

# **The Impact of the Colorado Domestic Partnership Act on Colorado's State Budget**

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## **Executive Summary**

ALLOWING SAME-SEX COUPLES THE RIGHT TO ENTER INTO DOMESTIC PARTNERSHIPS IN COLORADO WILL BOOST THE STATE BUDGET BY UP TO \$1.2 MILLION ANNUALLY.

This analysis estimates the impact of establishing domestic partnership for same-sex couples on Colorado's state budget. Using the best data available, we estimate that allowing same-sex couples to enter into domestic partnerships under the proposed "Colorado Domestic Partnership Benefits and Responsibilities Act" will result in a net gain of approximately \$1.2 million each year for the State. This net increase will result from savings in expenditures on state means-tested public benefits programs and from an increase in sales tax revenue from registration celebrations.

We base our analysis on the following estimates:

APPROXIMATELY 5,000 OF COLORADO'S SAME-SEX COUPLES WILL ENTER DOMESTIC PARTNERSHIPS IN THE SHORT TERM.

According to Census 2000, Colorado has 10,000 cohabiting same-sex couples. Based on the experiences of other states that have extended the rights and obligations of civil unions to same-sex couples, we predict that half of those couples – or 5,000 couples – will choose to enter a domestic partnership during the first three years that Colorado makes domestic partnership available.

STATE EXPENDITURES ON MEANS-TESTED PUBLIC BENEFITS PROGRAMS WILL FALL.

Extending domestic partnership recognition to same-sex couples will reduce the State's public assistance expenditures. Under the new Act, domestic partners would be obligated to provide for one another's basic needs. After registering, a domestic partner's income and assets would be included in assessing an individual's eligibility for means-tested public benefits, reducing the number of people eligible for such benefits. This estimate takes into account both the possibility that losing public benefits may create a disincentive for some couples to register as partners and the fact that low-income couples might still qualify for benefits. Nevertheless, using Census 2000 data we estimate that recognizing domestic partnerships will reduce spending on public benefits programs by at least \$255,000 per year and as much as \$1.1 million, depending on how much discretion the State has to determine whether the income of same-sex partners is included in Medicaid eligibility standards.

STATE SALES AND USE TAX REVENUES WILL RISE.

If Colorado permits domestic partnerships, the State will collect approximately \$333,000 in sales tax revenue per year as a result of the state's same-sex couples spending \$34.4 million on their partnership celebrations during the first three years that domestic partnership is available.

ADMINISTRATIVE COST INCREASES WILL BE MINIMAL.

The State will incur the cost of printing domestic partner license forms, but those costs will be minimal. Hiring of new staff for implementation is likely to be short-term.

NO INCREASES IN COURT SYSTEM EXPENDITURES ARE LIKELY TO RESULT.

Any increase in demands on the state court system will be very small relative to the existing average caseload of judges and will not exceed the normal year-to-year variation in total caseloads. Accordingly, we predict no increase in costs for the State's court system as a result of extending domestic partnership to same-sex couples.

DOMESTIC PARTNERSHIP WILL INCREASE PROPERTY TAX REVENUE.

Allowing same-sex couples to register as domestic partners would likely increase property tax revenues slightly since some homeowners would no longer be eligible for some tax exemptions or credits.

THE STATE WILL INCUR A SLIGHT INCREASE IN COSTS FOR STATE EMPLOYEE RETIREMENT BENEFITS.

State employees would be allowed to sign up their domestic partners to receive health care benefits, which would increase state employment spending by less than \$193,000 per year.

**SUMMARY OF FISCAL IMPACT OF DOMESTIC PARTNERSHIP**

<b>Impact on state budget</b>	<b>Net effect (1)*</b>	<b>Net effect (2)**</b>
Means-tested public benefit programs	+\$1,101,400	+ \$254,800
Tax revenue from partnership ceremony spending:	+\$333,000	+\$333,000
Property tax revenue	***	***
State employee benefits expenditure	- \$192,700	- \$192,700
<b>Total</b>	<b>\$ 1,241,700</b>	<b>\$395,100</b>

\*Including same-sex spouses in Medicaid determinations.

\*\*Excluding same-sex spouses from Medicaid determinations.

\*\*\*Unable to calculate.

## Introduction

Coloradans are currently discussing the creation of a new legal relationship called “domestic partnership” for same-sex couples and will soon vote on a state referred by the legislature that would enact the “Colorado Domestic Partnership Benefits and Responsibilities Act.” One potential question about granting these rights to same-sex couples is the impact of such a change on the State of Colorado’s annual budget. Domestic partnerships would come with a variety of rights and responsibilities that might affect the State of Colorado’s expenditures and revenues. This study assesses the links between those rights and responsibilities and various budget categories to estimate the overall impact of the Act on the state budget.

Several categories of spending might be affected. On the one hand, domestic partnership could mean higher expenditures for the State on employee benefits and on court administration. On the other hand, the State might see lower expenditures on means-tested benefits. Similarly, tax revenues might be expected to change. In particular, we consider the effect of domestic partnership on property tax revenue and sales tax revenue.

We draw on data collected by the State of Colorado, in addition to other relevant data sources. The Census 2000 data on same-sex couples in Colorado provide important estimates of the number of same-sex couples who might enter partnerships if that option were available. Based on Vermont’s experience with same-sex civil unions, we predict that 5,000, or half, of Colorado’s 10,000 cohabiting same-sex couples will register when offered the opportunity.<sup>1</sup>

We base our analysis for Colorado on the same methods that we used in previous studies on California,<sup>2</sup> Connecticut,<sup>3</sup> New Hampshire,<sup>4</sup> New Jersey,<sup>5</sup> New Mexico,<sup>6</sup> Vermont,<sup>7</sup> and Washington.<sup>8</sup> 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*.<sup>9</sup> In these studies, we have concluded that extending significant rights and responsibilities to same-sex couples would have a positive impact on each state’s budget.<sup>10</sup> Similar conclusions have been reached by legislative offices in both Connecticut<sup>11</sup> and Vermont<sup>12</sup> as well as by the Comptroller General of New York.<sup>13</sup> 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.<sup>14</sup>

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 and tend to predict higher costs for the State and lower benefits. Even so, ***we find that the net effect of allowing same-sex couples to enter domestic***

***partnerships as defined in the Act will be a positive impact on the state budget of \$1.2 million per year.*** Moreover, evidence suggests that there are significantly more same-sex couples in the State than the Census reports.<sup>15</sup> If more couples register domestic partnerships than we predict, the net gains to the State will be even greater.

## **Defining Domestic Partnership**

On May 22, 2006, the Colorado legislature passed the “Colorado Domestic Partnership Benefits and Responsibilities Act” and referred the Act to voters as Referendum I in the November 2006 election.<sup>16</sup> The Act would create a new legal relationship for same-sex couples called “domestic partnership” in the Colorado Revised Statutes. Same-sex couples would be eligible to register if they are at least 18 years old, are not married or in another domestic partnership, and are not closely related.

According to the act, domestic partners would “have the benefits, protections, and responsibilities under law...as are granted to spouses.”<sup>17</sup> Domestic partners would “be responsible for the financial support of one another in the manner as prescribed under law for spouses.”<sup>18</sup> The bill includes a list of rights and responsibilities that includes, but is not limited to the right to sue for wrongful death, workers’ compensation benefits, state employee benefits, adoption rights, family leave benefits, homestead rights, and other benefits. One significant exception to the principle of equal treatment is that domestic partners would not be allowed to file a joint income tax return.<sup>19</sup>

In our analysis below, we focus only on those rights and responsibilities that have some significant budgetary impact.

### **1. Public Assistance Programs**

The State of Colorado funds public benefits programs that provide assistance to low-income individuals and families, such as Temporary Assistance to Needy Families (TANF), Colorado’s supplement to Supplemental Security Income (SSI), Medicaid, and the Children’s Basic Health Plan. The federal government also provides funding for some of these programs.

Eligibility for these programs is means-tested, i.e., eligibility depends on the applicant’s individual and family income and assets. When an applicant is part of a married couple, his or her spouse’s income and assets are included in the eligibility determination. Currently, regulations for these public assistance programs do not require the state or federal government to take into account an unmarried same-sex partner’s income and assets.<sup>20</sup> Therefore, people with same-sex partners are likely to be considered single when the State assesses

eligibility for these programs. If program participants could register as domestic partners, same-sex partners' incomes and assets would be counted in determining eligibility, since domestic partners would have the same legal responsibilities—including an obligation of financial support—that spouses have. This obligation would reduce both the applicant's need and eligibility for means-tested benefits. When participation in these programs drop, State expenditures on them will also fall.

The State, in setting eligibility standards for TANF recipients (and, therefore, for individuals qualifying for Medicaid because they receive TANF), will be able to count a same-sex spouse's income and assets in eligibility determinations for an individual or family. For SSI and Medicaid, while the federal government determines the generally applicable eligibility standards, the states have some latitude in developing their own standards and procedures. Because of the federal Defense of Marriage Act (DOMA), the State may be prohibited from including a same-sex spouse in determining eligibility.<sup>21</sup>

However, in assessing eligibility for Medicaid and SSI, it is possible that the State could still take into account the resources of same-sex partners under state and federal regulations. These regulations require Colorado to consider the resources of third parties who are legally liable for the health care costs of the applicant. Because Medicaid is a provider of last resort, both federal and state law require the State to assure that Medicaid recipients utilize all other resources, i.e., "third parties'" funds available to pay for all or part of an applicant's medical care needs before turning to Medicaid.<sup>22</sup> "Third parties" are entities or individuals who are legally responsible for paying the medical claims of Medicaid recipients.<sup>23</sup> They include any "individual, institution, corporation, or public or private agency which is or may be liable to pay all or any part of the medical cost of an injury, a disease, or the disability of an applicant for or recipient of medical assistance."<sup>24</sup> Examples of third parties in federal and state Medicaid manuals include absent and custodial parents. In addition, state and federal law require that the incomes of the sponsors of immigrants must be considered when determining an applicant's eligibility.<sup>25</sup> If the State were to consider the income of same-sex partners when determining eligibility for Medicaid and SSI, then savings from allowing same-sex couples to register would be at their highest. Below we distinguish between sources of savings to capture the uncertainty of the State's (and possibly the federal government's) future decisions about Medicaid and SSI.

To estimate the impact on public assistance spending, we draw on Colorado data from Census 2000. The Census asks respondents to report the amount of income from various sources, including the amount of income respondents received from Supplemental Security Income (SSI) and from "public assistance or welfare payments from the state or local welfare office" in 1999.<sup>26</sup> Taking

these numbers, we can calculate the total paid to individuals in same-sex couples.

In 2006 dollars, members of same-sex couples in Colorado received over \$1 million in public assistance and \$5 million in SSI. The second column of Table 1 shows estimated State and federal expenditures on people in same-sex couples in each program. To estimate the spending on same-sex couples in the Children's Basic Health Plan and for Medicaid, we assume that same-sex couples receive the same share of total spending on those programs as they do for TANF.

To assess how much the State would save, we adjust the current expenditures in several ways to arrive at an estimate of the State's savings:

- (1) We assume that half of people in same-sex couples will register as domestic partners, an assumption that takes into account the fact that the possible loss of benefits will deter some domestic partnerships.<sup>27</sup>
- (2) We assume that some people in domestic partnerships will continue to receive benefits. When couples register, the new domestic partner might also have a low income and few assets, allowing the program recipient to remain in the public assistance program. Furthermore, some partners may become eligible for family-related benefits as a result of domestic partnership. We make an adjustment that assumes that the same proportion of same-sex domestic partners will still receive benefits as married couples do. According to the Census, in 1999 1.3% of people in same-sex couples received SSI, while only 0.9% of married people did, and 1.0% of people in same-sex couples but only 0.6% of married people received "public assistance." Thus, spending on SSI will fall by roughly one third and spending on public assistance will fall by roughly half.<sup>28</sup>
- (3) We inflate the earlier dollar figures to put the savings in 2006 dollars.
- (4) We use data on the State's share of spending to isolate the State's share of savings.

Table 1 shows that the total expected savings to the State is just over \$1 million per year. The greatest savings come in the Medicaid category.<sup>29</sup> This estimate is roughly in line with a recent Congressional Budget Office report on the fiscal impact of same-sex marriage on the federal budget that predicted \$300 million in Medicaid savings for all 50 states in 2014.<sup>30</sup> However, if the federal government prohibited the State from counting a same-sex spouse's income and assets to calculate eligibility for Medicaid and SSI, the State's savings from state-run public benefits programs would be \$255,000 per year.

**Table 1: Reduced expenditures on public assistance programs**

	<b>Estimated annual state and federal spending on people in same-sex couples</b>	<b>State savings if same-sex couples can register</b>
SSI	\$4,999,800	\$199,000
TANF	1,031,000	237,300
Medicaid	5,622,000	647,300
Children's Basic Health Plan	213,000	17,500
Total savings (including Medicaid and SSI)		\$1,101,400
Total savings (excluding Medicaid and SSI)		\$254,800

## **2. Tax Revenue**

Tax revenues may be affected by allowing same-sex couples to register domestic partnerships. Revenue from sales tax, property tax, and property transfer tax are all potentially affected by creating domestic partnerships.

*Sales tax revenues:* One possible source of tax revenue from the establishment of domestic partnership is the state sales tax. If same-sex couples view the certification of a domestic partnership as a significant life event, they may plan ceremonies and celebrations that will involve not only expenditures from savings, but other related new spending by guests that will potentially boost the state's economy. By estimating the amount of spending associated with such celebrations, we can calculate the amount of sales tax revenue to be gained by the State.

Numerous businesses gain from new spending on partnership ceremonies and celebrations: retail gifts, hotels, florists, restaurants, caterers, etc.<sup>31</sup> To estimate these potential gains to Colorado businesses, we first estimate the number of couples who might register partnerships using Census 2000 data on same-sex unmarried partner couples. Then we multiply the number of couples by average celebration spending to get an estimate of total spending.

- According to Census 2000, as noted earlier, there are over 10,000 same-sex couples living together in Colorado, and we predict that half,

or about 5000, would register their partnership during the first few years of being offered the opportunity.<sup>32</sup>

- According to industry sources, the average wedding in the United States cost \$27,490 in 2006.<sup>33</sup> However, since some couples are not likely to view the partnership ceremonies in the same way as a wedding, the spending on these celebrations will probably be lower. Also, due to societal discrimination, same-sex couples may receive less financial support from their parents and other family members to cover costs. Finally, only spending that comes from couples' savings would truly be new spending for a state's businesses, rather than money diverted from some other use. Accordingly, we assume that the average same-sex couple will spend only 25% of \$27,490 on a domestic partner celebration, or \$6,873.

Even using this low estimate for celebration spending, the total increase in spending for Colorado businesses would be \$34.4 million over the first three years after the law is implemented. Currently the State's sales and use tax rate in Colorado is 2.9%,<sup>34</sup> suggesting that even our conservative estimate of domestic partner celebration spending will generate \$333,000 per year over the first three years.

*Property Taxes:* Property tax revenues may be affected by domestic partnerships in two ways. First, certain tax exemptions are partially determined by marital status. Second, married couples have different eligibility requirements than individuals when filing for tax credits. The likely effect of domestic partnerships on both the exemptions and credits is to decrease their availability for some same-sex couples.

Allowing same-sex couples to register as domestic partners would likely increase property tax payments by some newly-registered domestic partners. Currently, senior citizens (aged 65 or older) can receive property tax exemptions that reduce the amount of property tax they owe. Eligibility is based on how long the owner has owned and occupied the property as a primary residence. Spousal relationships play a role in two ways. First, a surviving spouse may claim the exemption if the deceased owner-occupier previously qualified for the exemption.<sup>35</sup> For those surviving domestic partners who would not immediately qualify on their own, many ultimately would (by reaching 65 and/or by being an owner-occupier for an adequate duration), so the effect would be to grant an earlier exemption. However, this is balanced by a spousal restriction on the number of claimable exemptions. Married individuals with more than one residential property must jointly file a claim, and they may do so for only one property. This means newly-registered domestic partners who would otherwise individually qualify for an exemption would have higher property tax payments. Since the spousal impact is to render entire properties ineligible for exemption, it

is likely the increased revenue would outweigh the cost of allowing surviving spouses to claim the exemption earlier.

Colorado would likely also issue fewer credits for property taxes and heat or fuel expenses to newly-registered domestic partners. Currently senior citizens (aged 65 or older) and disabled persons with low incomes (less than \$11,000 per year for individuals, and less than \$14,700 per year for married couples) can receive rebates for property taxes and heating expenses.<sup>36</sup> If both individuals qualified for such credits prior to registering as domestic partners, they would lose at least one claim, since they must file jointly as domestic partners. It is also possible that they would be unable to receive any rebate, since the qualifying income for couples is lower than the summed qualifying income of the two individuals. The only scenario where previously ineligible individuals could jointly claim a rebate as domestic partners is if only one partner meets the age requirement, and the other partner has an income of less than \$3,700; such scenarios are unlikely to represent a large number of domestic partnerships.

Some additional credits may also result if same-sex couples can register as domestic partners. Currently, a surviving spouse who is 58 or older can continue to receive rebates on property taxes and heating expenses if he or she continues to meet all other requirements.<sup>37</sup> Thus, the effect of establishing domestic partnerships is to extend this rebate scheme to some households earlier—no more than seven years—than they would normally qualify for it. However, these additional spousal-generated tax credits would likely be rare and short-lived. Furthermore, the average credit for each filed return was only \$312 in 2005. The cost of these credits was less than three-tenths of one percent (0.0026) of total property tax revenue, confirming that any impact would be quite small.<sup>38</sup>

*Property transfers:* We also considered the impact of domestic partnership on property transfer taxes. Colorado taxes transfer of property worth more than \$500 at a rate of 0.01%.<sup>39</sup> Any free gifts or transfers between persons for less than \$500 are not subject to this tax, regardless of their relationship. Consequently, any free transfers of property between domestic partners would be treated exactly the same as they are now.

*Estate taxes:* We do not estimate the effect of domestic partnerships on the Colorado estate tax because, starting in 2005, the federal government has phased out the credit to which Colorado's tax is tied. In short, changes at the federal level have eliminated the Colorado estate tax from the current tax code.

Prior to 2005, the Colorado estate tax was levied on the estate of a decedent before the property was distributed to the estate's beneficiaries. The amount of taxes an estate paid to Colorado acted as a "pick-up tax" or credit against the federal tax owed by the estate. However, in 2001, Congress passed the

Economic Growth and Tax Relief Reconciliation Act (EGTRRA), which not only limited the amount of state tax credits one could claim against their federal estate tax, but slowly phased out the credit which ended in 2005. Unlike some other states, Colorado has not acted to “decouple” its estate tax from the federal code or institute a separate tax structure to recapture lost estate tax revenues. Thus Colorado’s estate tax expired at the end of 2004 with the phase-out of the federal credit.<sup>40</sup>

Further, reimposing the estate tax for decedents that existed before 2005 would add little, if any, to the impact of domestic partnership. First, very few deceased Coloradans with same-sex partners would have estates large enough to trigger the estate tax, even if it were reimposed. According to federal data, only 5% of households have a net worth over \$1.5 million,<sup>41</sup> the filing threshold for the estate tax in 2005. If there are two householders who co-own the household assets, then the percent of eligible individuals would shrink even further. As a result of EGTRRA, the filing threshold for the federal estate tax will increase to \$2 million in 2006, 2007, and 2008 and increase again in 2009 to \$3.5 million – becoming applicable to a smaller and smaller percentage of households – until the tax is completely eliminated in 2010.<sup>42</sup> The number of individuals with same-sex partners who have such assets and would die in any given year is likely to be very small or even zero in most years.<sup>43</sup> Second, because same-sex couples cannot currently leave their estates to their partners without being assessed an estate tax liability, many have resorted to estate planning to minimize such taxes. Thus, even though the establishment of domestic partnerships would make such bequests non-taxable, the current tax liability for surviving partners has likely already been minimized through estate planning.<sup>44</sup>

Because of the high filing threshold, we conclude that few same-sex unmarried partner estates would be liable for estate taxes, and those that are would likely mitigate their liability through relevant expenses and bequests, rendering any future tax impact negligible.

*Summary of revenue impact:* Overall, while existing data do not allow us to precisely predict the impact of domestic partnership on tax revenue, our analysis here at least suggests that the net effect would be positive: state property tax revenues would rise somewhat as a result of domestic partnerships. Furthermore, domestic partner celebrations are likely to add sales tax revenues of \$333,000 for at least the first few years. Because the property tax revenue impact is impossible to predict precisely, the sales tax figures represent a lower bound estimate of the possible gains to state tax revenues.

### **3. State Employee Benefits.**

Domestic partners of State employees will become eligible for the same employment benefits that are now provided for employees' spouses. Currently, only employees of the University of Colorado system have coverage for their domestic partners, leaving approximately 26,000 other State employees without access to partner benefits. Because these other State employees will be allowed to sign up their partners and partners' children for benefits, the State will incur additional expenditures for those new enrollees of approximately \$193,000. Below we explain this estimate, which is based on publicly available figures for State employment and benefit costs.

*Additions to enrollment:* Both employer reports and a recent study suggest that on average 0.1-0.3% of employees will want to sign up a domestic partner for health care benefits.<sup>45</sup> Enrollment for partner benefits is low primarily because gay and lesbian employees' partners are more likely to be employed and to have their own employer-provided coverage than are married employees' spouses. Also, the value of the domestic partner benefits is considered to be taxable income, unlike coverage for spouses. These two factors reduce the usage of health care benefits by gay and lesbian employees' partners.

When the University of Colorado adopted domestic partner benefits for its roughly 25,000 employees, only 60 (or 0.24%) enrolled a partner for benefits.<sup>46</sup> Using this percentage, we can estimate that if Colorado offered partner benefits to its 25,632 other employees, approximately 62 will wish to sign up a partner. (Note that we do not include retirees' partners here, since the subsidy for retirement health care benefits does not vary with marital status.)

*Added cost per person:* The additional costs incurred by the State will depend both on how many new enrollees are covered as well as whether these new enrollees have higher-than-average health care expenses (known as "adverse selection"). This second factor has proven to be a non-issue with respect to domestic partner coverage more broadly, since domestic partners do not appear to have worse health or more expensive conditions than others covered in employer-sponsored health plans.<sup>47</sup> Accordingly, our analysis focuses on estimating the added cost of new enrollees.

The State of Colorado contributes a fixed amount towards employee health and dental benefits, starting from \$244.14 per month for medical, plus \$18.88 for dental for a single employee, up to \$567.42 in medical and \$41.40 in dental for "employee + spouse + child(ren)" in 2006-7.<sup>48</sup> The employee pays any difference between the state's contribution and the cost of the health care plan. As the state already contributes for the employee, the potential additional contribution for each partner and partner's child(ren) will range from \$2130 to \$4150 per year, depending on the family composition.

To estimate the total cost of providing health insurance coverage to the domestic partners of state and local government employees in Colorado, we multiply the new partners by the annual increase in State expenditures per employee. We conservatively assume that the families of employees expected to sign up a domestic partner will go into family coverage categories in the same proportion that current families are allocated.<sup>49</sup> Based on these estimates, the impact on the State budget of extending health care benefits to same-sex couples would be \$192,700 per year. This estimate is quite similar to the estimate by the Colorado Legislative Council Staff, who projected added costs of approximately \$195,200.

Some of these costs will likely be offset, to some extent, by reductions in other kinds of health-related State spending. Currently, people with same-sex partners are much more likely to be uninsured or on Medicaid than are married people.<sup>50</sup> By offering domestic partner benefits to public employees, the number of people who are uninsured or who are currently enrolled in Medicaid will fall, along with government spending on Medicaid and uncompensated care.

Spouses of State employees may also be entitled to survivor benefits through the Colorado Public Employees' Retirement Association (COPERA) if the employee is enrolled in the defined benefit plan. The added cost to the State of giving domestic partners the same survivor benefits will be minimal, however. Members of COPERA are now allowed to designate a "cobeneficiary," who can be a spouse or any other person, including a domestic partner.<sup>51</sup> If the member dies and is eligible for retirement, the cobeneficiary receives the survivor benefit. If the member dies but is not eligible for retirement, the member's children and spouse are eligible for a survivor benefit. If the member does not have a spouse, qualified children, or dependent parents, then the named beneficiary receives a lump sum payment of two times the deceased member's fund contributions plus interest.

In the case of a pre-retirement death, the State might incur slightly higher costs if the partner receives monthly survivor benefits worth more than the lump sum that a partner could now receive. But receipt of such benefits is rare with only 764 children, spouses, or dependent parents receiving such benefits in 2005.<sup>52</sup> So giving domestic partners the same coverage would add only 3 or 4 people over the next decade (again using a take-up rate of 0.5%). Since partners would otherwise receive a large lump sum payment, COPERA would likely not experience a noticeable increase in spending.

#### **4. Impact on the Judicial System**

Recognizing domestic partnerships would allow same-sex couples the same access to Colorado's courts as is provided to all spouses. Married persons can use State courts to protect wills, enforce the responsibilities of marriage, end a

marriage, and provide for a child. Married persons also have certain rights to sue third parties who may have been responsible in some way for the death of their spouse.

The impact of recognizing domestic partnerships on the State's court system depends on three things: (1) the number of cases that will be added to the dockets of the State's courts as a result of the new legislation; (2) the cost of resolving these cases; and (3) the cost of any other court programs that would be affected by the change.

*Adoptions:* In 2000, the Colorado state legislature enacted the Defense of Marriage Act, which limits marriage to "one man and one woman" and forbids the recognition of a marriage from another jurisdiction if it does not fit this definition.<sup>53</sup> Same-sex couples can, however, access certain limited rights by obtaining or creating specific legal documents. These rights include custody orders and visitation rights. Co-parent adoptions are currently unavailable in Colorado. However, the Domestic Partnership Benefits and Responsibilities Act would treat domestic partners in the same way spouses are treated for the purposes of paternity presumptions. Thus, new children in an established domestic partnership would add no burden to the judicial system. However, some of the children already being raised by same-sex couples would likely be adopted. In 2000, almost 6,000 children in Colorado were being raised by same-sex couples.

In the 2000 Census, children were identified either as being related to the householder or not. Children related to the householder included "natural-born," adopted, and stepchildren. Among those identified as natural-born children or stepchildren, predicting the number who would be adopted following passage of the Act would be speculative, at best. Many of these children are likely to have a biological parent outside of the same-sex couple household, who would be unwilling to terminate parental rights. On the other hand, children from artificial insemination and surrogate pregnancies may have been identified as "natural-born," and they may add to the number of new adoptions. Parents who have identified their children as "adopted" are more likely than the prior two groups to take advantage of new adoption opportunities. These parents have already been through the adoption proceedings once before, and the child would be less likely to have a biological parent who might contest the proceedings. In 2000, 2% of children raised in same-sex households were identified as adopted.<sup>54</sup> This suggests approximately 120 new adoption filings, which is nearly two orders of magnitude smaller than the filing fluctuations seen in Colorado's District Courts in recent years.<sup>55</sup>

Concerning the children identified as unrelated to the householder, it is unlikely a change in adoption law would encourage more adoptions. Vermont has allowed

second-parent adoptions by same-sex couples since 1993;<sup>56</sup> in 2000, Vermont had a higher percentage of same-sex households with kids unrelated to the householder than any other state.<sup>57</sup> Massachusetts also enabled second-parent adoptions in 1993,<sup>58</sup> but the state fell closer to the median percentage.<sup>59</sup> If second-parent adoption rights encouraged more parents to adopt (so the children would move from “unrelated” to “related”), states like Vermont and Massachusetts, that allow second-parent adoptions, would be expected to cluster on the low side of the scale.

Analysis of adoption trends in other states supports a conclusion that enabling second-parent adoption in Colorado would not add any clear burden to the judicial system. Vermont and Massachusetts have both allowed people to adopt the children of their same-sex partners for over a decade, and both legally recognize the relationships of same-sex partners. However, our analysis of statewide adoption filings over the past 20 years shows no obvious relationship between adoption filings and the decision to allow second-parent adoptions or legalized same-sex unions. The same holds true in Washington, D.C., where the percentage of same-sex couples is three times greater than in California, the state with the highest percentage. Vermont and Massachusetts see yearly fluctuations in new adoption filings as high as 20%, which sufficiently absorbed any effect from expanded adoption rights. With similar numbers, Colorado is likely to do the same.

*Probate:* It is likely that the legalization of domestic partnerships would affect probate proceedings only in the sense of changing beneficiaries in proceedings that would already occur otherwise. However, even using the most conservative assumptions, we have estimated that an average of only 82 people in same-sex partnerships would be expected to die in a year, which means that the courts would not experience a noticeable increase in the number of probate proceedings.<sup>60</sup>

*Dissolutions:* The only significant way in which legalizing same-sex domestic partnerships might increase court filings is by allowing same-sex partners to petition to dissolve their relationships in court. Table 2 uses Colorado's current dissolution rate and Vermont's civil union dissolution rate<sup>61</sup> to estimate the lower and higher predicted rates of dissolution that would be added to Colorado state court dockets. We then multiplied these rates by our projected number of same-sex couples who would register. Based on the Colorado dissolution rate<sup>62</sup> and the experience of Vermont under its civil union legislation,<sup>63</sup> we estimate that legalizing domestic partnerships will add 62 to 117 dissolution cases to the docket each year.

## **Table 2: Estimating the Dissolution Rate for Colorado Domestic Partnerships**

<b>Estimate method</b>	<b>Rate</b>	<b>Estimated domestic partnerships in Colorado</b>	<b>Estimated Dissolutions</b>
Vermont Civil Unions	1.2%	5,023	62
Colorado Marriages	2.3%	5,023	117

Colorado's District Courts typically handle over 24,000 dissolution filings each year.<sup>64</sup> Adding 117 filings to this caseload would be an increase of only one-half of one percent (0.0049). Table 3 shows that the annual fluctuations in divorce filings are far greater than this. In the ordinary course of business, Colorado courts handle fluctuations ranging from 91 to 1,070 divorce filings each year. New filings by same-sex couples ending domestic partnerships will not have a noticeable effect on Courts' caseloads.

**Table 3: Annual Fluctuations in Dissolution Filings, 1999-2002**

<b>Year</b>	<b>Dissolution Filings</b>	<b>Change From Prior Year</b>
2005	23,312	91
2004	23,221	815
2003	24,036	1,070
2002	25,106	359
2001	24,747	-

*Source:* Colorado Judicial Branch, "Annual Statistical Reports," available at <http://www.courts.state.co.us/panda/statrep/pandaannualsindex.htm>.

The insignificance of the cost of these filings is also evident when compared to the caseload of the average District Court judge. The average District Court judge handles over 1,300 cases each year.<sup>65</sup> Even if all 117 new cases added by domestic partnerships went to one judge, it would only increase his or her docket by 8%. Alternatively – and much more likely – if these cases are spread out among the 132 District Court judicial positions in Colorado,<sup>66</sup> 84% of these judges would have just one (1) case added to his or her docket, while the other 16% would not take on any additional cases. This estimate assumes that the number of new cases will fall at the high end of our predicted range of same-sex partnership dissolutions. Furthermore, some of these matters may be heard by court commissioners, in which case the additional workload will be even more spread out.

Regardless of how the cases would be distributed throughout the courts, the number of additional cases is so small that we conclude that domestic partnerships would not result in any actual expenditure by the State court system. In other words, the court system would not need to hire any additional judges, clerks, bailiffs, or staff, or build any additional courtrooms or infrastructure, to handle these cases. Indeed, any same-sex dissolution cases would generate revenue from the standard filing fees, which would be available to cover variable administrative costs.<sup>67</sup>

In conclusion, we find that domestic partnerships would add a negligible number of cases to the state court dockets, such that no additional judges, staffing, courtrooms, or programming would be necessary. Revenue created from additional filing fees would offset any other administrative or marginal costs for handling these cases. Moreover, it is likely that the State might even save money when dissolution cases are shifted to the family courts, where they will be handled more efficiently.

## **5. Administrative Costs**

Although the issuance of licenses and domestic partner certificates would fall to county clerks, the State will have certain administrative responsibilities and costs, too. The State's Department of Public Health and Environment would need to print new domestic partnership licenses and dissolution forms, as well as applications for verification of domestic partnerships and dissolutions.<sup>68</sup> The State can expect the cost of printing such forms to run approximately 10 cents per form.<sup>69</sup> Thus the one-time printing of 12,000 license and dissolution forms in order to reflect the new domestic partnership law would cost approximately \$1,200—a minimal cost.<sup>70</sup>

The proposed bill appropriates \$91,937 to fund half-time of one employee to investigate discrimination complaints, and part of another employee's time to assist with implementation of the Act.<sup>71</sup> This low expenditure should be a one-time cost. Otherwise, administrative costs should be minimal and would largely be borne by counties, which also collect fees that offset those costs.<sup>72</sup>

Our analysis of administrative costs differs somewhat from the state's own analysis. In its analysis of HB06-1344, the Legislative Council of the Colorado General Assembly predicted that the state would take in \$59,500 per year from fees of \$17 on 3,500 filings per year.<sup>73</sup> Our estimates of fee revenues are lower, however, since we predict that the state would see roughly 5,000 filings over the first few years, generating a total of \$85,000, or \$28,000 per year, if the fee is \$17, with a sharp drop-off after that time.

The state also predicts an annual \$136,000 of expenditures to process civil rights complaints, assumed to number 80-100 per year. This assumed number of complaints seems excessive, given that sexual orientation employment discrimination complaints are rare overall, and rarer still are complaints related to partnership in states that recognize same-sex couples.<sup>74</sup> In Minnesota, a state whose population is slightly larger than Colorado's, sexual orientation discrimination complaints numbered 24-34 per year in the 1990's. In Massachusetts, with a third more people than Colorado and the highest number of complaints as a percentage of the gay population, the state averaged 111 sexual orientation discrimination complaints per year. If Colorado were to outlaw sexual orientation discrimination in employment, the number of complaints would likely be closer to that of Minnesota given Colorado's population, and that number is far less than that predicted in the state's analysis. Furthermore, even fewer people will be affected by potential discrimination against Colorado residents in domestic partnerships, so complaints related to that status would also be fewer than for more general sexual orientation complaints. In the first four years of Vermont's civil unions for same-sex couples, an average of four cases per year of sexual orientation discrimination in housing, employment, or public accommodation were filed, at least four of which were related to civil unions.<sup>75</sup> In Massachusetts, in the last two to three years approximately three or four complaints have been filed by same-sex couples related to domestic partnership benefits.<sup>76</sup> During Connecticut's first year of civil unions for same-sex couples, only five discrimination complaints were filed related to civil union status.<sup>77</sup> Overall, we conclude that the Legislative Council's estimates of ongoing enforcement costs are excessive; therefore, we do not include such costs in our analysis.

## **6. Workers' Compensation Costs**

Currently, same-sex partners of government employees are not eligible for workers' compensation benefits. Dependents of injured employees, however, may collect. Dependents include widowed spouses and minor children,<sup>78</sup> who only collect in the event of the employee's death.<sup>79</sup> If the class of dependents is expanded to include domestic partners and minor children from those relationships, the annual financial impact would be minimal.

In 2002, there were 30,607 work-related injuries in Colorado.<sup>80</sup> Assuming the portion of the labor force employed by the government is equal to the portion of all work-related injuries sustained by government employees, an estimated 5,000 work-related injuries occur to government employees.<sup>81</sup> However, for our calculations of state costs, spousal status is only relevant when the injury is fatal or when the employee dies (for unrelated reasons) before benefits are fully collected. In 2005, there were only 106 fatal workplace injuries among state employees in the entire U.S; only three Colorado state employees died from

workplace injuries in 2004.<sup>82</sup> Thus, the overwhelming majority of the estimated 5,000 work-related injuries experienced by Colorado state employees are unlikely to be fatal, even if some injured employees die for unrelated reasons and create claims for survivors—only very rarely would a fatality be someone with a domestic partner.

Further, because only a small proportion of Colorado’s population is expected to enter domestic partnerships, it is estimated that only 21 injuries involving a government employee would involve an employee with a domestic partner.<sup>83</sup> Even among those 21 injuries, we would expect most to be fully compensated within the employee’s lifetime, generating no additional workers’ compensation expenses for the state.

## Conclusions

As this report documents, creating domestic partnerships for Colorado’s same-sex couples would have positive effects on the state budget, as well as on state businesses. Table 4 summarizes the findings of earlier sections on the impact of same-sex domestic partnerships on the State of Colorado budget to calculate the net budgetary effect. The cumulative effect of domestic partnerships on the budget areas examined in this report would be a net gain of just over \$1.2 million if the State uses a same-sex spouse’s income and assets to determine eligibility for Medicaid (Net effect (1)) or almost \$400,000 without the Medicaid savings (Net effect (2)).

**Table 4: Summary of fiscal impact of domestic partnership**

<b>Impact on state budget</b>	<b>Net effect (1)*</b>	<b>Net effect (2)**</b>
Means-tested public benefit programs	+\$1,101,400	+ \$254,800
Tax revenue from partnership ceremony spending:	+\$333,000	+\$333,000
Property tax revenue	***	***
State employee benefits expenditure	-\$192,700	-\$192,700
<b>Total</b>	<b>\$ 1,241,700</b>	<b>\$395,100</b>

\*Including same-sex spouses in Medicaid determinations.

\*\*Excluding same-sex spouses from Medicaid determinations.

\*\*\*Unable to calculate.

## Acknowledgements

We thank Deborah Ho, Holning Lau, and Darcy Pottle for their valuable assistance with this project.

## Notes

<sup>1</sup> We make this assumption having considered several factors. First, the fact that 57% of Vermont's same-sex partners have chosen to enter civil unions leads us to conclude that the more comprehensive set of rights provided to same-sex couples under Vermont law and the higher social status attributed to civil unions has caused a larger percentage of couples to seek legal recognition of their relationships, in contrast to jurisdictions such as California, where over 40% of same-sex couples have registered as domestic partners. At the same time, we assume that the percentage of same-sex couples who register will not equal the percentage of different-sex couples who marry, which is over 90%. See Sears, R. Bradley Sears and Badgett, M.V. Lee. 2004. *The Impact On California's Budget Of Allowing Same-Sex Couples To Marry*. Los Angeles: The Williams Institute. McCoy, Richard (Office of Vital Records, Vermont Department of Health). "Vermont civil union statistics." Email to author. July 11, 2005 (on file with authors). Simmons, Tavia and O'Connell. Martin, 2003. *Married-Couple and Unmarried-Partner Households: 2000*. Washington, D.C.: U.S. Department of Commerce.

<sup>2</sup> Badgett, M.V. Lee and Sears, R. Bradley. 2004. *The Impact on California's Budget of Allowing Same-Sex Couples to Marry*. Los Angeles and Amherst: Williams Project on Sexual Orientation Law and The Institute of Gay and Lesbian Strategic Studies.

<http://www.law.ucla.edu/williamsproj/publications/CASameSexMarriage.pdf>.

<sup>3</sup> Badgett, M.V. Lee, et al. 2005. *Counting on Couples: Fiscal Savings from Allowing Same-Sex Couples to Marry in Connecticut*. Los Angeles and Amherst: Williams Project on Sexual Orientation Law and The Institute of Gay and Lesbian Strategic Studies.

<http://www.law.ucla.edu/williamsproj/pdf/CountingOnCouples.doc>.

<sup>4</sup> Badgett, M.V. Lee, et al. 2005. *The Impact on New Hampshire's Budget of Allowing Same-Sex Couples to Marry*. Los Angeles and Amherst: Williams Project on Sexual Orientation Law and The Institute of Gay and Lesbian Strategic Studies.

<http://www.law.ucla.edu/williamsproj/publications/New%20Hampshire%20Econ%20Study.pdf>.

<sup>5</sup> Badgett, M.V. Lee, Sears, R. Bradley, and Goldberg, Suzanne. 2003. *Supporting Families, Saving Funds: A Fiscal Analysis of New Jersey's Family Equality Act*. Los Angeles and Amherst: Williams Project on Sexual Orientation Law and The Institute of Gay and Lesbian Strategic Studies. <http://www.law.ucla.edu/williamsproj/publications/NJ-DPAStudy.pdf>.

<sup>6</sup> Badgett, M. V. Lee, et al. 2006. *The Impact on New Mexico's Budget of Allowing Same-Sex Couples to Marry*. Los Angeles and Amherst: Williams Project on Sexual Orientation Law and The Institute of Gay and Lesbian Strategic Studies.

<http://www.law.ucla.edu/williamsinstitute/publications/new%20mexico%20econ%20study.pdf>.

<sup>7</sup> Badgett, M.V. Lee. 1998. *The Fiscal Impact on the State of Vermont of Allowing Same-Sex Couples to Marry*. Amherst: Institute for Gay and Lesbian Strategic Studies.

<http://www.iglss.org/media/files/techrpt981.pdf>.

<sup>8</sup> Badgett, M.V. Lee, et al. 2006. *The Impact on Washington's Budget of Allowing Same-Sex Couples to Marry*. Los Angeles: The Williams Institute

<http://www.law.ucla.edu/williamsinstitute/publications/washington%20econ%20study.pdf>.

<sup>9</sup> Badgett, M.V. Lee and Sears, R. Bradley. 2005. "Putting a Price on Equality? The Impact of Same-Sex Marriage on California's Budget," *Stanford Law & Policy Review* 16(1):197-231.

[http://www.law.ucla.edu/williamsproj/publications/16\\_Stan\\_L\\_&\\_Poly\\_Rev\\_197.pdf](http://www.law.ucla.edu/williamsproj/publications/16_Stan_L_&_Poly_Rev_197.pdf).

<sup>10</sup> Although Massachusetts allows same-sex couples to marry, the state has not tracked the budgetary impact.

<sup>11</sup> Connecticut General Assembly, Office of Legislative Research. 2002. *Office of Fiscal Analysis Report on HB 5001*. Connecticut: Connecticut General Assembly.

[http://www1.law.ucla.edu/~williamsproj/connstudy\\_files/connstudy.htm](http://www1.law.ucla.edu/~williamsproj/connstudy_files/connstudy.htm).

<sup>12</sup> The Office of Legislative Council. 2002. *Report of the Vermont Civil Union Review Commission: January 2002*.

<http://www.leg.state.vt.us/baker/Final%20CURC%20Report%20for%202002.htm>.

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<sup>13</sup> Office of the New York State Comptroller. 2004. "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" New York: Office of the New York State Comptroller. <http://www.osc.state.ny.us/press/releases/mar04/030304b.htm>.

<sup>14</sup> Holtz-Eakin, Douglas (Director, Congressional Budget Office). 2004. "*The Potential Budgetary Impact of Recognizing Same-Sex Marriages.*" Letter to Chairman of House Subcommittee on the Constitution, June 21, 2004. <http://www.cbo.gov/ftpdocs/55xx/doc5559/06-21-SameSexMarriage.pdf>.

<sup>15</sup> For evidence that the 2000 Census undercounted the number of cohabitating same-sex couples in the United States, see Badgett, M.V. Lee and Rogers, Marc A.. 2003. *Left Out of the Count: Missing Same-Sex Couples in Census 2000*. Amherst: Institute for Gay and Lesbian Strategic Studies (noting that two surveys estimated the undercount at 16% to 19%). [http://www.iglss.org/media/files/c2k\\_leftout.pdf](http://www.iglss.org/media/files/c2k_leftout.pdf) (last visited on December 7, 2005). Smith, David M. and Gates, Gary J. 2001. *Gay And Lesbian Families In The United States: Same-Sex Unmarried Partner Households*. Washington, D.C.: Human Rights Campaign (estimating undercount at 62%). [http://www.hrc.org/Template.cfm?Section=Census\\_20001&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=23&ContentID=27201](http://www.hrc.org/Template.cfm?Section=Census_20001&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=23&ContentID=27201) (last visited December 7, 2005). Because our calculation of the percentage of Vermont couples who entered civil unions uses the (likely) lower Census figure, adjusting for the undercount would not alter our estimates of couples who register in Colorado.

<sup>16</sup> Colorado Legislative Council Staff. 2006. *State and Local Conditional Fiscal Impact of Bill HB06-1344*. Denver: Colorado General Assembly. [http://www.leg.state.co.us/clics2006a/csl.nsf/fsbillcont3/44A2F39E9A5663E1872570E4006869C1?Open&file=HB1344\\_00.pdf](http://www.leg.state.co.us/clics2006a/csl.nsf/fsbillcont3/44A2F39E9A5663E1872570E4006869C1?Open&file=HB1344_00.pdf) (accessed September 29, 2006).

<sup>17</sup> Colorado House Bill 06-1344, Section 1, 14-15-106(1).

<sup>18</sup> *Id.* at § 1, 14-15-106(3).

<sup>19</sup> *Id.* at § 1, 14-15-116(3).

<sup>20</sup> For the Children's Basic Health Plan, the Colorado Code of Regulations defines "family" as "a group of people who are related by blood, marriage or other legally recognized domestic relationship, live in the same household and receive at least 50% of their support from the household." (See 10 CCR 2505-3 50.8). For Medicaid, .10 CCR 2505-10 8.101.40A states, "In determining eligibility for medical assistance for household members, financial responsibility is limited to spouse being responsible for spouse and parent being responsible for a dependent child." Also, 9 CCR 2503-1 (Volume of Income Maintenance) defines the eligibility of family members for cash assistance. In the section on "Financial Responsibility of Relatives," it states that "[i]n family groups living together, income of one spouse is considered available for the other spouse and income of a parent (or spouse of a parent) is considered available for unemancipated children except that, if a spouse or parent is receiving assistance under another category of public assistance, SSI benefits, or medical assistance, the income shall not be considered as available to the other spouse or to the children." (3.240.21) .

<sup>21</sup> The Defense of Marriage Act (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, Pub. L. 104-199, § 1, 100 Stat. 2419 (1996) (codified at 1 U.S.C. § 7 (1997)). "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 prohibit the state from interpreting the term spouse in the regulations to include a same-sex domestic partner. A related issue has arisen in Vermont with respect to that state's treatment of couples in a civil union within the Medicaid program. Mace, David. 2003. "Critics Say Rule Change Violates Civil Unions," *The Times Argus*, April 17. Recent correspondence from the Centers for Medicare and Medicaid Services to state agencies in Vermont and Massachusetts suggests that the states

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cannot treat same-sex spouses in the same way that different-sex spouses are treated in the Medicaid program.

<sup>22</sup> 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 USC § 1396a.

<sup>23</sup> 42 CFR 433.135 (2004) (“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.”). Colorado similarly defines a “third party” as “an individual, institution, corporation, or public or private agency which is or may be liable to pay all or any part of the medical cost of an injury, a disease, or the disability of an applicant for or recipient of medical assistance.” See CRS 26-4-103.

<sup>24</sup> CRS 26-4-103

<sup>25</sup> Centers for Medicare and Medicaid Services. *Immigrant Eligibility for Medicaid and SCHIP*. Washington, D.C.: U.S. Department of Health and Human Services. <http://www.cms.hhs.gov/immigrants> (last visited September 19, 2005); National Immigration Law Center. 2002. *Guide to Immigrant Eligibility for Federal Programs* (4th ed.). Washington, D.C.: National Immigration Law Center. [http://www.nilc.org/pubs/Guide\\_update.htm](http://www.nilc.org/pubs/Guide_update.htm) (last visited September 5, 2006). According to the Centers for Medicare and Medicaid Services, “the income and resources of the immigrant’s sponsor must be counted in determining the immigrant’s eligibility.” Centers for Medicare and Medicaid Services. *Immigrants’ Medicaid Eligibility*. Washington, D.C.: U.S. Department of Health and Human Services. [http://www.cms.hhs.gov/MedicaidEligibility/05a\\_Immigrants.asp](http://www.cms.hhs.gov/MedicaidEligibility/05a_Immigrants.asp) (last visited September 5, 2006).

<sup>26</sup> Wording from the Census questionnaire. U.S. Census Bureau. 2003. *Public Use Microdata Sample, 2000 Census of Population and Housing, Technical Documentation*, at D-8. Washington, D.C.: U.S. Department of Commerce.

<sup>27</sup> Research on welfare benefits find, at most, a very small disincentive effect on marriage, so we assume a small effect on domestic partnership registration. See Moffitt, Robert. 1992. “Incentive Effects of the U.S. Welfare System: A Review.” *Journal of Economic Literature*, 30: 27-31, at 1.

<sup>28</sup> The reduction for SSI equals  $(1 - 0.87/1.25) = 0.30$ . The reduction for public assistance equals  $(1 - 0.59/1.09) = 0.46$ .

<sup>29</sup> We calculate the state savings on Medicaid spending net of long term care expenditures. Kaiser Family Foundation. *State Health Facts*. Menlo Park, CA: Henry J. Kaiser Family Foundation. [Statehealthfacts.org](http://Statehealthfacts.org), (last visited October 2, 2006).

<sup>30</sup> Congressional Budget Office. 2004. *The Potential Budgetary Impact of Recognizing Same-sex Marriages*, at 9. Washington, D.C.: Congressional Budget Office.

<sup>31</sup> The experiences of San Francisco, California, and Portland, Oregon, suggest that the local economic benefits of same-sex couples’ weddings are substantial. The couples who married in San Francisco during a one-month window of availability in 2004 came from 46 states and eight countries. Businesses in Portland and San Francisco reported that same-sex wedding visitors spent substantial amounts of money on wedding-related goods and services. Furthermore, Massachusetts witnessed an increased demand for hotels, catering services, and other wedding-related goods and services when same-sex couples began to marry there in May 2004. (As cited in Badgett, M.V. Lee and Sears, R. Bradley. 2005. “Putting a Price on Equality? The Impact of Same-Sex Marriage on California’s Budget,” *Stanford Law & Policy Review* 16(1):197-231.

<sup>32</sup> According to state sources, 57% of Vermont’s same-sex partners have chosen to enter civil unions. McCoy, Richard (Office of Vital Records, Vermont Department of Health). “Vermont civil union statistics.” Email to author. July 11, 2005 (on file with authors).

<sup>33</sup> The source for this figure and the state figures in the appendix is McMurray, Shane. 2006. “State Wedding Statistics and Market Estimates.” *The Wedding Report*.

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<http://www.theweddingreport.com/wmdb/index.cfm?action=db.textviewstate> (last accessed August 11, 2006).

<sup>34</sup> Colorado Regulation (39-) 26-105.1(a).

<sup>35</sup> C.R.S. § 39-3-203 (2006).

<sup>36</sup> C.R.S. § 39-31-101 (2006); C.R.S. § 39-31-104 (2006).

<sup>37</sup> C.R.S. § 39-31-101(1)(b)(II).

<sup>38</sup> Last year, Colorado spent \$14 million on property and heat credits. Colorado Department of Revenue, *Annual Report 2005*, available at

[http://www.revenue.state.co.us/EDO\\_dir/pdf/AR2005.pdf](http://www.revenue.state.co.us/EDO_dir/pdf/AR2005.pdf) (last viewed August 7, 2006). Total revenue from property taxes during that same year was \$5.3 billion. Colorado Department of Local Affairs, *2005 Annual Report*, available at

<http://www.dola.state.co.us/PropertyTax/Publications/2005AnnualReportIntro.htm> (last viewed August 7, 2006).

<sup>39</sup> C.R.S. § 39-13-102(2) (2006).

<sup>40</sup> "FYI Estate 1: Colorado Estate Tax," Colorado Department of Revenue, Taxpayer Service Division, available at <http://www.revenue.state.co.us/fyi/html/estate01.html>.

<sup>41</sup> Bucks, Brian K. et al. 2006. "Recent Changes in U.S. Family Finances: Evidence from the 2001 and 2004 Survey of Consumer Finances." *Federal Reserve Bulletin*. Washington, D.C.: Board of Governors of the Federal Reserve System.

<http://www.federalreserve.gov/pubs/oss/oss2/2004/bull0206.pdf> (last visited October 11, 2006). 2004 figure (\$1.43 million) inflated to 2005 dollars (\$1.48 million).

<sup>42</sup> Internal Revenue Service. 2005. *Tax Law Changes for Gifts and Estates and Trusts, Increased Estate Tax Applicable Exclusion Amount*. Washington, D.C.: U.S. Department of Treasury.

<http://www.irs.gov/formspubs/article/0,,id=112782,00.html> (last visited October 11, 2006).

<sup>43</sup> See, for examples, reports generating the estimates for the very small number of individuals with same-sex partners who would die in any given years in New Jersey.

(<http://www.law.ucla.edu/williamsinstitute/publications/NJ-DPAStudy.pdf>) and Connecticut (<http://www.law.ucla.edu/williamsinstitute/pdf/CountingOnCouples.doc>).

<sup>44</sup> For instance, on average 19% of decedents will make charitable bequests and such bequests will represent 14% of their net estate. Estate Tax Returns Filed in 2004 with Total Gross Estate Greater than \$1 Million: Gross Estate by Type of Property, Deductions, Taxable Estate, Estate Tax and Tax Credits, by Size of Gross Estate." SOI Unpublished Data from the IRS. Washington, D.C.: U.S. Department of Treasury. <http://www.irs.gov/pub/irs-soi/04es01tc.xls> (last visited January 13, 2006). Bass, Gary D. and Irons, John S. 2003. "SOI Estate Tax 2004 Data: The Estate Tax and Charitable Giving." *OMB Watch*.

<sup>45</sup> Ash, Michael and Badgett, M. V. Lee. (forthcoming) "Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Same-sex and Unmarried Different-sex Couples." *Contemporary Economic Policy*.

<sup>46</sup> We use data on the current enrollment of state employees in health care plans provided from the Colorado Department of Personnel and Administration. Postlethwait, Julie (Communications Coordinator of the Department of Personnel and Administration). "Data on number of employees is from Colorado Legislative Council Staff." Email to the author. August 29, 2006. Colorado Legislative Council Staff. *State and Local Conditional Fiscal Impact* HB 06-1344, February 22, 2006. p. 3.

<sup>47</sup> Ash and Badgett, *supra* note 45.

<sup>48</sup> Division of Human Resources. 2006. *FY07 State of Colorado Medical / Dental Premiums (July 1, 2006 – June 30, 2007)*. Colorado: Colorado Department of Personnel & Administration.

<http://www.colorado.gov/dpa/dhr/benefits/fy07/docs/rates/meddenrates.pdf> (accessed Sept. 28, 2006).

<sup>49</sup> Postlethwait, *supra* note 46. .

<sup>50</sup> Ash and Badgett, *supra* note 45.

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- <sup>51</sup> Colorado Public Employees' Retirement Association (COPERA). 2006. *Survivor Benefits*. Denver: Colorado Public Employees' Retirement Association. <http://www.copera.org/pdf/5/5-9.pdf>.
- <sup>52</sup> COPERA Comprehensive Annual Fiscal Report, For the Fiscal Year Ended December 31, 2005, p. 104.
- <sup>53</sup> C.R.S. § 14-2-104 (2006)
- <sup>54</sup> R. Bradley Sears and Rubenstein, William B. 2005. *Same-Sex Couples and Same-Sex Couples Raising Children in Colorado*. Los Angeles: The Williams Institute. <http://www.law.ucla.edu/williamsinstitute/publications/ColoradoCouplesReport.pdf>.
- <sup>55</sup> Colorado Judicial Branch. *District Court Caseload, FY 1996 to FY 2005*. Denver: Colorado Judicial Branch. <http://www.courts.state.co.us/panda/statrep/ar2005/files/3-table12.pdf>.
- <sup>56</sup> *In re Adoption of B.L.V.B.*, 1610 Vt. 268 (Vt. 1993).
- <sup>57</sup> 6.3% had at least one child unrelated to the householder. The numerator is the number of same-sex households with unrelated children, calculated from the census data in Simmons, Tavia and O'Connell. Martin, 2003. *Married-Couple and Unmarried-Partner Households: 2000*. Washington, D.C.: U.S. Department of Commerce. <http://www.census.gov/prod/2003pubs/censr-5.pdf>. The denominator is the number of same-sex households with children. By contrast, 4.9% of Colorado's same-sex households with children had at least one child unrelated to the householder.
- <sup>58</sup> *Adoption of Tammy*, 416 Mass. 205 (Mass. 1993).
- <sup>59</sup> Massachusetts percentage: 3.8%; median percentage (excludes District of Columbia and Puerto Rico): 3.9%.
- <sup>60</sup> 10,046 people are expected to enter domestic partnerships, and the age-adjusted mortality rate in Colorado is 0.0081. Health Statistics Section. *Colorado Health Information Dataset*. Denver: Colorado Department of Public Health and Environment. <http://www.cdphe.state.co.us/cohid/deathmenu.html> (last visited August 15, 2006).
- <sup>61</sup> We determined the dissolution rate for same-sex couples under Vermont's civil union legislation by dividing the total number of civil unions by the number of terminations of unions filed each year.
- <sup>62</sup> In 2000, Colorado had 20,063 divorces. Health Statistics Section. *Marriages and Marriage Dissolutions: Colorado Occurrences and United States, 1950-2004*. Denver: Colorado Department of Public Health and Environment. <http://www.cdphe.state.co.us/hs/vs/2004/m1.pdf> (last visited July 6, 2005). That same year, there were 858,671 married couple households, indicating a divorce rate of 2.3%. Simmons, Tavia and O'Connell. Martin, 2003. *Married-Couple and Unmarried-Partner Households: 2000*. Washington, D.C.: U.S. Department of Commerce. <http://www.census.gov/prod/2003pubs/censr-5.pdf>.
- <sup>63</sup> Vermont has recorded 7,800 civil unions from 2000 through 2005, of which 1,234 involved Vermont residents. In this same time period, there have been 92 dissolutions of civil unions entered by Vermont's family courts, or an average of 15 per year (civil unions may only be dissolved by Vermont residents). Cummings, Patrick (Office of Vital Records, Vermont Department of Health). "Vermont civil unions." Email to author. July 14, 2006 (on file with authors).
- <sup>64</sup> Colorado Judicial Branch. *Annual Statistical Reports*. Denver: Colorado Judicial Branch. <http://www.courts.state.co.us/panda/statrep/pandaannualsindex.htm> (last visited July 14, 2006).
- <sup>65</sup> Colorado Judicial Branch. *District Court Caseload, FY 1996 to FY 2005*. Denver: Colorado Judicial Branch. <http://www.courts.state.co.us/panda/statrep/ar2005/files/3-table12.pdf>.
- <sup>66</sup> Colorado Judicial Branch, *District Court*. Denver: Colorado Judicial Branch. <http://www.courts.state.co.us/panda/statrep/ar2005/files/3-15-narrativedist.pdf>.
- <sup>67</sup> The fee for initiating a dissolution proceeding is \$1750. State of Colorado District Courts, as provided by C.R.S. § 13-32-101(a) (2006).
- <sup>68</sup> Proposed CRS 25-2-105 (2).

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69 For example, the Connecticut Office of Fiscal Analysis reports a reprinting cost of 10 cents per form in its report on the fiscal impact of legalizing same-sex marriage. Connecticut General Assembly, Office of Fiscal Analysis Report, 10/04/2002, <http://www.cga.ct.gov/olr/ofadoc/ofacivilunion1.htm> (last visited March 7, 2005).

<sup>70</sup> Approximately 5,000 couples are expected to register as domestic partners in Colorado, while an estimated 100 dissolution petitions would be filed per year. With the additional need for sufficient extra forms, we assume the State will need to print 12,000 new forms.

<sup>71</sup> H.R. 06-1344, 2006 Leg., Reg. Sess. (Colo. 2006) at § 8.

<sup>72</sup> The proposed act, as approved by the Colorado House of Representatives, includes a \$7 license fee under C.R.S. § 14-15-110. *Id.* at § 1.

<sup>73</sup> Colorado Legislative Council Staff, *State and Local Conditional Fiscal Impact* HB 06-1344, February 22, 2006.

<sup>74</sup> For statistics in this paragraph on sexual orientation complaints related to employment, see Williams R. Rubenstein, *Do Gay Rights Laws Matter? An Empirical Assessment*, 75 S. Cal. L. Rev. 65 (2001).

<sup>75</sup> For total number of sexual orientation complaints, see Vermont Human Rights Commission, *Statistics*, available at <http://www.hrc.state.vt.us/statistics.htm> (last visited October 13, 2006). For description of four first year complaints, see Vermont Civil Union Review Commission, *Report of the Commission*, <http://www.leg.state.vt.us/baker/cureport.htm> (last visited October 13, 2006).

<sup>76</sup> John Lozada, Chief of Enforcement, Massachusetts Commission Against Discrimination, email dated October 5, 2006 (on file with authors).

<sup>77</sup> Alix Simonetti, Connecticut Commission on Human Rights and Opportunities, email dated October 13, 2006 (on file with authors).

<sup>78</sup> C.R.S. § 8-41-501 (2006).

<sup>79</sup> C.R.S. § 8-41-504 (2006).

<sup>80</sup> Colorado Department of Labor & Employment. *Work-Related Injuries In Colorado 2002*. Denver: Colorado Department of Labor & Employment. [http://www.coworkforce.com/dwc/ExistingFiles/PUBS/Work\\_Related\\_Injuries\\_02.pdf](http://www.coworkforce.com/dwc/ExistingFiles/PUBS/Work_Related_Injuries_02.pdf) (last visited August 7, 2006).

<sup>81</sup> 14% of the civilian labor force works for the government. Bureau of Labor Statistics. *Colorado Economy at a Glance*. Kansas City, MO: U.S. Department of Labor. <http://www.bls.gov/eag/eag.CO.htm> (last visited August 17, 2006). This is actually an overestimate, since it includes government workers at all levels, while the Act would only impact state employees.

<sup>82</sup> Bureau of Labor Statistics. *Fatal Occupational Injuries by Industry and Event or Exposure All United States, 2005*. Kansas City, MO: U.S. Department of Labor. <http://www.bls.gov/iif/oshwc/cfoi/cftb0205.pdf>; and Bureau of Labor Statistics. *Fatal Occupational Injuries in Colorado*. Kansas City, MO: U.S. Department of Labor <http://www.bls.gov/iif/oshwc/cfoi/tgs/2004/iiffi08.htm> (last visited August 17, 2006).

<sup>83</sup> In 2000, 2,370,000 people were part of the Colorado labor force. Bureau of Labor Statistics. *Colorado Economy at a Glance*. Kansas City, MO: U.S. Department of Labor <http://stats.bls.gov/eag/eag.co.htm> (last visited August 7, 2006). An estimated 10,046 people would enter domestic partnerships, if available, or 0.4%. Since we do not know what percentage of domestic partners would be outside the labor force, we can use 0.4% as an upper bound.