIL, REPORT OF THE VERMONT DOMESTIC PARTNERSHIP REVIEW COMMISSION (2002), available at <http://www.leg.state.vt.us/baker/Final%20CURC%20Report%20for%202002.htm>.

¹⁸ *Testimony of New York State Comptroller Alan G. Hevesi to New York City Council in Support of the Right to Civil Marriage for Same-Sex Couples in New York State*, (Mar. 3, 2004) (statement of Alan G. Hevesi, New York State Comptroller), available at <http://www.osc.state.ny.us/press/releases/mar04/030304b.htm>.

¹⁹ Letter from Douglas Holtz-Eakin, Director, Congressional Budget Office, to Steve Chabot, Chairman, Subcommittee on the Constitution, Committee on the Judiciary, U.S. House of Representatives (June 21, 2004) & attached analysis entitled "The Potential Budgetary Impact of Recognizing Same-Sex Marriages," available at <http://www.cbo.gov/ftpdocs/55xx/doc5559/06-21-SameSexMarriage.pdf>.

²⁰ NATIONAL GAY AND LESBIAN TASK FORCE, RELATIONSHIP RECOGNITION FOR SAME-SEX COUPLES IN THE U.S. (2010) available at http://www.thetaskforce.org/downloads/reports/issue_maps/rel_recog_9_10_color.pdf.

²¹ This calculation is based upon the most recent data available. Recently collected data from the New Jersey Department of Health and Senior Services reveals that 4,392 same-sex couples entered civil unions in New Jersey within three years of the state allowing civil unions, which began in February 2007. Next, we obtain the total number of same-sex couples in New Jersey. Data from the pre-2008 ACS might over-count the total number of same-sex couples. See GARY J. GATES, SAME-SEX SPOUSES AND UNMARRIED PARTNERS IN THE AMERICAN COMMUNITY SURVEY, 2008 (2008) available at <http://www.law.ucla.edu/williamsinstitute/pdf/ACS2008FullReport.pdf>. Accordingly, we use 2008 ACS data to estimate the total number of same-sex couples in New Jersey from 2007 through 2009, or 15,443 couples. This figure suggests that approximately 28% of couples entered civil unions over three years.

The use of the New Jersey rate of 28% to estimate the demand for civil unions in Colorado is a conservative estimate because the Williams Institute has estimated higher rates of take-up of civil unions for same-sex couples for other states, such as Connecticut (30%) and Oregon (37%). We do not consider the experience of Vermont in the case of civil unions because as the first state to enact this type of relationship recognition, it is an outlier due to high demand. See Gary J. Gates, M.V. Lee Badgett & Deborah Ho, The Williams Institute, *Marriage, Registration, and Dissolution by Same-Sex Couples in the U.S.* 21 (2008), available at <http://www.law.ucla.edu/williamsinstitute/publications/Couples0Marr%20Regis%20Diss.pdf>.

²² *Id.*

²³ See *supra* note 21.

²⁴ See *supra* note 21, which explains that actually a higher number of couples could enter a civil union in each year. Given that we ultimately find that each civil union benefits the State's budget, by using a lower estimate of total civil unions in each year, our calculations are conservative.

²⁵ New Jersey reports that 90 out of 3,400 age-eligible different-sex couples, or 2.7%, entered civil unions over 2 years. M.V. Lee Badgett, R. Bradley Sears & Deborah Ho, *Supporting Families, Saving Funds: An Economic Analysis of Equality for Same-sex Couples in New Jersey*, 4 RUTGERS J. OF L. & PUB. POLICY 37, 38 (2006). Assuming that different-sex couples enter civil unions at the same rate as same-sex couples over a three year period as discussed above, i.e., that 54% of couples enter civil unions in Year 1, 26% more enter civil unions in Year 2, and an additional 20% in Year 3, we estimate that 1.8% of eligible couples entered civil unions in Year 1.

²⁶ M.V. LEE BADGETT, WHEN GAY PEOPLE GET MARRIED 238 n. 32 (2009).

²⁷ Unlike New Jersey, Nevada did not have a limited relationship recognition system before it created domestic partnership benefits. California and Washington, in turn, did not offer expanded versions of domestic partnerships at the outset, as did Nevada and Oregon, choosing instead to offer narrow domestic partnership recognition, which was subsequently broadened. Vermont was the first state to offer civil unions, 10 years before Nevada offered relationship recognition, and 8 years before Oregon offered relationship recognition. Finally, Oregon is geographically close to Nevada, and same-sex couples in Oregon have lacked the option of marrying in neighboring states, unlike couples in New Jersey or Connecticut.

²⁸ 2,691 couples entered partnerships in 12 months, out of 12,258 same-sex couples.

²⁹ Colo. Rev. Stat. Ann. § 39-23.5-103 (West)

³⁰ Pub.L. 107-16, 115 Stat. 38.

³¹ Colo. Rev. Stat. Ann. § 39-13-102(2) (West)

³² William C. Thompson Jr. et al, Office of the New York State Comptroller, *Love Counts: The Economic Benefits of Marriage Equality for New York*, BUDGET NOTES, June 2007 *available at* <http://www.comptroller.nyc.gov/bureaus/bud/07reports/Jun07LoveCountBudgetnotes.pdf> (accessed November 2007).

³³ WE TV NETWORKS WEDDING REPORT (2010), *available at* <http://www.theweddingreport.com>.

³⁴ This is a conservative calculation because we do not account for other positive effects on revenue due to the increase in spending, such as increased income tax revenues for those providing professional services during the civil union celebration. This estimate also does not include additional tax revenue from city or county taxes.

³⁵ NAOMI G. GOLDBERG, MICHAEL D. STEINBERGER, & M.V. LEE BADGETT, THE WILLIAMS INSTITUTE, THE BUSINESS BOOST FROM MARRIAGE EQUALITY IN MASSACHUSETTS: EVIDENCE FROM THE HEALTH AND MARRIAGE EQUALITY IN MASSACHUSETTS SURVEY (2009) *available at* <http://escholarship.org/uc/item/96p5k5sz>.

³⁶ HOTELS.COM, THE HOTEL PRICE INDEX, REVIEW OF GLOBAL HOTEL PRICES: SUMMER 2010 (2010), *available at* <http://www.hotel-price-index.com/chapter3.html>.

³⁷ This is a conservative measure for several reasons. Additional taxes from lodging will go to the State through taxes such as those assessed in the Regional Transportation District, the Cultural Facilities District, and the Football Stadium District. Counties in Colorado are also able to assess a separate lodging tax that will bring in revenues at the local level. For instance, Denver levies a 10.75% lodging tax, which would yield the county \$12.36 per civil union ceremony guest lodging in Denver. If 1,000 civil union ceremonies were to occur in Denver, this would yield just under \$198,000 in revenues for Denver based on the lodging tax. See City and County of Denver, Department of Revenue, *Denver Combined Tax Rates*, *available at* <http://www.denvergov.org/Portals/571/documents/Denver%20Combined%20Tax%20Rates.pdf> (last accessed Dec. 16, 2010).

³⁸ LONGWOOD INTERNATIONAL, COLORADO TRAVEL YEAR 2009 FINAL REPORT (2009), *available at* http://www.colorado.com/ai/Colorado_2009_Final_Report_Online.pdf (last accessed Dec. 17, 2010).

³⁹ STATE OF COLORADO, DEPARTMENT OF PERSONNEL AND ADMINISTRATION, STATE PERSONNEL SYSTEM EMPLOYEE HANDBOOK FY 10-11 (2010) *available at* <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251645624578&ssbinary=true>

⁴⁰ COLORADO DEPARTMENT OF PERSONNEL AND ADMINISTRATION, HUMAN RESOURCES, FY11 MEDICAL AND DENTAL PREMIUMS (2010), *available at* <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251646676390&ssbinary=true>.

⁴¹ COLORADO PERA, SURVIVOR BENEFITS (2010) *available at* <https://www.copera.org/PDF/5/5-9.pdf>.

⁴² See *supra* notes 39 and 41. Employees with same-sex partners they wish to cover under their state-sponsored health care plan must fill out and submit an "Affidavit of Same-Gender Domestic Partnership," which can be found at <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251627254660&ssbinary=true> (last accessed Dec. 17, 2010).

⁴³ See *supra* note 41. Confirmed via telephone conversation with Terri A. Popker of Colorado PERA, December 17, 2010, 11:10AM PST.

⁴⁴ See *supra* note 40.

⁴⁵ See *supra* note 40. For FY 2011, the monthly state contributions for the employee health benefits plans are: Employees Only \$356.92, Employees Plus Spouse \$602.82, Employee Plus Children \$637.96, and Employee Plus Spouse and Children \$883.84.

⁴⁶ An alternate method of calculating the increase in state expenditures on healthcare premiums results in possible additional costs to the state. This method is based on the experience of other employers who have offered domestic partnership benefits to employees. Since civil unions differ from domestic partnership, the actual observed increase would vary from this estimate. This estimate likely overestimates costs to the state. Prior research on domestic partnership benefits suggests that 1.3% to 1.8% of Colorado's state employees who receive health care benefits would sign up a different-sex partner if partner benefits were offered. See Ash, Michael and Badgett, M. V. Lee. 2006. *Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Same-Sex and Unmarried Different-Sex Couples*, 24 CONTEMPORARY ECONOMIC POLICY 582 (2006). Multiplying the total number of employees enrolled in each plan by the upper and lower bounds of these rates (1.3% and 1.8%), we are able to determine the approximate number of employees who would sign up a partner. Enrollment data can be found here: COLORADO DEPARTMENT OF PERSONNEL AND ADMINISTRATION, HUMAN RESOURCES, STATE OF COLORADO BENEFITS ENROLLMENT – MEDICAL (2010), *available at* <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251678849393&ssbinary=true>. Enrollment in the Employee Only plan is 15,042. Enrollment in the Employee Plus Children plan is 5,384. We calculate that the total number of employees who would sign up a partner ranges from 266 to 368. We multiply the number of partners added under each plan as a result of civil unions by the increase in the average annual state contribution. If 1.8% of employees with a health plan sign up a partner, we find that state contributions would increase by approximately \$1,084,988. This would be the upper bound of the state contribution increase. If 1.3% of all employees sign up a partner for a health plan, then state contributions would increase by approximately \$783,603. Distributing these costs over three years, Colorado contributions to healthcare costs could increase by a total of about \$1.8 million to \$2.5 million.

⁴⁷ See *supra* note 40.

⁴⁸ Like healthcare benefits, an alternate method for calculating increased state expenditures on dental benefits premiums yields possible additional costs to the state. This alternate method is as described in note 52 above. A total of 15,229 employees were enrolled in the Employee Only dental plan and 4,581 employees were in the Employee Plus Children dental plan in 2010. See COLORADO DEPARTMENT OF PERSONNEL AND ADMINISTRATION, HUMAN RESOURCES, STATE OF COLORADO BENEFITS ENROLLMENT – DENTAL (2010), *available at* <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251673893400&ssbinary=true>. If 1.8% of employees with a dental plan sign up a different-sex partner, the State's contributions to dental plans would increase by \$53,130. On the lower bound, if only 1.3% of employees and retirees with a dental plan sign up a different-sex partner, the cost for the State would increase by approximately \$38,372. The total increase, then, in state contributions to dental plans as a result of civil unions over three years could fall between \$88,000 and \$124,000.

⁴⁹ See Ash & Badgett, *supra* note 46.

⁵⁰ *Id.*

⁵¹ Hadley, Jack and John Holahan. 2003. "How Much Medical Care Do the Uninsured Use, and Who Pays For It?" *Health Affairs* 22:66-81. <http://content.healthaffairs.org/cgi/content/abstract/hlthaff.w3.66v1> (accessed November 2007).

⁵² METLIFE, 8TH ANNUAL STUDY OF EMPLOYEE BENEFITS TRENDS (2010).

⁵³ *Id.*

⁵⁴ HUMAN RIGHTS CAMPAIGN FOUNDATION, THE STATE OF THE WORKPLACE FOR LESBIAN, GAY, BISEXUAL, AND TRANSGENDER AMERICANS 2007-2008 (2009). The Human Rights Campaign Employer Index lists 65 employers in the state of Colorado that offer both same-sex and different-sex partner benefits. The index is available online at http://www.hrc.org/issues/workplace/search.asp?form=private_quick_search.aspx.

⁵⁵ Aharon Tziner and Assa Birati, *Assessing Employee Turnover Costs: A Revised Approach*, 6 HUMAN RESOURCE MANAGEMENT REVIEW 113 (1996).

⁵⁶ Cheryl Jones, *The Costs of Nurse Turnover, Part 2: Application of the Nursing Turnover Cost Calculation Methodology*, 35 The Journal of Nursing Administration 41 (2005).

⁵⁷ See Colorado Department of Human Services, Find a Service By Agency <http://www.cdhs.state.co.us/servicebyagency.htm> (last visited December 16, 2010).

⁵⁸ SOCIAL SECURITY ADMINISTRATION, UNDERSTANDING SUPPLEMENTAL SECURITY INCOME SSI BENEFITS (2010), *available at* <http://www.ssa.gov/ssi/text-benefits-ussi.htm>.

⁵⁹ See COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, PROGRAMS AND BENEFITS, *available at* <http://www.colorado.gov/cs/Satellite/HCPF/HCPF/1251569392348>.

⁶⁰ See *supra* note 57.

⁶¹ TANF programs are implemented at the county level. This information was confirmed via telephone conversation with Terri [would not provide last name], Arapahoe County Department of Human Services, Call Center on December 17, 2010, 11:50AM PST. To understand the relationship between marital status and receipt of public assistance and SSI income, we looked at rates of receipt for these types of income in the 2008 American Community Survey for married couples, different-sex unmarried partners, and same-sex unmarried partners. Different-sex unmarried partners had higher rates of receipt of public assistance and SSI couples than married couples and same-sex unmarried partners. Therefore, we do believe there is an effect on rates of public assistance and SSI receipt based on marriage and not based on parenting alone. We assume that civil unions would have the same effect as marriage.

⁶² Food Stamp programs are implemented at the county level. This information was confirmed via telephone conversation with Terri [would not provide last name], Arapahoe County Department of Human Services, Call Center on December 17, 2010, 11:50AM PST.

⁶³ Once permitted to enter civil unions, some couples' families may become eligible for some family-related benefits. However, the relative amount of money expended on such programs is very small, and such family-related benefits are not in the form of direct financial assistance; rather, they take the form of assistance via educational and similar programs. Consequently, we do not offset our calculations to account for this possibility.

⁶⁴ With respect to TANF, see *Reauthorization of the Temporary Assistance for Needy Families Program*, 71 FED. REGISTER 37,454 (2006). With respect to SCHIP, see U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, CENTERS FOR MEDICARE AND MEDICAID SERVICES, OVERVIEW OF NATIONAL SCHIP POLICY, *available at* <http://www.cms.hhs.gov/NationalSCHIPPolicy/>.

⁶⁵ DOMA is a federal law that limits the definition of "spouse" in all federal laws and regulations to refer "only to a person of the opposite sex who is a husband or a wife." Defense of Marriage Act, 100 Stat. 2419 (1996) (codified at 1 U.S.C. § 7). "Spouse" is the term used to specify individuals whose assets and income may be counted for SSI and

Medicaid eligibility purposes. Thus, arguably, DOMA would prevent the state from interpreting the term “spouse” in the regulations to include a same-sex spouse. An issue arose in Vermont with respect to that state’s treatment of couples in a civil union within the Medicaid program. David Mace, *Critics Say Rule Change Violates Domestic partnerships*, THE TIMES ARGUS (April 17, 2003). Recent correspondence from the Centers for Medicare and Medicaid Services to state agencies in Vermont and Massachusetts suggests that the states cannot treat same-sex spouses in the same way that different-sex spouses are treated in the Medicaid program.

⁶⁶ With respect to federal law, for example, federal law mandates that states must “take all reasonable measures to ascertain the legal liability of third parties to pay for care and services available under” Medicaid and to seek reimbursement in cases “where such legal liability is found to exist.” 42 U.S.C. § 1396a.

⁶⁷ 42 C.F. R. § 433.135 (“Third party means any individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under a State plan.”).

⁶⁸ See generally CENTERS FOR MEDICARE AND MEDICAID SERVICES, STATE MEDICAID MANUAL 3900-3910.15, 3900.1, 3900.2 (2003).

⁶⁹ We considered expenditures for four programs: TANF, Medicaid, DHCP (CHIP), and SSI. TANF total state and federal expenditures for FY2008 were \$230,522,823. See U.S. Department of Health and Human Services, Administration for Children & Families, Table F – Combined Spending of Federal and State Funds Expenses in FY 2008, http://www.acf.hhs.gov/programs/ofs/data/2008/tableF_2008.html. Medicaid state-only expenditures were calculated by using the FY2007 total per-enrollee payment of \$4,935. See The Henry J. Kaiser Family Foundation, Colorado: Medicaid Payments per Enrollee, FY2007, <http://www.statehealthfacts.org/profileind.jsp?rgn=7&cat=4&ind=183>. The state share of the total per-enrollee payment for FY2007 was calculated by multiplying the payment of \$4,935 by the overall percentage the state contributed to the payment (50%), which yields a total per-participant state share of \$2,468 (unadjusted). See The Henry J. Kaiser Family Foundation, Colorado: Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier, <http://www.statehealthfacts.org/profileind.jsp?ind=184&cat=4&rgn=7>. Total state and federal SSI payments in 2008 were \$28,695,000. See Social Security Administration, Supplemental Security Record, Table 3: Number of recipients in state (by eligibility category, age, and receipt of OASDI benefits) and amount of payments, by county, December 2008, http://www.socialsecurity.gov/policy/docs/statcomps/ssi_sc/2008/co.html. To calculate total Colorado state-only SSI payments, the national state share of all SSI funding was calculated at 8.7% and multiplied by the 2008 SSI payment total shown above. See Social Security Online, SSI Annual Statistical Report, 2009, http://ssa.gov/policy/docs/statcomps/ssi_asr/index.html. This yielded \$2,496,465 in state-only payments for Colorado in 2008.

The TANF average monthly participation for Colorado families in FY2008 FY Avg. was 8,816. See U.S. Department of Health and Human Services, Administration for Children & Families, TANF: Total Number of Families, http://www.acf.hhs.gov/programs/ofa/data-reports/caseload/2008/2008_family_tan.htm. Since TANF participation is given on a monthly average, the total FY2008 expenditure was divided by the monthly average participation numbers to yield a per-participant annual expenditure. Total Medicaid enrollment for FY2007 was 553,800. See The Henry J. Kaiser Family Foundation, Colorado: Total Medicaid Enrollment, FY2007, <http://www.statehealthfacts.org/profileind.jsp?rgn=7&cat=4&ind=198>. The number of total SSI recipients for 2008 was 60,004. See Social Security Administration, Supplemental Security Record, Table 3: Number of recipients in state (by eligibility category, age, and receipt of OASDI benefits) and amount of payments, by county, December 2008, http://www.socialsecurity.gov/policy/docs/statcomps/ssi_sc/2008/co.html. Total CHIP+ (CHIP) enrollment for FY2008 was 99,555. See The Henry J. Kaiser Family Foundation, Colorado: Number of Children Ever Enrolled in the Children’s Health Insurance Program (CHIP), FY2008, <http://www.statehealthfacts.org/profileind.jsp?ind=871&cat=4&rgn=9>. Note that we make the conservative assumption here that only one individual in each couple receives public assistance benefits, and that the state will only save on one individual per family no longer receiving public assistance. All per-participant expenditures calculated for this report were adjusted to 2010 dollars.

⁷⁰ U.S. DEPARTMENT OF COMMERCE, ECONOMICS AND STATISTICS ADMINISTRATION, U.S. CENSUS BUREAU, THE AMERICAN COMMUNITY SURVEY (2009), available at <http://www.census.gov/acs/www/Downloads/questionnaires/2008/Quest08.pdf>.

⁷¹ See Ash, Michael and Badgett, M. V. Lee. 2006. *Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Same-Sex and Unmarried Different-Sex Couples*, 24 CONTEMPORARY ECONOMIC POLICY 582 (2006).

⁷² For example, when a couple enters a civil union, the applicant's partner may have few assets and low income, allowing the program recipient to remain in the public assistance program.

⁷³ National rates are used instead of state-level rates for Colorado due to the statistical limitations of Colorado's small sample size in the ACS for public assistance and SSI income. We assume that Colorado's unmarried couples and different-sex married couples receive public assistance and SSI income at the national rates.

⁷⁴ See *supra* note 71.

⁷⁵ This assumption takes into account the fact that possible loss of benefits will deter some same-sex couples from entering civil unions. Research on welfare benefits finds at most a very small disincentive effect. See Robert Moffitt, *Incentive Effects of the U.S. Welfare System: a Review*, 30 J. OF ECON. LITERATURE 27 (1992).

⁷⁶ We calculated savings for CHP+ (CHIP) slightly differently than described. According to the 2008 American Community Survey, of those same-sex couples receiving public assistance income, only half had a child age 18 or younger in their household. Therefore, we assume the number of same-sex couples that participate in CHP+ in Colorado is half the number that participates in other public assistance programs. We calculate, therefore, that roughly 18 same-sex couples would participate in CHP+ before civil unions for same-sex couples are allowed and roughly 8 same-sex couples would participate in CHP+ after civil unions for same-sex couples are allowed. Since different-sex unmarried partners who receive public assistance and different-sex married partners who receive public assistance have children under 18 in the home at the same rate (70%), no discount is made for different-sex couples.

⁷⁷ Since we use rates of participation over 1 year, we also assume that participants on average participate in the program for 12 months. Thus, under this assumption, we do not count Year 1 couples who go off public assistance, and the savings generated by this, *again* in Years 2 and 3. Thus, if we calculate that 129 same-sex partners obtain public assistance each year, we also presume that these 129 individuals change from one year to the next, though the rate of participation remains constant, at 1.03%. Thus, the individuals who leave public assistance in Years 1, 2 and 3 are different individuals, all which savings can be attributed to benefits of civil unions for same-sex couples. Note that any inflation in the savings figure is corrected by our conservative assumption that only one individual per couple participates in public assistance.

⁷⁸ See *supra* note 75. The same assumption holds true for different-sex couples.

⁷⁹ See *supra* note 77.

⁸⁰ Consisting of \$27 set by statute, Colo. Rev. Stat. Ann. § 14-2-106 (1)(a) (West).

⁸¹ This is currently set at \$3, see El Paso County Marriage Licenses, http://car.elpasoco.com/Recording/Marriage_Licenses.htm, last accessed Dec. 16, 2010; Arapahoe County Marriage License Requirements, <http://www.co.arapahoe.co.us/Departments/CR/Recording/marlicreq.asp>, last accessed Dec. 16, 2010.

⁸² CONNECTICUT GENERAL ASSEMBLY, OFFICE OF LEGISLATIVE RESEARCH. 2002. OFFICE OF FISCAL ANALYSIS REPORT ON HB 5001, *available at* http://www1.law.ucla.edu/~williamsproj/connstudy_files/connstudy.htm (accessed March 2008); OFFICE OF LEGISLATIVE COUNCIL, REPORT OF THE VERMONT DOMESTIC PARTNERSHIP REVIEW COMMISSION (2002) *available at* <http://www.leg.state.vt.us/baker/Final%20CURC%20Report%20for%202002.htm> (accessed March 2008); Alan G. Hevesi, Testimony of New York State Comptroller Alan G. Hevesi to New York City Council in Support of the Right to Civil Marriage for Same-Sex Couples in New York State (Mar. 3, 2004) *available at* <http://www.osc.state.ny.us/press/releases/mar04/030304b.htm>.