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THE IMPACT ON MARYLAND'S BUDGET OF ALLOWING SAME-SEX COUPLES TO MARRY

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EXECUTIVE SUMMARY

Same-sex marriage in Maryland will have a positive impact on the state budget of approximately \$3.2 million annually.

This analysis estimates the potential impact of extending marriage rights to same-sex couples on Maryland's state budget. Drawing on data from the U.S. Census Bureau and Maryland statistical reports, we estimate that extending marriage rights to same-sex couples would result in a net gain of approximately \$3.2 million each year. This net gain is attributable to savings in expenditures on means-tested public benefit programs and an increase in sales and lodging tax revenue from weddings and wedding-related tourism.

Our analyses are grounded in the methodology employed in previous studies examining the effect of same-sex marriage rights on the budgets of California,¹ Colorado,² Connecticut,³ Massachusetts,⁴ New Hampshire,⁵ New Jersey,⁶ New Mexico,⁷ Vermont,⁸ and Washington.⁹ Detailed accounts of these methods can be found in *Putting a Price on Equality? The Impact of Same-Sex Marriage on California's Budget*.¹⁰ Findings from all of these studies suggest that extending marriage rights to same-sex couples would result in a positive impact on state budgets. These findings are echoed in reports issued by the legislative research offices of Connecticut¹¹ and Vermont,¹² and the Comptroller General of New York.¹³ The Congressional Budget Office (CBO) has also concluded that the federal government would see nearly a \$1 billion annual benefit if all fifty states and the federal government extended marriage rights to same-sex couples.¹⁴

The implications of same-sex marriage rights on state budgets are further explored in this analysis of Maryland. Our findings of a net positive effect of same-sex marriage on the state budget are derived from the following estimates:

Approximately 7,800 of Maryland's same-sex couples will marry if marriage rights are extended to same-sex couples.

Data from the 2005 American Community Survey indicate that approximately 15,607 cohabiting same-sex couples live in Maryland. Drawing on the experiences of other states that have extended marriage, civil unions, or domestic partnerships to same-sex couples, we estimate that half, or about 7,800, of Maryland's same-sex couples will choose to marry if permitted.

Revenues from sales and lodging tax will increase if marriage rights are extended to same-sex couples.

If Maryland extends marriage rights to same-sex couples, additional revenue is likely to be generated from the wedding-related expenditures of both residents and non-residents. Couples living in Maryland who choose to marry will generate an estimated \$63 million in additional wedding spending over three years, or a little over \$21 million per year. Further, couples from out of state are likely to travel to Maryland to marry. This influx of tourists will generate an increase in tax revenues, as well as produce higher business profits and create additional jobs. Drawing on data on Maryland's tourist industry, we estimate that out-of-state couples will generate approximately \$218 million in increased spending over three years, or almost \$73 million per year. In-state and out-of-state couples, then, will produce approximately \$282 million in wedding spending over the first three years, or \$94 million per year. Because Maryland imposes a tax of 5% on the sale of most services, this spending could generate approximately \$14 million in tax revenue over three years, with \$3.2 million from in-state couples and \$10.9 million from out-of-state couples.

The net impact on the State's income tax revenue resulting from same-sex marriages will be small.

Maryland will experience a decrease in income tax revenue if marriage rights are extended to same-sex couples, given that there is generally a lower tax levied on those who are married and file jointly. We find that state income taxes would decrease by an average of \$54 for approximately 75% of same-sex couples in Maryland if they could file jointly as married couples. For 3% of couples, filing jointly would have no impact on their taxes, whereas 22% would see an average increase of \$88. We estimate that the projected decrease in income tax revenue would be approximately \$132,000 each year.

Maryland will experience little effect on revenues generated by the inheritance tax as a result of same-sex marriage.

Because the inheritance tax only applies to estates worth \$1 million or more, we found little or no effect on inheritance tax revenues resulting from allowing same-sex couples to marry. Drawing on federal data on spousal bequests, we estimate that less than one (0.40) same-sex spouse would have been liable for the state inheritance tax in a given year if unmarried. In other words, a same-sex unmarried partner's estate would have generated tax revenue approximately twice every five years. We conservatively include in our estimate that the State will lose an average of \$212,000 in inheritance tax revenues each year if it were to make marriage available to same-sex couples.

The State will incur some revenue loss from transfer taxes as a result of same-sex marriage.

Real estate sales are subject to a state transfer tax of 0.5% of the selling price, unless otherwise exempt. Transfers of property between spouses or former spouses are exempt from the tax. If marriage rights were extended to same-sex couples, transfers of real estate would no longer be taxed for these couples, resulting in a loss of revenue for the State. We estimate that the State would lose a maximum of \$4,123,600 over three years, or \$1,375,000 annually, in transfer taxes.

Extending marriage rights to same-sex couples will reduce the State's expenditures on means-tested public benefit programs.

The State provides economic support to low-income families through a variety of public assistance programs. Eligibility for these programs is determined by the applicant's income and assets. For many programs, a spouse's income and assets are included when determining need. If marriage rights are extended to same-sex couples, same-sex spousal income could be considered in determining eligibility. As a result, the number of people eligible for benefit programs will decline, thereby reducing the State's expenditures. Our calculations incorporate the possibility that loss of public benefits could create a disincentive to marry, as well as the fact that some low-income same-sex spouses will remain eligible for benefits. Using data from Census 2000, we estimate that extending marriage rights will reduce state expenditures on public benefit programs by approximately \$1.5 million per year if the federal government permits the State to consider the income of same-sex spouses when determining Medicaid and SSI eligibility. If the State does not have this discretion, savings will be approximately \$172,000.

Maryland will experience an increase in expenditures on state employee benefit programs if marriage rights are extended to same-sex couples.

Maryland provides health, prescription, dental, and retirement benefits to its employees. Employees are able to obtain some coverage under these programs for legal spouses or dependent children. Thus, extending marriage rights to same-sex couples would allow employees to obtain coverage for their same-

sex spouses. Drawing on state records regarding benefit expenditures, we calculate that annual state expenditures for health, prescription, and dental plans would increase by approximately \$435,000 to \$1.3 million. Annual expenditures on spousal death benefits under retirement plans would increase by a maximum of \$8,655 to \$26,000.

Administrative costs generated from marriage certificates will be less than the revenue generated by license fees.

Maryland has the administrative procedures in place to handle the processing of marriage licenses for different-sex couples. As a result, there should be no expenses associated with establishing new administrative processes for same-sex couples. Costs resulting from printing forms, copying papers, and training clerks should already be built into the marriage license fee of \$35 per couple. This marriage license fee would generate \$273,000 if 7,800 couples married in Maryland. Therefore, we conservatively estimate that extending marriage to same-sex couples will not generate administrative costs beyond those covered by license fees.

Extending same-sex marriage rights is unlikely to result in an increase in court system expenditures.

We estimate that same-sex marriage will result in an additional 78 dissolution filings a year, which comprises approximately 0.2% of all dissolution filings. This burden would, therefore, be insignificant. In addition, revenue generated from filing fees would offset any administrative costs associated with handling these cases.

In sum: Maryland will experience a benefit to its state budget if marriage rights are extended to same-sex couples.

After considering all of these factors, we estimate that extending marriage rights to same-sex couples will result in a net benefit to the state budget of approximately \$3.2 million annually. Even if public assistance savings are lower because the state cannot accrue savings from SSI and Medicaid, the State would still see a positive net gain of approximately \$1.9 million per year.

	Total Fiscal Effect
Sales Tax	\$4,706,000
Income Tax Revenue	(\$133,000)
Inheritance Tax	(\$212,000)
Transfer Tax	(\$1,375,000)
Public Assistance	\$1,501,400
Employment Benefits	(\$1,301,700)
Administrative Costs	\$0
TOTAL	\$3,185,700

In addition, Maryland’s businesses will experience an economic boost from wedding spending.

Wedding expenditures will generate a sizable increase in spending of about \$94 million per year for at least the first three years after same-sex couples are allowed to marry. This increase is more than enough to offset the increased cost of providing health care benefits for new spouses, which will cost all state businesses a total of \$5.7 million per year. The net gain to businesses will be approximately \$88 million per year.

INTRODUCTION

Marylanders are currently discussing the extension of the right to marry to same-sex couples. Over the last fifteen years, the public debate has evolved to include considerations of the social and economic consequences of marriage.¹⁵ Economic consequences, in particular, have assumed a growing role in the public discourse about marriage. As the debate continues, policymakers have increasingly questioned the potential impact of the marriages of same-sex couples on economic development and on state budgets. Concerns about the impact of same-sex couples' marriages on the state budget have focused on granting gay couples equal access to the *benefits* of marriage, including health insurance, pensions, and property transfers.

In this report, we undertake an analysis to assess the budgetary impact of civil marriage for same-sex couples in Maryland. We base our analysis of the fiscal impact of marriage for same-sex couples in Maryland on the same methods we used in previous studies on California,¹⁶ Colorado,¹⁷ Connecticut,¹⁸ Massachusetts,¹⁹ New Hampshire,²⁰ New Jersey,²¹ New Mexico,²² Vermont,²³ and Washington.²⁴ These studies found that extending the rights and obligations of marriage to same-sex couples would have a positive impact on each state's budget. These findings are echoed in reports issued by the legislative research offices of Connecticut²⁵ and Vermont,²⁶ and the Comptroller General of New York.²⁷ 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.²⁸

The expansion of marriage to same-sex couples in Maryland will include numerous rights that will likely affect the state budget in areas of taxation, state employee benefit provisions, public assistance programs, and both court and administrative costs. On the one hand, more marriages would likely mean higher expenditures for the State on employee benefits.

On the other hand, the State would likely see lower expenditures on means-tested public benefit programs. Similarly, state tax revenues would be expected to change.

Section I of this report outlines the estimated number of same-sex couples in Maryland and estimates the number of couples who will likely marry 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 marriage could affect. In Section III, we estimate the state savings that additional marriages will likely bring to Maryland's public benefits programs. Section IV outlines the costs of expanding benefits to the same-sex spouses of state employees. Section V estimates other associated costs that could arise from expanding the right to marriage. In Section VI, we broaden our analysis to look at the economic impact of marriages by same-sex couples on Maryland's businesses. In section VII, we summarize the expected policy impact for each expenditure or revenue category we address.

Throughout this report, we estimate the costs and benefits of marriage conservatively. We choose assumptions that are the most cautious from the State's perspective in that they tend to predict higher costs to the State and lower benefits given the range of possibilities. Even so, we find that the net effect of allowing same-sex couples to marry is an annual positive fiscal impact of \$3.2 million, and an overall economic boost of as much as \$94 million per year during each of the first three years. Moreover, evidence suggests that there are significantly more same-sex couples in the State than the Census reports.²⁹ If so, the net gains to the State will be even greater.

I. The Number of Couples Affected

One of the most important factors in determining the economic impact of new marriages in Maryland is the number of same-

sex couples who will likely marry if given the option. The choice to enter a legally binding relationship such as marriage involves many considerations for couples. For this reason, not all couples will necessarily choose to marry. At the very least, the decision 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 of marriage. Here we make projections based on the experience of other states that have allowed same-sex couples to marry or achieve a related legal status.

Massachusetts is the only state that currently allows same-sex couples to marry. For this reason, it gives us the best basis for predicting the proportion of same-sex couples who would likely marry. In Massachusetts, at least 9,695 same-sex couples have married, constituting 57% of that state's same-sex couples in Census 2000.³⁰

A few other states have had experience with civil unions and domestic partnerships. While these statuses differ from civil marriage, they

If allowed, about 7,800 of Maryland's same-sex couples would marry

provide a significant package of the rights and responsibilities that states can offer to couples. For this reason, states that offer civil unions or domestic partnerships provide an additional indication of how

many same-sex couples would likely marry if given similar rights and opportunities to married couples. In Vermont, 71% of same-sex couples have entered into a civil union since 2000.³¹ In California, the number of domestic partnerships increased with the addition of significant new rights and responsibilities. From January 1, 2000 through May 31, 2007, 43,756³² couples registered their partnerships, or almost 48% of California's same-sex couples as of Census 2000³³.

Based on the experience of these states, we conservatively assume that half of Maryland's same-sex couples would marry if they had the legal right to do so. Using 2005 American Community Survey data, we counted 15,607 cohabitating same-sex couples living in Maryland, up from 11,243 counted in Census

2000.³⁴ Based on other states' experiences, we predict that half of these, or about 7,800 same-sex couples, would marry if allowed to do so.

For the purpose of this analysis, a more precise estimate of the percentage of unmarried same-sex couples marrying is unnecessary for us to conclude that the policy will have a net positive on Maryland's budget. The main thrust of our findings is not sensitive to the number of couples marrying or registering since the effects of a larger number of couples are offsetting. In other words, our estimates are conservative because if more unmarried couples marry than we predict, savings in state benefits and added tax revenue will offset any additional loss in inheritance tax revenues. Conversely, if fewer couples marry than we estimate, then both the savings and any costs of same-sex marriage will decrease respectively.

II. Impact on Tax Revenues

Extending marriage to same-sex couples in Maryland is likely to affect the State's taxes on income, property transfer, and inheritance. Because same-sex marriage will also trigger an increase in taxable wedding spending by same-sex couples, we include the impact on Maryland's sales tax revenue in our analysis in this section.

A. Impact on Income Tax

Extending marriage to same-sex couples will likely have an impact on the income tax revenues collected by the State. Same-sex couples who marry will have the right to file their income tax returns jointly, just as different-sex married couples currently do. With this change in status, two individuals who previously filed as "single" will combine their incomes, and as a result, some of these couples will end up paying more or less in income tax when they file as married. Most couples will likely pay an average of about \$50 less in annual income taxes. Overall, our simulations suggest that extending marriage to same-sex couples in Maryland will have a small negative impact on state income tax revenues.

To estimate the net tax impact of allowing same-sex couples to file jointly, we use the

income and household characteristics of same-sex “unmarried partner” couples living in Maryland gathered by the Census Bureau’s 5% Public Use Microdata Sample (PUMS). Using the Census data on total income and number of children in a household, we can estimate each couple’s taxes before and after marriage. First, we calculate what couples pay now when they file as a “single” individual or “head of household.” Then we estimate the tax payments for the couple if they were instead married filing jointly. Using these estimates, we determine the difference between their pre- and post-joint filing taxes, calculating the net effect of same-sex marriage on the State’s income tax revenue.

In this analysis, we assume that the tax consequences of marriage will not impact the choice of whether to marry. Overall, research suggests that the possibility for increased taxation has a minimal impact on the likelihood of a couple’s decision to marry.³⁵ We make several other assumptions to simplify the tax calculations. First, if the “householder” reported living with one or more of his or her own children under eighteen in Census 2000, we assumed that the householder filed as head of household and that the partner filed as single. Second, when the householder has no children living with him or her, we assume that both

partners currently file as single and will file as married filing jointly if allowed to wed.

We then calculate taxes twice, with and without the joint filing status. Given the available data, we used a simplified tax simulation for our estimates. To calculate Maryland gross income, we added together all forms of income. We then assume each partner claimed one exemption apiece if single, another if over 65, and one dependent exemption per child. We then applied the 2006 Maryland state tax schedule to calculate the taxes owed by each individual and couple, first when each partner files as single or as head of household (if children are present), and second when the couple files jointly.

Our model shows that state income taxes would decrease for approximately 75% of same-sex couples in Maryland if they could file jointly as married couples. The average decrease in their taxes would be \$54. For 3% of couples, filing jointly would have no impact on their taxes, and 22% would see their taxes increase, with an average increase in taxes of \$88.

Table 1 presents the average and total changes in income taxes paid by couples in the three categories. Assuming that 50% of these individuals will marry, as per our discussion in Section I, the projected decrease in income tax revenue is slightly over \$132,000.

Table 1: Summary of Income Tax Revenue Calculations

	Percent of Couples	Average Change in Taxes per Couple	Total Change
Increase in Taxes	22%	\$88	\$248,831
Same Amount of Taxes	3%	0	0
Decrease in Taxes	75%	(\$54)	(\$514,210)
Net Change in Income Tax Revenue if All Marry	--	--	(\$265,380)
50% TOTAL	--	--	(\$132,690)

B. Impact on Inheritance Tax

Allowing same-sex couples to marry would have a minimal impact on the amount of revenue that Maryland collects from its inheritance tax. The inheritance tax is levied on property that passes under a will or under the intestate laws of succession, and on property that passes from a decedent to their beneficiaries.³⁶ Property passing to a spouse is exempt from taxation in Maryland. Additionally, property passing to lineal descendants or their spouses, as well as a parent, grandparent, stepchild, stepparent, siblings, or charities, is exempt from taxation. All other individuals are taxed at a rate of 10% of the passing property.

Currently, same-sex couples who would otherwise get married are taxed at the same rate as other unmarried individuals. Calculations of the impact of extending marriage to same-sex

Same-sex marriage would have a minimal impact on revenue from inheritance tax

couples on inheritance tax revenue are complicated. Same-sex couples will inevitably vary in terms of the size of their estates, the extent to which they choose to leave all or part of their estates to their partners, the number of other beneficiaries to their estates, and the measures they may take to mitigate the taxation of estates that will be inherited by their partners. Accordingly, we estimate the following impact of same-sex marriage on inheritance tax revenue using the most recent and reliable data available about same-sex couples in Maryland and about households in the United States. We also use the most conservative assumptions about these couples, thereby producing estimates on the high end of the likely range of costs to the State.

1. Mortality of Domestic Partners

To determine the impact that extending marriage to same-sex couples will have on inheritance tax revenue, we must first estimate the number of individuals in same-sex couples who would die each year. To do so, we first determine the number of individuals in same-sex

couples, which is double the number of Maryland's same-sex couples noted earlier, to get 31,214.³⁷ We then use Maryland's annual age-adjusted death rate (.0091)³⁸ to estimate the mortality of individuals in these couples. Multiplying these numbers, we calculate that 284 individuals in same-sex couples die each year.

As explained in Section I, we estimate that 50% of same-sex couples would marry if allowed. Based on this assumption, we estimate that approximately 142 same-sex spouses would die each year. With an average of 142 deaths per year we can calculate the impact that the extension of marriage to same-sex couples will likely have on Maryland's inheritance tax revenue.

2. Median Transfer Inheritance Tax for Surviving Unmarried Same-Sex Partners

Next, we estimate the median tax that would be paid by decedents' surviving same-sex partners in the absence of same-sex marriage. For this analysis, we use the median net worth of households in the United States from the 2004 Survey of Consumer Finances, adjusted for inflation.³⁹ We do not use the median net worth of all couples, but instead the median net worth of couples falling into five percentile groups in terms of net worth. This allows us to capture the fact that, depending on the size of the decedent's estate, some surviving partners might pay no inheritance tax while others might pay substantial amounts. We then divide the median household net worth for each percentile group by two, assuming that unmarried couples roughly share the assets and liabilities in their households.

Next we take into account the probate and funeral expenses which will reduce the taxable value of these estates. Nationally, the average cost to probate an estate ranges from 2% to 10% of the value of the estate.⁴⁰ In Maryland, a probate fee is charged for the estate's administrative processing. These fees range from \$2 to over \$2,500, depending on the size of the estate.⁴¹ In addition to administrative fees, fees for personal representatives and/or attorneys of the estate may be deducted. For

estates over \$20,000, the maximum cost for these fees is set at \$1,800 plus 3.6% for amounts over \$20,000; for estates under \$20,000, the maximum fee is 9%.⁴² To estimate funeral expenses we use the current average cost of an adult funeral in the United States, which is \$6,500.⁴³

In order to determine the size of the decedent's estate that would be inherited by his or her unmarried partner, we take into account two common types of bequests that do not generate inheritance taxes under Maryland law: gifts to charities and children. Many individuals, particularly those with larger estates, will make charitable bequests, the largest form of bequest after those to surviving spouses.⁴⁴ Both Maryland and the federal IRS exempt such bequests from taxation.⁴⁵ While a recent study revealed that 8% of the population has included charitable bequests in estate plans,⁴⁶ the best information about charitable bequests comes from federal estate tax returns, which in 2005 were required for estates worth more than \$1.5 million. The data about such returns indicate that the frequency and size of charitable bequests usually increase with the value of the estate.⁴⁷

Accordingly, we only calculate a charitable deduction for our top quartile of individuals. We assume these individuals will have charitable bequest patterns similar to decedents filing federal estate tax returns: on average 19% will make charitable bequests and such bequests will represent 14% of their net estates.⁴⁸ We use these statistics to create a weighted average charitable deduction of 3% for all decedents falling in our top quartile. Again, these estimates are conservative because members of same-sex couples in Maryland might currently make larger charitable bequests than members of married couples in order to avoid the tax consequences of leaving bequests to their unmarried partners.

In addition to bequests to charities, many of Maryland's same-sex couples who would choose

marriage have children: 21% of same-sex couples in the state have children under 18 of their own in their households. It is likely that some of these individuals would leave all or a portion of their estates to their children. Accordingly, we next estimate deductions resulting from gifts to children. It is difficult to determine how many individuals will bequeath all or a share of their estate to their children. Studies of married couples reveal a majority of married testators, 50% to 85%, leave everything to their surviving spouse, even when they have surviving children.⁴⁹ We therefore make the conservative assumption that only 15% of individuals in unmarried same-sex couples with children will leave a portion of their estate to their children; this is equivalent to the lowest estimate of married couples leaving a gift to their children. We estimate that, on average, these individuals will leave half of their estates to their children.⁵⁰ We then calculate a weighted average for bequests to children, 1.6%, for all individuals in unmarried partnerships.⁵¹

After these deductions are taken out, we conservatively assume that the decedent has deployed no other estate planning strategies to reduce inheritance tax liability. However, it is quite likely that in order to avoid inheritance taxes, decedents with unmarried partners, especially wealthy ones, already employ other lawful measures to reduce the tax burden.

Finally, to estimate the median tax burden for estates of decedents in each percentile group, we compute the Maryland inheritance tax for our estimated median taxable estates that would pass to unmarried same-sex partners. We begin with 2007, although it is likely that it would take some time before the right to marry for same-sex couples would go into effect. Table 2 summarizes the steps described above to determine the taxable estate for decedents in same-sex couples in each net worth group.

Table 2: 2007 Estimated Inheritance Tax for Unmarried Same-Sex Partners by Percentiles Based on Household Net Worth

Percentile Group by Net Worth	A Median Household Net Worth	B Individual Net Worth (A*0.5)	C Probate Expenses ⁵² (B*0.964)	D Funeral Expenses (C-\$6,500)	E Charitable Bequests [D-(B*0.03)]	F Children Bequests [E-(B*.016)]	G Tax (filing threshold = \$1M in Maryland)
<25%	\$1,860	\$930	\$845	\$0	\$0	\$0	N/A
25-50%	\$47,705	\$23,853	\$21,764	\$15,264	\$15,264	\$14,882	N/A
51-75%	\$186,772	\$93,386	\$88,644	\$82,144	\$82,144	\$80,650	N/A
76-90%	\$554,518	\$277,259	\$265,698	\$259,198	\$251,422	\$247,171	N/A
91-100%	\$1,564,752	\$782,376	\$752,130	\$745,630	\$723,261	\$711,227	N/A

3. Aggregate Impact on Inheritance Tax Revenue

To determine the aggregate impact of same-sex couples' marriages on inheritance tax revenue, we multiply the estimated number of same-sex partners likely to die annually by the estimated median tax burden for surviving partners in each percentile group. We do this by dividing the estimated number of such decedents into our net worth percentile groups and then multiplying by the median tax burden for each group. We then add the aggregate tax burdens for each group together to estimate the overall impact on inheritance tax revenue.

In 2007, we find no projected inheritance tax burden due to the high filing threshold set for the inheritance tax of \$1,000,000. The same is true for subsequent years, when the filing threshold is raised even higher. Thus, we conclude that the tax liability for unmarried same-sex partners—after the relevant expenses and bequests have been deducted from the estate value—is negligible. Eliminating that tax liability through marriage would have little or no effect on state inheritance tax revenue.

An alternative way to consider the potential inheritance tax revenue loss to Maryland is to use federal data on spousal bequests. The IRS reports that the average taxable estate in 2003 included a spousal bequest of \$5.3 million. If we make the conservative assumption that a same-

sex unmarried partner leaving behind an estate of similar size would bequeath the same amount to his or her partner, opting not to incorporate a charitable bequest in order to reduce the tax burden, the partner would now be liable for \$530,000 in Maryland inheritance tax. In order to account for the fact that only a small percentage of the population is subject to the inheritance tax, we divide the total number of spousal bequests (2,718) by the number of married people who died that year (945,795)⁵³ and then multiply the result by the number of same-sex spouses estimated to die annually.⁵⁴ Thus we conclude that less than one (0.40)⁵⁵ same-sex spouse would have been liable for the state inheritance tax in a given year if unmarried, or rather that a same-sex unmarried partner's estate would have generated tax revenue approximately twice every five years. The loss to the State of Maryland of \$1,060,000 every five years is minimal and supports the conclusion that marriage for same-sex couples is unlikely to have any significant impact on Maryland's inheritance tax revenue. We conservatively include in our estimate that the State will lose an average of \$212,000⁵⁶ in inheritance tax revenues each year if it were to make marriage available to same-sex couples.

C. Impact on Transfer Tax Revenue

In general, sales of real estate are subject to a state transfer tax equal to 0.5% of the selling price.⁵⁷ Certain kinds of transfers are exempt

from taxation, however, including transfers of property between spouses or former spouses.⁵⁸ Under current law, transfers of property between members of an unmarried same-sex couple are taxable. Therefore, if same-sex couples are allowed to marry, some transfers that were once taxable will no longer be. Thus the State's transfer tax revenue might be affected by same-sex marriage.

We expect the potential impact of such transfers on tax revenues to be quite small, however. The key question is how many taxable transfers now occur between same-sex partners and former partners that would go untaxed if the couple were married. We believe such transfers are rare for several reasons.

1. Dissolution-Related Transfers

First, transfers between partners at the dissolution of the relationship are rare because few same-sex relationships dissolve in a given year. In Vermont, roughly 1% of civil unions among Vermont residents have dissolved each year.⁵⁹ Applying that rate to the estimated 15,600⁶⁰ unmarried same-sex couples in Maryland suggests that roughly 150 relationships dissolve each year. Second, only 66% of Maryland's same-sex couples live in a home owned by at least one of the partners.⁶¹ Thus approximately 100 dissolutions per year might generate a taxable real estate transaction. However, some of those couples will not transfer real estate since the home may not be jointly owned. In addition, the tax currently creates an incentive to seek ways of dividing property that do not involve taxable transfers of real estate. To take this factor into account, we assume that only half, or 50, of such couples will jointly own real estate. Finally, some of those non-marital dissolution-related taxable events are also likely to continue once same-sex couples are allowed to marry since only half of such couples are likely to marry. This leaves the potential for up to 25 taxable events per year under current law that will be avoided if same-sex couples can marry. Overall, therefore, we expect the fiscal impact to be negligible for transfers related to dissolutions.

2. Other Transfers

Transfers between unmarried same-sex partners seem most likely to occur when one partner brings property to the relationship and wants to share ownership with the other partner. However, it is unlikely that such transfers currently generate significant transfer tax revenues. First, as noted above, two-thirds of Maryland's same-sex couples live in a house owned by one partner, meaning that one-third of same-sex couples do not own a home. Second, both partners might have purchased the home together, so no transfer between partners would be needed. Third, in other cases, the owning partner might not have transferred ownership simply because of the existence of the tax.

Statewide, in fiscal year 2007, the median sales price of a Maryland home was \$317,000.⁶² A transfer of half the value of that home to an unmarried partner would have generated \$793 in transfer tax revenue for the State. We next make the highly conservative, although highly implausible, assumption that two-thirds of marrying couples, or 5,200 existing homeowners, would have transferred half of the ownership in the home in the absence of marriage; thus, same-sex marriage would render these events non-taxable. However, as noted above, the true number is likely to be much less than 5,200, since we are assuming that no couple had undertaken such a change in title up to this point. Still, using this very conservative figure, over several years the State could lose a maximum of \$4,123,600.

Finally, it is likely that the right to marry could generate additional sales of homes to same-sex couples, thus increasing transfer tax revenue, as argued in a recent study by the New York Comptroller's Office.⁶³ The emotional stability and financial security associated with marriage may encourage same-sex couples to purchase a house, and those sales to couples will generate new tax revenue. Indeed, Census data suggest that there is room for home sales to rise. The rate of home ownership among married different-sex couples in Maryland is 83%, significantly higher than the 66% rate among same-sex couples.⁶⁴

Such an increase in revenue from new sales would help to offset any loss in taxes from untaxed transfers. Therefore, we conclude that the net transfer tax revenue impact of marriages by same-sex couples is likely to be quite small in any given year, whether positive or negative.

D. Impact on Sales Tax

Extending the right to marry to same-sex couples would likely increase spending on wedding-related goods and services by in-state and out-of-state same-sex couples. Presently, Massachusetts is alone in allowing same-sex couples to marry, but that state forbids the vast majority of non-resident couples' marriages.⁶⁵ Therefore, if Maryland were to allow same-sex couples to marry—regardless of residency status—the state's businesses could experience a large increase in wedding and tourism revenue that would also result in an increase in sales tax revenue.

Below in Section VI we outline our estimates of the new spending by same-sex couples. In addition to boosting add-on sales tax and additional occupancy taxes, the state and local governments would directly benefit from this increased spending through the state retail sales tax. Based on our analysis presented in Section VI, we estimate that a decision by Maryland to allow same-sex couples to wed could result in approximately \$282 million in additional spending on weddings and tourism in the State.

Because Maryland imposes a tax of 5% on the sale of most services, this spending could generate about \$14 million in tax revenue, with \$3.19 million from in-state couples and \$10.9 million from out-of-state couples. Tax revenue could well be higher, depending on how much of this spending is for special services like car rentals, a significant source of tourist spending, taxed at 11.5%.⁶⁶

The net effect on state taxes would be a gain of almost \$3 million annually

We also 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 wedding spending, providing a further boost to the State budget.

E. Summary of tax effects

Table 3 summarizes the tax effects of allowing same-sex couples to marry. We spread the property transfer tax and sales tax effects over three years to make them comparable with the income and inheritance tax estimates. The decrease in tax revenue for income, inheritance, and property transfer taxes are significantly smaller than the predicted increase in sales tax, even with the extremely conservative assumption about property transfer tax revenue. The net effect would be a gain to the State of almost \$3 million per year.

Table 3: Summary of Annual Tax Impact for Maryland

Tax Type	Impact After Same-Sex Marriage
Income Tax (annually)	(\$133,000)
Inheritance Tax (annually)	(\$212,000)
Property Transfer Tax (annually over 3 years)	(1,375,000)
Sales Tax (annually over 3 years)	\$4,706,000
TOTAL	\$2,986,000

III. Public Assistance Savings

Marriage implies a mutual obligation of support that is reflected in public assistance eligibility calculations. This section looks at the potential savings to the State if extending marriage means that same-sex couples are less likely to need public assistance or are less likely to qualify for it.

1. Public Benefits Programs

Maryland funds with state and federal sources an array of public benefits programs that provide subsidies and assistance to low-income individuals and families. Maryland's main Temporary Assistance to Needy Families (TANF) program is the Family Investment Program (FIP), the core components of which are Temporary Cash Assistance (TCA), Welfare Avoidance Grants (WAG), Emergency Assistance to Families with Children (EAFC), Disaster Assistance, and local Alternative Programs.⁶⁷ Maryland also offers separate state-funded TCA programs for certain individuals and families who do not qualify for FIP programs.⁶⁸ Other forms of assistance available to low income people in Maryland include Supplemental Security Income (SSI), Medical Assistance (Medicaid), Public Assistance to Adults (PAA), Temporary Disability Assistance Program (TDAP), Medical Assistance Long Term Care (LTC), Maryland Children's Health Program (MCHP), Child Care Assistance, Maryland Energy Assistance Program (MEAP), Electric Universal Service Program (EUSP), Tel-life (Lifeline), Food Stamps, Emergency Food Program (EFP), and Burial Assistance. Assistance that is not directly financial is also available through an assortment of programs, such as those for work training and placement, substance abuse treatment and prevention, marriage promotion, and prevention of juvenile delinquency.⁶⁹

2. Savings with Same-Sex Marriage

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. Because same-sex couples are not permitted to marry in Maryland, people with same-sex partners are likely to be considered "single" when eligibility for these programs is assessed, for neither the State nor the federal government currently requires applicants to include an unmarried same-sex partner's income and assets. This "single" classification results in same-sex partners being more likely to qualify for public assistance. If same-sex couples were able to marry, however, both partners' income and assets could be counted in determining eligibility, thus increasing the likelihood that income or asset thresholds would be exceeded by applicants. With fewer same-sex couples participating in public benefits programs, state expenditures will fall.

In Maryland, the main assistance programs that take marital status into account in eligibility determinations are the Family Investment Program (FIP), Medical Assistance (Medicaid), Maryland Children's Health Program (MCHP), and Supplemental Security Income (SSI). Our calculations below therefore focus on these programs. Yet because extending marriage to same-sex couples is likely to trim state spending on many public assistance programs not included in our calculations,⁷⁰ the estimates below are conservative.

For FIP (and for individuals qualifying for other benefits such as Medical Assistance because they receive FIP) and for MCHP, the State generally determines applicant eligibility standards.⁷¹ With respect to these programs, then, the State will be able to count a same-sex spouse'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) purports to limit the definition of the word "spouse" to different-sex marriages, Maryland may be prohibited from including a same-sex spouse in eligibility determinations for those programs.⁷² Nonetheless, in assessing eligibility for Medicaid and SSI, Maryland may still be able to take into account the resources of same-sex spouses under state and federal regulations that require

Maryland to consider the resources of third parties who are legally liable for health care costs.⁷³ 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.⁷⁴ Third parties are entities or individuals who are legally responsible for paying the medical claims of Medicaid recipients.⁷⁵ They include any “individual who has either voluntarily accepted or been assigned legal responsibility for the health care” of a Medicaid applicant or recipient.⁷⁶ The income and assets of a same-sex spouse might be considered under this “third party” category, resulting in essentially the same eligibility determinations as if a “spouse” category was applied.

3. Calculations of Savings

To estimate the impact of marriage of permitting same-sex couples to marry, we again draw on Maryland data from Census 2000. The Census asks respondents to report the amount of income from various sources, including the amount received from Supplemental Security Income (SSI) and from “public assistance or welfare payments from the state or local welfare office” in 1999.⁷⁷ In 1999, same-sex couples in Maryland received \$2,339,100 in SSI and \$254,166 in public assistance, according to the Census. These totals represent, respectively, 0.55% of all SSI income and 0.2% of all public assistance received in Maryland in 1999.⁷⁸ If we assume that the proportions of SSI and public assistance to same-sex couples remain the same in 2006, we can estimate current spending by multiplying those percentages by the total amount of money Maryland currently spends on those programs.⁷⁹ Because the Census does not define with any precision “public assistance,” we utilize the 0.2% for every type of public assistance, with the exception of SSI, which is reported separately on the Census.

To calculate Maryland’s savings from same-sex marriage, we again assume that half of people in same-sex couples will marry. This assumption takes into account the fact that the possible loss of benefits will deter some same-sex couples from entering marriages.⁸⁰ However, an

adjustment must be made to account for the fact that some same-sex spouses, though married, will continue to qualify for benefits,⁸¹ just as some currently married couples do. According to the Census, in Maryland in 1999, 1.57% of same-sex couples received SSI and 1.04% of same-sex couples received public assistance; 0.76% of married couples received SSI and 0.48%

Savings on public assistance may exceed \$1,500,000 per year

of married couples received public assistance.⁸² We assume that half of same-sex couples marry and that same-sex spouses will receive SSI and public assistance at the same rate as different-sex spouses, i.e. 0.76% and 0.48%, respectively. Further, we assume that unmarried same-sex couples will continue to receive SSI and public assistance at the currently observed rates, i.e. 1.57% and 1.04%, respectively. We estimate, then, that current expenditures on same-sex couples would be reduced by about 26% for SSI and 27% for public assistance.⁸³

With same-sex marriage, we anticipate the total savings to the State in public assistance expenditures to exceed \$1,500,000 per year, as summarized in Table 4. This estimate includes savings not only in state funds,⁸⁴ but also in federal FIP/TANF funds because the TANF block grant Maryland receives from the federal government is not likely to be reduced if fewer people in same-sex couples qualify. That is, if marriage for same-sex couples means fewer FIP recipients, but not less federal funding, savings will accrue to the State in the form of freed federal monies. These calculations also assume that DOMA will not bar the State from including a same-sex spouse’s income and assets to calculate eligibility for Medicaid and SSI. If DOMA does prevent the State from including same-sex spouses in eligibility determinations for Medicaid and SSI, then the savings from public benefit programs where the State determines eligibility would be approximately \$172,000. As noted above, however, even if DOMA prevents the State from directly counting same-sex marriages, the State may still be able to count both spouses’ incomes and assets via regulations concerning the financial obligations of legally responsible third-parties.

Table 4: Expenditures on public assistance programs

	Estimated State Spending on Same-Sex Couples in 2006	Estimated Savings in State Funds after Same-Sex Marriage
FIP/TANF	\$494,600	\$133,200
MCHP	\$145,200	\$39,100
SUBTOTAL	\$639,800	\$172,300
Medicaid	\$4,887,900	\$1,316,000
SSI	\$50,900	\$13,100
TOTAL	\$5,578,600	\$1,501,400

IV. Expansion of Employee Benefits to Maryland's Same-Sex Couples

A. Healthcare Benefit Plans

Maryland provides certain fringe benefits to state employees, employees' spouses, and their dependent children.⁸⁵ The State offers a choice of eight healthcare plans to its employees: two of these plans are PPO, three are POS, and three are HMO.⁸⁶ An employee has the option to provide healthcare coverage to a spouse under all eight of these plans. The State continues to subsidize health insurance, offering a variety of different plans for their employees' spouses. Maryland also provides certain retirement and death-related benefits to the spouses of employees and retirees. Because Maryland does not offer health care benefits to employees' same-sex partners, extending marriage to same-sex couples will likely result in a rise in the State's contribution to health insurance benefits.

An increase in state expenditures could come about via two scenarios. Some employees will move from covering only themselves to covering themselves and a same-sex spouse; the State's contribution for health benefits would thereby increase. Other employees might move from covering only themselves to covering both their spouse and their spouse's children. We estimate the change in the State's contributions, bearing both of these possibilities in mind.

According to the 2000 Census, approximately 21% of same-sex couples in Maryland have children.⁸⁷ We make the conservative estimate that half of the children of Maryland's gay and lesbian employees are those of the non-employee partner. Thus, we estimate that approximately 10.5% of Maryland's gay or lesbian public employees would add both a spouse and one or more children to their health insurance, given the ability to marry. This is likely a considerable overestimation, as some of the children in the households of same-sex couples have likely been legally adopted by the non-biological parent. Consequently, even if the child was not the employee's biological child, the employee could already be obtaining health insurance coverage for an adopted child. Nonetheless, we make these assumptions in order to take into account the impact of moving from single coverage to coverage for an employee and two or more additional individuals, as the State's contribution in this case is larger than if the employee adds only a spouse.

To calculate the increase in the State's contributions, we have determined (1) the average annual state contribution for an employee and one additional person and (2) the average annual state contribution for an employee and two or more family members.⁸⁸ We subtracted these numbers from the average annual state contribution paid solely on behalf of an employee.⁸⁹ The resulting figures indicate the increase in the annual state contribution resulting from either adding only a spouse to a medical plan, or from adding a spouse and one

or more children. The increases conservatively range from \$2,520 to \$3,396 for active employees adding only a spouse,⁹⁰ \$4,736 to \$5,749 for active employees adding a spouse and one or more children, and \$2,376 to \$2,880 for retirees adding a spouse.⁹¹

Both active and retired employees are entitled to the same spousal health benefits. Based on the experience of other employers,⁹² approximately 0.1% to 0.3% of Maryland's active and retired state employees who receive health care benefits are likely to sign up a partner. By simply multiplying the total number of employees (69,113) and retirees (33,953)⁹³ receiving benefits by the upper and lower bounds of these rates (0.1% and 0.3%), we are able to determine the approximate number of employees who would sign up a partner. The figure for active employees is then multiplied by 89.5% to determine the number of employees who would add only a partner, and by 10.5% to determine the number of employees estimated to add both a partner and one or more children; we do not repeat this process for retirees, given that these individuals are far less likely to have dependent children in the home. We then assume that the employees with benefits conferred to same-sex spouses would be spread across plans in the same way that current employees and retirees are distributed.

Applying these principles, we multiply the number of spouses added under each plan as a result of same-sex marriage by the increase in the average annual state contribution. If 0.3% of employees and retirees with a health plan sign up a same-sex spouse or a same-sex spouse and child, we find that the total state contributions for all eight healthcare plans would increase by approximately \$657,000 for active employees and \$284,800 for retirees. This would be the upper bound of the state contribution increase. If 0.1% of all employees and retirees sign a same-sex partner up for a health plan, then the total state contributions for the eight healthcare plans would increase by approximately \$219,000 for active employees and \$95,100 for retirees. State contributions to healthcare costs could, therefore, increase by a total of about \$313,800 to \$941,900.

B. Prescription Coverage

Maryland offers employees a single choice in prescription coverage.⁹⁴ We applied the same approach in determining the increase in state contributions to prescription plans as a consequence of extending marriage to same-sex couples. The increase in the annual state contribution resulting from adding a spouse to prescription coverage is approximately \$1,080, and is \$1,646 for adding a spouse and children. A total of 65,162 active employees and 33,511 retirees were enrolled in prescription plans in mid-2006.⁹⁵ Assuming that 0.3% of all employees and retirees with a prescription plan make additions to their prescription plans (for active employees, through adding either only a spouse or spouse and child), the annual state contribution will increase by approximately \$223,300 for active employees and \$109,700 for retirees. If only 0.1% of employees and retirees with a prescription plan sign up a same-sex partner or same-sex partner and child, the cost for the State would increase by approximately \$74,400 for employees and \$36,900 for retirees. Consequently, the total increase in state contributions to prescription plans would be between \$111,400 and \$333,000.

C. Dental Benefits

Turning to dental benefits, Maryland offers three dental plan choices: two HMOs and one PPO.⁹⁶ The annual increase in state expenses resulting from adding a spouse to the dental plan ranges from \$93 to \$137, and from \$181 to \$377 for adding a spouse and children. Once again, we assume that all employees and retirees who choose to change their coverage will be distributed among the plans in the same way that current employees and retirees are distributed. A total of 59,560 active employees and 18,358 retirees were enrolled in dental plans in 2006.⁹⁷ If 0.3% of employees with a dental plan sign up a same-sex spouse or spouse and children, the State's contributions to dental plans would increase by \$15,700 for employees and \$11,100 for retirees. On the lower bounds, if only 0.1% of employees and retirees with a dental plan sign up a same-sex spouse or spouse and children, the cost for the State would increase by approximately \$7,600 for employees and \$2,000 for retirees. The total

increase, then, in state contributions to dental plans as a result of same-sex marriage could fall between \$9,600 and \$26,800.

D. Total Change in Health, Dental, and Prescription Coverage

As summarized in Table 5, same-sex marriage could increase state contributions to health,

prescription, and dental plans from \$434,800 to \$1.3 million. As calculated by the average expenditure per employee,⁹⁸ Maryland spends approximately \$520 million annually on these three programs. Thus, at the upper end, adding same-sex partner coverage would result in approximately a 0.25% increase to Maryland's total expenditures. At the lower end, the State's contributions would increase by only 0.08%.

Table 5: Total Increase in State Expenditures on Health, Prescription, and Dental Plans

% of Employees Signing Up Same-Sex Spouse	Health Care	Prescription	Dental	Total
0.1%	\$313,800	\$111,400	\$9,600	\$434,800
0.3%	\$941,900	\$333,000	\$26,800	\$1,301,700

E. Survivor Benefits Under Maryland's Employee Retirement Systems

Maryland offers its employees four state-funded pension funds: the Retirement System for Employees and Teachers of the State of Maryland (ERS/TRS), the Law Enforcement Officers Pension (LEOP), the State Police Retirement System (SPRS), and the Judges' Retirement System (JRS).⁹⁹ Active employees who are members of any of the retirement systems receive a death benefit that is payable to a named beneficiary. This benefit consists of a single lump payment that is equal to the annual salary at death, and all contributions made to the plan.¹⁰⁰ In the case of retired employees, electing a dual life annuity provides for a continuing allowance paid to their survivor that is equal to the present value of the employee's allowance or the return of all contributions, depending on the annuity selected.¹⁰¹ Choosing the dual life annuity option results in a lower payment to the retiree during his or her lifetime but guarantees payment to the survivor after retirement.¹⁰² Under all plans, the named beneficiary may be any individual chosen by the employee or retiree.¹⁰³ Consequently, permitting same-sex couples to marry will not likely result in an overall change

in the ability of same-sex partners to name one another as beneficiaries.

Nonetheless, some of the retirement systems provide for special payment plans or additional benefits that are awarded only to the surviving spouses of active employees. Under the ERS/TRS, spouses may opt for a monthly payment if the member was at least 55 with 15 years of service, or eligible to retire, at the time of death.¹⁰⁴ Opting for the annual benefit will provide the beneficiary with an amount calculated based on the employee's age and the age of the beneficiary.¹⁰⁵

Further, under both the LEOP and SPRS, a spouse is entitled to receive additional death benefits. These additional benefits are paid as a monthly benefit, ranging from half of the employee's salary at the time of death, to two-thirds of the salary if the employee died in the line of duty.¹⁰⁶ The provision of new benefits to same-sex partners is likely to have little effect on the State's expenditures under these plans. There are very few deaths that occur in the line of duty. In 2006, five law enforcement officials died in the line of duty in Maryland.¹⁰⁷ As a result, significantly less than one death per year would be likely to occur among employees with a same-sex spouse. The State should see little or no impact on its expenses from this source.

Benefits paid for deaths not in the line of duty are encompassed in the calculation discussed below, which estimates the effects of same-sex marriage on state expenditures for all plans with additional spousal benefits.

In 2006, Maryland paid \$8,655,000 in pre-retirement death benefits.¹⁰⁸ Some of these payments are lump-sum payments made to survivors, including both spouses and non-spouses. These lump-sum payments are currently available to same-sex partners. A portion of these expenditures, however, consists of payments made only to spouses under the monthly payment plans and/or the additional death benefits paid under LEOP and SPRS. We were unable to obtain separate figures for these benefits from the State of Maryland;¹⁰⁹ as a result, we conservatively rely on the entire pre-retirement death benefit figure to calculate the potential additional cost of permitting same-sex couples to marry.

By using the entire pre-retirement death benefit amount, we have significantly overestimated the increase in state costs. This figure encompasses payments made under the lump-sum provisions, as well as under the spousal death benefits. These lump-sum payments would not increase as a result of same-sex marriage since same-sex partners are already entitled to receive this benefit. Further, this figure is an overestimation given that, with the exception of LEOP and SPRS, all of the spousal benefits merely dictate the method of payment to the spouse.¹¹⁰ As a result, the monthly payment plans only increase the amount of the State's expenditures by the difference in providing this payment plan, as opposed to the lump sum. Further, under LEOP and SPRS, when there is no spouse to receive the special death benefits, then they are awarded to any children under the age of 18. For same-sex partners with children, therefore, the State already incurs the cost of paying the benefit. The State's additional costs resulting from same-sex marriage are, then, considerably overestimated when using the total pre-retirement death benefits paid.

Even when using this inflated figure, however, the estimated costs of allowing same-sex couples spousal benefits is small. Applying the prior assumptions (as in the health benefits

analysis) that anywhere from 0.1 to 0.3% of employees would elect benefits for a same-sex partner, then Maryland's expenses for pre-retirement death benefits could increase by approximately \$8,655 to \$26,000. Given that this is an overestimation, the State's expenditures for all additional spousal benefits would actually fall well below these amounts. This estimation, however, is quite small, suggesting that permitting same-sex partners to marry would have little impact on the State's retirement plan expenditures.

A review of the survivor benefits under Maryland's pension plans, therefore, indicates a minimal effect on the State's employee benefit expenditures. Under all plans, employees can currently elect their same-sex partner as a beneficiary. Further, under those plans that offer an additional spousal benefit, the additional cost of adding same-sex spouses would be so small as to render the effect unnoticeable.

6. Offsetting the Costs of Same-Sex Spousal 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 same-sex spousal benefits to 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- or different-sex—are much more likely to be uninsured or on Medicaid than are married people.¹¹¹ People in same-sex couples were twice as likely as married people to be uninsured; one in five with a same-sex partner does not have medical insurance.¹¹² The study also finds that if employers offer benefits for same-sex 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.¹¹³ Similarly, some members of same-sex 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 same-sex spouse of state employees.

The State may also see lower costs associated with worker turnover from allowing state employees to marry their same-sex partners and to enroll them in health benefit plans. A recent study shows that the extension of domestic partner benefits has the effect of reducing gay, lesbian, and bisexual employee turnover and increasing their commitment to employers.¹¹⁴ The same effect is likely to be present if the State allowed its employees to marry a same-sex spouse and, therefore, to 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 Maryland's labor market. As of March 1, 2006, 49% of the Fortune 500 and 78% of the Fortune 100 largest corporations offered health benefits to employees' same-sex partners, compared to just 25 percent of the Fortune 500 in 2000.¹¹⁵

This evidence suggests that giving same-sex couples the right to marry will help the State compete for talented and committed employees of all sexual orientations. 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.¹¹⁶ For example, one recent study calculated the training, vacancy, hiring, and recruiting costs for a registered nurse to be \$62,000 to \$67,000.¹¹⁷ 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.

V. Other associated costs

A. Access to Courts for Dissolution of Marriages Between Same-Sex Couples

Divorces of married same-sex couples would follow the same basic procedures as those for different-sex couples.¹¹⁸ As the number of marriages increase in Maryland, the number of divorce filings added to the dockets of the Maryland Circuit Courts will slightly increase. In predicting the number of marriages between same-sex couples that would dissolve each year, we have very little experience to draw on. However, as noted earlier approximately 1% of Vermont's civil unions dissolved each year since 2000.¹¹⁹ If 7,800 same-sex couples marry in Maryland and then dissolve at the same rate as those in Vermont, approximately 78 married same-sex couples will divorce each year.

Between 2001 and 2006, Maryland courts handled an average of 36,960 divorce cases annually,¹²⁰ making the addition of 78 same-sex marriage dissolutions insignificant. Not only would 78 new divorce filings constitute a mere 0.2% of all divorce cases, they would constitute just .03% of the total caseload in the Circuit Courts.¹²¹ On average, a circuit court judge in Maryland handles over 1,900 cases annually.¹²² Thus, even in the unlikely scenario that all 78 dissolutions were added to docket of a single judge,¹²³ it would only increase her or his caseload by just over 4%.

Given the relatively insignificant number of same-sex marriage dissolutions, the court system would not need to hire any additional personnel or build any additional physical infrastructure. In addition, same-sex divorce cases would generate revenue from the standard filing fees, which would be available to cover any administrative costs. Moreover, it is likely that Maryland, in extending the right to marry to same-sex couples, might even save money. When cases that would have been litigated in trial courts are shifted to the family courts, they will likely be handled more efficiently.¹²⁴

Same-sex marriage dissolutions will create an insignificant burden to courts

Table 6: Annual Fluctuations in Dissolution Filings

Judicial Year July 1-June 30	Dissolution Filings	Change from Prior Year	% Change From Prior Year
2001-2002	36,097	--	--
2002-2003	36,545	448	1%
2003-2004	37,859	1314	3%
2004-2005	37,208	(651)	(2%)
2005-2006	37,091	(117)	<(1%)

B. Administrative Costs

The issuance of marriage licenses is the responsibility of Maryland’s 23 county clerks,¹²⁵ and if the State extends marriage to same-sex couples the process will mirror that currently in place for different-sex couples. Therefore, any increase in cost for printing forms, copying papers, and training clerks to assist in marriages between same-sex couples should already be built into the marriage license fee of \$35 per couple.¹²⁶ If 7,800 couples married, Maryland would get \$273,000 in revenue from registrations alone. Additionally, the start-up costs for extending marriage to same-sex couples would be minimal because the administrative process involved in allowing same-sex couples to wed would be exactly the same as the process in place. Thus, we project small start-up costs and no net administrative burden.

VI. The Impact of Weddings on Maryland Businesses

This section estimates the potential financial gains to Maryland’s economy from extending marriage to same-sex couples. In addition to generating additional sales tax revenue (discussed earlier), additional weddings will likely have a significant impact on Maryland’s economy. Weddings are a lucrative business, creating a significant amount of jobs and tax revenue in the United States. The wedding industry has seen a new market emerge for same-sex couples, a market enhanced by recent policy decisions to give marriage or marriage-like rights to same-sex couples. Forbes Magazine

predicts that weddings of same-sex couples could become a billion dollar-per-year industry.¹²⁷

A. Marriages of Out-Of-State Same-Sex Couples

The experiences in San Francisco, California, and Portland, Oregon in 2004 suggest that the local economic benefits of weddings of same-sex couples are real and large. The couples that married in San Francisco during a one-month window of availability in 2004 came from 46 states and eight countries.¹²⁸ Businesses in Portland¹²⁹ and San Francisco¹³⁰ reported that same-sex wedding visitors spent substantial amounts of money on wedding-related goods and services.

Furthermore, Massachusetts witnessed increased demand for hotels, catering services, and other wedding-related goods and services when same-sex couples began to marry there in May 2004.¹³¹ One study estimates that if Massachusetts permitted out-of-state same-sex couples to marry, it would experience new spending in excess of \$100 million.¹³² As a result, scholars have predicted that the first state that allows out-of-state same-sex couples to marry would experience an economic boom in wedding-related sectors of the economy, and, in turn, increased tax revenues.¹³³

Wedding and tourism-related sales revenue would rise by over \$94 million in each of the first three years of same-sex marriage in Maryland

Therefore, if Maryland were to extend the right to marry to same-sex couples regardless of

residency status, the State would not only experience a substantial increase in wedding spending by same-sex couples residing in Maryland, but it would also see an increase in wedding and tourist spending by same-sex couples from other states. We predict that sales revenues by Maryland's wedding and tourism-related businesses would rise by over \$94 million in each of the first three years after marriage is extended to same-sex couples.

As of today, Maryland would have no competition from any other state for these visitors since Massachusetts restricts marriage to residents of Massachusetts and Rhode Island.¹³⁴ Even if other states eventually allow same-sex couples to marry, Maryland would likely remain a prime destination for same-sex couples in both the South and East Coast. Maryland is within a short drive of several cities with large numbers of same-sex couples, including New York, Washington, D.C., and Philadelphia, suggesting that the State would retain appeal for out-of-state same-sex couples throughout the region.

To estimate potential wedding expenditures by in-state and out-of-state same-sex couples, we first estimate the number of couples who might marry using Census 2000 data on unmarried same-sex partners in Maryland and other states. Because the 2000 counts of same-sex couples are lower than the 2005 estimates by the Census Bureau, the estimates here are conservative measures of the increase in spending. Multiplying the number of couples by average expenditures on weddings and tourism in the State gives an estimate of total spending by same-sex couples. Finally, as noted earlier, this increase in spending would benefit the state budget since Maryland would tax most spending at the 5%.

B. Tourism and Wedding Spending by Out-Of-State Couples

According to the Maryland Office of Tourism Development, the top originating states for visitors to Maryland in 2005 were Virginia, Pennsylvania, New Jersey, New York, West Virginia, North Carolina, Delaware, Florida, Ohio, as well as the District of Columbia. Travelers

from these states made up about 87% of all travelers to the state.¹³⁵ New Jersey recently established civil unions for same-sex couples; although some same-sex couples would prefer the social implications of marriage over domestic partnerships, we use more conservative estimates of the number of New Jersey couples who would marry.¹³⁶ According to Census 2000, the remaining states have more than 166,000 cohabitating same-sex couples.¹³⁷ As discussed earlier, we predict that half of the same-sex unmarried partners in those states will wish to marry over the first three years after issuance of marriage licenses starts in Maryland.¹³⁸ That means that 83,000 same-sex couples from the District of Columbia and these eight states, excluding New Jersey, will wish to marry. Because they cannot marry in their home states, these couples would have to travel to Maryland in order to wed.

Of course, the need to travel out of state and the fact that their home state may not honor a Maryland marriage will deter some same-sex couples from coming to Maryland to marry. We take these deterrents into account in three ways. First, we focus on the states where the travel deterrent would be the least—states that already send a large number of tourists to Maryland and are within a reasonable driving distance to the state. Second, we assume that only half of the couples in those states that wish to marry, or 25% of the total identified in the Census 2000, will actually travel to Maryland to get married. Third, we assume that only 5% of couples from the other 40 states (excluding Massachusetts and Rhode Island) would travel to Maryland to marry. We exclude Massachusetts because it is the only state that allows same-sex couples to marry. We also exclude Rhode Island because it is the closest state whose same-sex couples are allowed to marry in Massachusetts.¹³⁹ We include California, Washington, Oregon, Maine, Hawaii, New Hampshire, New Jersey, Vermont, and Connecticut in the 5% estimate because some same-sex couples in those states would likely choose to marry for the additional practical value or symbolic meaning that a domestic partnership or civil union lacks. Table 7 below shows the breakdown of visitors by state.

Table 7: Out-Of-State Same-Sex Couples who would Travel to Maryland to Marry

State	Number of Same-Sex Couples	Number of Same-Sex Couples Traveling to Maryland to Marry (25% for named states, 5% for other 39 states)
Virginia	13,802	3,450
Pennsylvania	21,166	5,291
New York	46,490	11,622
West Virginia	2,916	729
North Carolina	16,198	4,049
Delaware	1,868	467
Florida	41,048	10,262
Ohio	18,937	4,734
District of Columbia	3,678	919
Other 39 states (excluding MD, RI, and MA)	397,475	19,874
TOTAL	563,578	61,397

To arrive at the average tourist spending per out-of-state couple, we use tourism data on Maryland that estimates average spending per person at around \$104 per day, including all expenses (lodging, meals, retail shopping, entertainment, and any other spending related to their visit).¹⁴⁰ Because Maryland requires a 48-hour waiting period between applying for and receiving a marriage license,¹⁴¹ we expect visiting couples from distant locations to stay at least two days. Therefore, we estimate that those more distant out-of-state couples will spend an average of \$416 on basic expenses. Because of the proximity and size of Delaware, West Virginia, and the District of Columbia, we assume that couples from those states will return home during the waiting period and will not spend money on these additional tourist expenses.

The second source of spending comes from wedding expenditures, including spending on ceremonies, meals, parties, transportation, flowers, photographers, and other expenses. According to *The Wedding Report*, a wedding industry research group, the average cost of a wedding in 2006 in the State of Maryland was \$32,710.¹⁴² Because of the need to travel, we

assume that out-of-state same-sex couples would spend less than is spent on an in-state different-sex couple's wedding, but that they would spend more than typical tourists on special accommodations, meals, clothing, flowers, and gifts. We also expect additional spending by friends or family members who might accompany the couple, which is spending not included in the average wedding cost. Therefore, we conservatively assume that the additional wedding spending by out-of-state couples will be one-tenth of the typical wedding expense, or \$3,271.

Accordingly, for couples from Delaware, West Virginia, and the District of Columbia, we estimate wedding spending at \$3,271; for couples from farther or larger states we estimate total wedding spending and tourism spending at \$3,687 per couple.¹⁴³ The first few lines of Table 8 show those figures multiplied by the number of couples from Table 7. The total spending by these 61,397 out-of-state couples would be over \$218 million. The increase in spending by out-of-state couples spread over three years is an increase of almost \$73 million per year.

C. Wedding Spending by In-State Couples

As noted earlier, Maryland has 15,607 resident same-sex couples. Again we assume that 50% of these couples would choose to marry. These 7,800 in-state couples are likely to have larger celebrations and spend more than out-of-state couples because their friends and family are more likely to be local. However, due to societal discrimination, same-sex couples may receive less financial support from their parents and other family members to cover wedding 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 assume that same-sex couples will spend only 25% of the average amount, or just under \$8,200. The total for 7,800 couples would come to over \$63 million in additional wedding spending in three years, or a little over \$21 million per year.

Table 8 adds the spending by in-state and out-of-state same-sex couples to estimate a grand total of \$282 million in wedding spending over the first three years, or \$94 million per year.

Table 8: Expenditures on Maryland Weddings by Same-Sex Couples in First Three Years

States	Couples Marrying in MD	Spending per Couple	Total Spending per State Group
WV, DE, and D.C.	2,115	\$3,271	\$6,918,000
VA, NY, NC, OH, and PA	39,408	\$3,687	\$145,297,000
Other States	19,874	\$3,687	\$73,275,000
SUBTOTAL (OUT-OF-STATE)	61,397	--	\$218,573,000
Maryland	7,800	\$8,177.50	\$63,785,000
TOTAL	69,197	--	\$282,357,000

D. Other Economic Benefits of Same-Sex Marriage

Maryland employers could gain from same-sex marriage in ways that could reduce labor costs

The number of Maryland employers that offer healthcare benefits for employees' same-sex partners is rising; however, there is no statewide registry for same-sex couples and no statewide Maryland law affords same-sex couples rights based on their relationship at this time.¹⁴⁴ A recent review of the social science literature on workplace issues for gay and lesbian employees suggests that Maryland employers could gain from same-sex marriage in other ways that could reduce labor costs, although it is not possible to precisely

calculate these effects. Given the general nature of some of these outcomes, it is possible that businesses will see the same positive effects of extending marriage to same-sex couples through equal provisioning of benefits to same-sex and different-sex spouses. One recent report on this literature drew on the following conclusions:¹⁴⁵

- A supportive workplace climate and supportive policies, including domestic partner benefits, increase disclosure (or "coming out") of lesbian, gay, and bisexual employees.¹⁴⁶
- Disclosure has potentially positive benefits to worker health. Several studies find that people who are more "out" report lower levels of anxiety and fewer conflicts between work and personal life.¹⁴⁷

- Lesbian, gay, and bisexual workers who are out will be better workers. Several studies show that out workers report greater job satisfaction.¹⁴⁸ One study shows that participants who are more out also report sharing their employer's values and goals more than workers who are more closeted.¹⁴⁹ Another study shows that more out workers report higher levels of satisfaction with their co-workers.¹⁵⁰
- Research also demonstrates that partner benefits reduce gay, lesbian, and bisexual workers' turnover and increase their commitment to firms.¹⁵¹
- Partly because of employer healthcare practices, people in same-sex couples are almost twice as likely to be uninsured than are married different-sex people, which could reduce the health care and health of employees with same-sex partners.¹⁵²

Extending marriage to same-sex couples might improve worker health because a new social climate of equality, including greater access to health care benefits, will promote employee openness and job satisfaction. Improved worker health may benefit employers through reduced absenteeism and health care costs. Employers might also find it easier to retain and recruit lesbian, gay, and bisexual employees since Maryland will be more attractive to such employees when compared with employers of other states that do not allow marriage for same-sex couples. This competitive advantage could reduce training and hiring costs. In addition, some heterosexual employees might also prefer to work in a state that demonstrates its valuing of family diversity by permitting same-sex couples to marry, further adding to the gains for Maryland employers.¹⁵³

E. Costs to Businesses

Only two kinds of economic effects on Maryland employers can be quantified: the added health care benefit costs and the added business revenue from weddings. Added health care costs are likely to be quite manageable for Maryland businesses. A 2005 study predicts that if all of Maryland's same-sex couples married, only 3,770 would end up signing up a new spouse for employer-provided health care benefits.¹⁵⁴ If half marry, as we would expect, only 1,885 people would sign up a new spouse. We can estimate the cost to employers of each of those new spouses from the 2005 Medical Expenditure Panel Survey.¹⁵⁵ That government survey found that the average premium for individual coverage was \$3,991 in 2005. The addition of a spouse added \$3,680 to the premium, with employers paying \$2,644 of the higher amount. Inflating that figure to 2007 dollars results in an employer cost of \$3,027. Multiplying the added cost by the number of new spouses results in an estimated total increase of \$5.7 million for all of Maryland's employers. Most employers, however, would see no new spouses.

While the gains from the less direct effects of extending marriage to same-sex couples are not explicitly quantifiable, the costs of recruiting, training, and hiring new employees are likely to be real considerations for most employers. Even without a good estimate of those financial effects, however, the net gain to Maryland employers is clear. The total health care costs estimated above were at most \$5.7 million per year, easily outweighed by the direct effect of over \$94 million in yearly wedding-related spending by out-of-state and in-state couples during the first three years that marriage is extended to same-sex couples.

SUMMARY AND CONCLUSIONS

Table 9: Summary of Fiscal Impact on State Budget

	Total Fiscal Effect
Sales Tax	\$4,706,000
Income Tax Revenue	(\$133,000)
Inheritance Tax	(\$212,000)
Transfer Tax	(\$1,375,000)
Public Assistance	\$1,501,400
Employment Benefits	(\$1,301,700)
Administrative Costs	\$0
TOTAL	\$3,185,700

Using U.S. Census Bureau data on Maryland residents and drawing on the experience of Massachusetts and other states, this report quantifies the likely fiscal and economic effects of allowing same-sex couples to marry in Maryland.

- The State will experience a significant increase in sales tax revenue, but a loss in inheritance tax, income tax, and property transfer tax revenues, for a net gain of \$3 million in total tax revenues.
- The State will likely save over \$1.5 million in avoided public assistance expenditures from extending marriage to same-sex couples.
- Covering the health insurance of same-sex spouses of state employees and retirees will add between about \$435,000 and \$1.3 million to state expenditures.

- Extending marriage to same-sex couples will not generate administrative costs beyond those already covered by license fees.
- If same-sex couples are allowed to marry, Maryland's wedding and tourism-related business sectors will see a little over \$94 million per year in spending by in-state and out-of-state same-sex couples. Taking added health insurance costs for businesses into account results in a net gain to Maryland's businesses of \$88 million per year.

Our analysis projects that giving equal marriage rights to same-sex couples will have a positive impact on the state budget of \$3.2 million per year and a net gain to state businesses of over \$88 million per year during the first three years that marriage is extended to same-sex couples. The analysis shows that same-sex marriage is good not just for same-sex couples but for the state budget and economy too.

APPENDIX

Maryland Companies that Offer Domestic Partner Health Benefits ¹⁵⁶	City
A A I Engineering Support Inc.	Hunt Valley
Aeronautical Radio Inc.	Annapolis
AFSCME # 67	Baltimore
All Risks Ltd.	Timonium
Allfirst Financial Inc.	Baltimore
American Speech-Language Hearing Association	Rockville
Arinc Inc.	Annapolis
Baltimore Gas & Electric Co.	Baltimore
Bay Area Restaurant Group Jv	Bethesda
BBN Advanced Computers Inc.	Potomac
Black & Decker Corp.	Towson
Celera Genomics	Rockville
Cellmark Diagnostics	Germantown
CIENA Corp.	Linthicum
Citynet Telecommunications Inc.	Silver Spring
Columbia Telecommunications Corp.	Columbia
Constellation Energy Group, Inc.	Baltimore
Coventry Health Care	Bethesda
Digital Engineering Systems Corporation	Annapolis
Discovery Channel	Bethesda
DLA Piper	Baltimore
EA Engineering Systems & Technology Inc.	Hunt Valley
Electric Transit Inc.	Hunt Valley
Gazette Newspapers	Gaithersburg
General Data Systems Inc.	Bethesda
Globe Transportation Graphics	Baltimore
Group 1 Software	Lanham
Guernsey Office Products	Beltsville
Henry M. Jackson Foundation for the Advancement of Military Medicine	Rockville
Host Hotels and Resorts	Bethesda
Human Genome Sciences	Rockville
Hunter Group Inc.	Baltimore
IHSM - Institute for Human Services Management	Bethesda
International Federation of Professional and Technical Engineers	Silver Spring
Johns Hopkins University	Baltimore
Legg Mason, Inc.	Baltimore
Lockheed Martin Corp.	Bethesda
Loyola College	Baltimore
Manugistics	Rockville
Marriott International	Bethesda
Maryland College of Art and Design	Silver Spring
MedImmune Inc.	Gaithersburg
Mercury Associates Inc.	Gaithersburg

MMA Financial	Baltimore
National Arts Stabilization Inc.	Baltimore
Netvantage Inc.	Gaithersburg
Operative Plasterers' and Cement Masons' International Association	Laurel
Orchid Biosciences (dba Orchid Cellmark)	Germantown
Reeves Manufacturing Inc.	Frederick
Rouse Company	Columbia
RTKL Associates Inc.	Baltimore
Salisbury University	Salisbury
Sodexo Inc.	Gaithersburg
Softmed Systems Inc.	Silver Spring
Space Telescope Science Institute	Baltimore
T. Rowe Price Associates Inc.	Baltimore
Thing Learning Solutions, Inc.	Baltimore
Transcen Inc.	Rockville
U.S. Foodservice Inc.	Columbia
Vertis Inc.	Baltimore
Voicebank Technologies Inc.	Abingdon

ENDNOTES

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- ¹⁷ Badgett, *supra* note 2.
- ¹⁸ Badgett et al., *supra* note 3.
- ¹⁹ Albelda, *supra* note 4.
- ²⁰ Badgett et al., *supra* note 5.
- ²¹ Badgett et al., *supra* note 6.
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- ²³ Badgett, *supra* note 8.
- ²⁴ Badgett et al., *supra* note 9.
- ²⁵ Office of Legislative Research, Connecticut General Assembly, *supra* note 11.
- ²⁶ Office of Legislative Council, Vermont, *supra* note 12.
- ²⁷ Office of the New York State Comptroller, *supra* note 13.
- ²⁸ See Holtz, *supra* note 14.
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⁴⁸ *Id.*

⁴⁹ Oldham, J. Thomas. 1999. "What Does the U.S. System Regarding Inheritance Rights of Children Reveal About American Families?" *Family Law Quarterly* 33:265.

⁵⁰ Obviously, some individuals might leave all of their estates to their children while others may only leave a fraction. We choose 50%, in part, based on our conservative assumption about the percentage of unmarried individuals who are leaving a portion of their estate to their children.

⁵¹ Thus, we assume 79% of individuals in same-sex couples in Maryland do not have children and will leave no bequests to children. Of the 21% who do have children, we assume that 85% will leave nothing to their children and the remaining 15% will leave 50% of their estates to their children. Thus, the weighted average for the size of the bequest to children is $[(79*0) + (17.85*0) + (3.15*0.5)] / 100$.

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- ⁵⁶ $530,000(.40) = \$212,000$
- ⁵⁷ Md. Annotated Code §13-203. 2007.
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- ⁶⁹ *Id.*
- ⁷⁰ Once permitted to marry, some same-sex 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.
- ⁷¹ With respect to FIP, see "Reauthorization of the Temporary Assistance for Needy Families Program." 2006. *Federal Register* 71:37,454 June 29 (interim final rule) (supplemental information). With respect to MCHP, see U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. *Overview of National SCHIP Policy*. <http://www.cms.hhs.gov/NationalSCHIPPolicy/> (accessed November 2007).
- ⁷² 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. 1996. Pub. L. 104-199, § 1, 100 Stat. 2419 (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 prevent the state from interpreting the term "spouse" in the regulations to include a same-sex spouse. A related issue has arisen in Vermont with respect to that state's treatment of couples in a civil union within the Medicaid program. See Mace, David. 2003. "Critics Say Rule Change Violates Domestic Partnerships." *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 cannot treat same-sex spouses in the same way that different-sex spouses are treated in the Medicaid program.
- ⁷³ 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. 2007. With respect to state law, see, for example, Md. Health-Gen. § 15-109. 2007 ("As a condition of eligibility for medical assistance, a recipient is deemed to have assigned to the Secretary of Health and Mental Hygiene or the Secretary's designee any rights to payment for medical care services from any third party who has the legal liability to make payments for those services, to the extent of any payments made by the Department on behalf of the recipient.").
- ⁷⁴ See sources cited *supra* note 73.
- ⁷⁵ 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.").

⁷⁶ See generally Centers for Medicare and Medicaid Services. 2003. *State Medicaid Manual*, 3900-3910.15, 3900.1 and 3900.2.

⁷⁷ U.S. Department of Commerce, U.S. Census Bureau. 2003. Public Use Microdata Sample, 2000 Census of Population and Housing, Technical Documentation, p. D-8.

⁷⁸ For each category (SSI and public assistance), percentages were calculated by dividing the amount received by same-sex couples in that category by the total amount received in that category in Maryland, according to Census 2000.

⁷⁹ We do not merely inflate the 1999 expenditures to 2007 levels because expenditures in 1999 differ from recent years. Rather, we use the most recent data available on expenditures because they are more likely to reflect current and future expenditures than 1999 levels.

⁸⁰ Research on welfare benefits finds at most a very small disincentive effect. See Moffitt, Robert. 1992. "Incentive Effects of the U.S. Welfare System: A Review." *Journal of Economic Literature* 30:27-31.

⁸¹ For example, when a couple marries, the applicant's partner may have few assets and low income, allowing the program recipient to remain in the public assistance program.

⁸² For each category (SSI and public assistance), percentages were calculated by dividing the number of married same-sex couples that receive benefits by the total number of married or same-sex couples in Maryland according to Census 2000.

⁸³ The reduction rate for public assistance was calculated as follows: $.5 [1 - (.48/1.04)] = .269$, or 26.9%. The reduction rate for SSI was calculated as follows: $.5 [1 - (.76/1.57)] = .258$, or 25.8%.

⁸⁴ Our calculations do not include the over \$100,000,000 in state monies used to fund the state Earned Income Tax Credit, since eligibility is assessed through the income tax system, unlike other public assistance and nonassistance funded via the TANF block grant.

⁸⁵ State of Maryland. 2007. *July 2007-June 2008 Guide to Your Health Benefits*. http://dbm.maryland.gov/dbm_publishing/public_content/dbm_search/employee_services/health_benefits/2008_health/205730deptbudget.pdf (accessed November 2007).

⁸⁶ *Id.*

⁸⁷ Romero et al., *supra* note 61.

⁸⁸ State of Maryland. 2007. *State of Maryland FY 2007 Health Insurance Premiums, Employees/Retirees*. http://www.dbm.maryland.gov/dbm_publishing/public_content/dbm_search/employee_services/health_benefits/2006_july_health/fy_2007_rates_all_charts_for_review_website.pdf (accessed November 2007).

⁸⁹ Maryland Department of Budget & Management. 2007. *Annual Personnel Report for FY2006*. http://dbm.maryland.gov/dbm_publishing/public_content/dbm_taxonomy/employee_services/annual_report_fy_06.pdf (accessed November 2007).

⁹⁰ The calculation of the average cost of adding an additional person was based on the state contribution for a plan with two covered persons. Maryland could already be paying the contribution for two persons, if a same-sex partner has a child on the plan. Further, if a same-sex partner already has two children on the plan, there would be no additional cost for adding a fourth person onto the plan. Thus, the estimates provided are likely overestimates.

⁹¹ For retirees, the state contribution differs depending on whether the retiree and his/her spouse is on Medicare. We assumed that for half of all retirees, only the retiree is 65 or older, and thus entitled to receive Medicare; for the other half of all retirees, we assumed that the spouse is also entitled to receive Medicare. Thus, we averaged the cost of the two state contributions to obtain the state contribution for retirees.

⁹² 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." *Contemporary Economic Policy* 24(4): 582-599. These proportions are lower than the percentage of lesbian, gay, and bisexual people for several reasons: (1) not all LGB people are in couples; (2) some couples would not need coverage for a partner or spouse; and (3) some couples will be discouraged from signing up a same-sex spouse or partner because of fear of disclosure or because of the taxation of those benefits.

⁹³ See *supra* note 89.

⁹⁴ See *supra* note 85.

⁹⁵ See *supra* note 89.

⁹⁶ See *supra* note 85.

⁹⁷ See *supra* note 89.

⁹⁸ *Id.*

⁹⁹ State Retirement and Pension System of Maryland. "Benefits Handbooks." http://www.sra.state.md.us/benef_handbook.htm (accessed June 2007).

¹⁰⁰ *Id.*

¹⁰¹ This differs for the SPRS and JRS, which provide a 50 percent survivorship benefit to the surviving spouse. *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Maryland and Fallen Police Officers Memorial. *The Fallen, by Year*. <http://www.mdfallenofficers.org/thefallen.htm> (accessed November 2007).

¹⁰⁸ State Retirement and Pension System of Maryland. 2006. 2006 Comprehensive Annual Financial Report, <http://www.sra.state.md.us/cafr06.htm> (accessed November 2007).

¹⁰⁹ We were informed that breakdowns of these state expenditures were unavailable. Patterson, Keshia, State Retirement & Pension System of Maryland. 2007. Email to Amanda K. Baumle, July 19.

¹¹⁰ See *supra* note 99.

¹¹¹ See Ash & Badgett, *supra* note 92.

¹¹² *Id.*

¹¹³ 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).

¹¹⁴ Ragins, B.R. and J. M. Cornwell. 2007. "We Are Family: The Influence of Gay Family-Friendly Policies on Gay, Lesbian and Bisexual Employees," in M. V. Lee Badgett and Jefferson Frank, eds. *Sexual Orientation Discrimination: An International Perspective*. Oxford: Routledge.

¹¹⁵ Luther, Samir. 2006. *Domestic Partner Benefits, Employer Trends and Benefits Equivalency*. Washington, D.C.: Human Rights Campaign Foundation.

¹¹⁶ Tziner, Aharon and Assa Birati. 1996. "Assessing Employee Turnover Costs: A Revised Approach." *Human Resource Management Review* 6:113-122.

¹¹⁷ Jones, Cheryl. 2005. "The Costs of Nurse Turnover, Part 2: Application of the Nursing Turnover Cost Calculation Methodology." *The Journal of Nursing Administration* 35(1):41-49.

¹¹⁸ Maryland offers two types of divorce—limited and absolute. However, the only procedures that legally dissolve marriage are absolute divorce and annulment. Our analysis excludes limited divorce because it does not legally sever the marital bonds. See Md. Family Law Code § 7-103. 2007. Granting a limited divorce authorizes a spouse to live separate and apart from the other party and to obtain orders relating to certain financial and custody issues but there is no severance of the marital bonds. Most people who seek divorce in Maryland petition for absolute divorce, which officially ends the marriage.

¹¹⁹ See Cummings, *supra* note 59.

¹²⁰ Average calculated using the number of divorce cases reported in the annual reports on family cases from 2001-2006. These reports can be found at <http://www.courts.state.md.us/family/annualreport.html> (accessed November 2007).

¹²¹ Maryland Judiciary. 2006. *2005-2006 Annual Statistical Abstract*, p. 66 tab. CC-1 http://www.courts.state.md.us/publications/annualreport/reports/2006/2006_annual_report.pdf (accessed November 2007).

¹²² *Id.* at 15 (278,511 total cases/146 Circuit Court judges = 1908 cases per judge).

¹²³ It is highly unlikely that a single Circuit Court, let alone a single judge, would receive all same-sex dissolutions because the Maryland system is split by county between eight Circuit Courts, such that divorces would be directly linked to the Circuit in which the couple lived.

¹²⁴ See Badgett and Sears, *supra* note 10, at 219 (discussing reasons why the rules governing dissolutions in civil court impose considerably greater burdens on courts than do the rules governing dissolutions in family court).

¹²⁵ Md. Family Law Code § 2-501. 2007.

¹²⁶ See, e.g., Circuit Court for Kent County, Marriage License Information. <http://www.courts.state.md.us/clerks/kent/marriage.html> (accessed November 2007).

¹²⁷ Lagorce, Audre. 2004. "The Gay Marriage Windfall: \$16.8 Billion." *Forbes.com*, Apr. 5. http://www.forbes.com/commerce/2004/04/05/cx_al_0405gaymarriage.html (accessed November 2007).

¹²⁸ Teng, Mabel S., San Francisco Assessor-Recorder. 2004. *Presentation: Demographics Breakdown of Same Gender Marriages*, pp. 2-3. <http://www.alicebtolkas.org/abt/samesexmarriagstats.ppt> (accessed May 2007).

¹²⁹ See Jung, Helen. 2004. "Gay Marriages May Bring Joy to Tourism." *Oregonian*, Mar. 5, p. D1. Joe D'Alessandro, president of the Portland Oregon Visitors Association, is quoted as saying that extending marriage to same-sex couples has provided an "economic boost" to Portland as same-sex couples and their families fly in for weddings. *Id.* David Sarasohn also quotes D'Alessandro as saying, "It's definitely having a positive impact, because more people are coming to Portland." Sarasohn, David. 2004. "Gay Marriage, Tourism: A Package Deal." *Oregonian*, Apr. 11, p. C4. "They fly in, sometimes with families, friends, children, whatever. I've talked to the hotel people, and they say they've seen an increase in gay and lesbian customers." *Id.*

¹³⁰ See Jung, *supra* note 129 (reporting that hotels in Vancouver had atypically high bookings and Macy's department store ran out of wedding rings during the month that San Francisco let same-sex couples marry); Knight, Heather. 2004. "Windfall in Castro: 'Giddy' Newlyweds Have Been Boon for S.F. Neighborhood." *San Francisco Chronicle*, Feb. 18, p. A1 (reporting that extending marriages to same-sex couples was "great for businesses as newlyweds throw their money at the neighborhood's florists, jewelry stores, liquor shops, bookstores, and photo processors"); Bly, Laura. 2004. "Localities Cashing in on Same-Sex Marriages." *USA Today*, Feb. 27, p. 1D; see also Murphy, Dean E. 2004. "San Francisco Toasts Gay Weddings." *New York Times*, Feb. 29, p. 3.

¹³¹ Singer, Thea. 2004. "Three Swank Cities are Becoming Marriage Meccas for Gay Couples." *Boston Herald*, Mar. 22, p. 27 (reporting that wedding-related businesses such as hotels, banquet halls, florists, and jewelers, in Boston, Cambridge, and Northampton have seen "an upsurge of 10 to 100 percent in inquiries and bookings from gay couples" looking to marry); see also Szaniszló, Marie. 2004. "P'town Set for Gay-Wed Rush." *Boston Herald*, Apr. 11, p. 10; Belkin, Douglas. 2004. "Wedding Bell Bonanza Tourism, Marriage Industry Foresee Boom in Same-Sex Nuptials." *Boston Globe*, Feb. 26, p. 1.

¹³² See Singer, *supra* note 131.

¹³³ Brown, Jennifer Gerarda. 1995. "Competitive Federalism and the Legislative Incentives to Recognize Same-Sex Marriage." *Southern California Law Review* 68:745, 772; Lacroix, Sumner and James Mak *How Will Same-Sex Marriage Affect Hawaii's Tourism Industry?: Hearing Before the Commission on Sexual Orientation and the Law*, 1995 Leg., 18th Sess. (Haw. 1995).

¹³⁴ Shortly after marriage was extended to same-sex couples in Massachusetts, Governor Mitt Romney ordered clerks to comply with a 1913 Massachusetts law that makes it illegal for out-of-state couples to enter into a marriage that would not be legal in their own state. Belluck, Pam. 2004. "Romney Won't Let Gay Outsiders Wed in Massachusetts." *New York Times*, Apr. 25.

¹³⁵ Maryland Tourism Development Board and the Office of Tourism. 2006. *FY 2006 Tourism Development Office Annual Report*. <http://www.visitmaryland.org/aboutmarylandtourism/reports/AnnualReportFY2006.pdf> (accessed November 2007).

¹³⁶ Though New Jersey sends one of the highest populations of tourists to Maryland, New Jersey's recent creation of civil unions will limit the number of New Jersey couples interested in marriage in Maryland. Though many believe that marriage carries significant social benefits outside of the legal rights and responsibilities, we conservatively assume that only 5% of New Jersey's same-sex couples will go to Maryland to marry.

¹³⁷ Gates, *supra* note 34, reports: Virginia (13,802 same-sex couples), Pennsylvania (21,166), New Jersey (16,604), New York (46,490), West Virginia (2,916), North Carolina (16,198), Delaware (1,868), Florida (41,048), Ohio (18,937), and Washington, D.C. (3,678).

¹³⁸ In Vermont, 1,933 same-sex couples identified themselves in Census 2000. See Simmons & O'Connell, *supra* note 30, at 4 tbl. 2. At the end of 2004, 1,104 Vermont same-sex couples, or 57% of the number of couples who identified themselves on Census 2000, had entered into a civil union. McCoy, *supra* note 31.

¹³⁹ On September 30, 2006, Massachusetts Superior Court Justice Thomas E. Connolly ruled that same-sex couples who live in Rhode Island can marry in Massachusetts because the former does not explicitly forbid marriages between same-sex couples. On February 20 of the next year, Attorney General Patrick Lynch issued an opinion that marriages between same-sex couples, performed in Massachusetts, would be recognized in Rhode Island.

On July 18, 2007, the state's registrar of Vital Records and Statistics issued a notice indicating that a Supreme Judicial Court ruling did not prohibit same-sex couples from New Mexico from marrying in Massachusetts. Nonetheless, we do not exclude New Mexico from our calculations of couples who might choose to marry in Iowa, as we do Rhode Island. Couples in Rhode Island are unlikely to travel to Iowa to marry, given the proximity to Massachusetts. Those in New Mexico, however, are geographically closer to Iowa than to Massachusetts, and would not be similarly deterred from traveling to Iowa to marry.

¹⁴⁰ The average tourist couple spent \$353 on 1.7 days in Maryland ($353/1.7=208$; $208/2=\$104$ per day). See Maryland Tourism Development Board and the Office of Tourism, *supra* note 135.

¹⁴¹ See, e.g., *supra* note 126.

¹⁴² The Wedding Report. *State Wedding Statistics and Market Estimates*. <http://theweddingreport.com/wmdb/index.cfm?action=db.textviewstate> (accessed November 2007).

¹⁴³ 10% of the State's average wedding expenses, including the two days of travel within the state.

¹⁴⁴ For a list of Maryland Businesses that provide domestic partner benefits, see Appendix A.

¹⁴⁵ Badgett, M.V. Lee and Gary J. Gates. 2006. *The Effect of Marriage Equality and Domestic Partnership on Business and the Economy*. <http://www.law.ucla.edu/williamsinstitute/publications/MarriageEqualityontheEconomy.pdf> (accessed November 2007).

¹⁴⁶ See generally Badgett, M.V. Lee. 2001. *Money, Myths, and Change: The Economic Lives of Lesbians and Gay Men*. Chicago: University of Chicago Press; Driscoll, J.M. et al. 1996. "Lesbian Identity and Disclosure in the Workplace: Relation to Occupational Stress and Satisfaction." *Journal of Vocational Behavior* 48:229; Griffith, Kristin H. and

Michelle R. Hebl. 2002. "The Disclosure Dilemma for Gay Men and Lesbians: 'Coming Out' at Work," *Journal of Applied Psychology* 87:1191; Ragins and Cornwell, *supra* note 114; Rostosky, Sharon S. and Ellen D.B. Riggle. 2002. "Out' at Work: The Relation of Actor and Partner Workplace Policy and Internalized Homophobia to Disclosure Status." *Journal of Counseling Psychology* 29:411; Button, Scott B. 2001. "Organizational Efforts to Affirm Sexual Diversity: A Cross-Level Examination." *Journal of Applied Psychology* 86:17.

¹⁴⁷ Jordan, K.M. and R.H. Deluty. 1998. "Coming Out for Lesbian Women: Its Relation to Anxiety, Positive Affectivity, Self-Esteem, and Social Support." *Journal of Homosexuality* 35:41; Day, Nancy E. and Patricia Schoenrade. 1997. "Staying in the Closet versus Coming Out: Relationships Between Communication about Sexual Orientation and Work Attitudes." *Personnel Psychology* 50:147; Griffith & Hebl, *supra* note 146.

¹⁴⁸ See Driscoll et al., *supra* note 146; Day & Schoenrade, *supra* note 147; Griffith & Hebl, *supra* note 146.

¹⁴⁹ See Day & Schoenrade, *supra* note 147. However, some studies searched for but did not find this link. See Ellis, Allan L. and Ellen D.B. Riggle. 1995. "The Relation of Job Satisfaction and Degree of Openness About One's Sexual Orientation for Lesbians and Gay Men." *Journal of Homosexuality* 30:75; Ragins and Cornwell, *supra* note 114.

¹⁵⁰ Rostosky and Riggle, *supra* note 146.

¹⁵¹ Ragins and Cornwell, *supra* note 114. A related study finds that experiences of heterosexism increase the likelihood of turnover for LGB employees. Waldo, Craig R. 1999. "Working in a Majority Context: A Structural Model of Heterosexism as Minority Stress in the Workplace." *Journal of Counseling Psychology* 46:218.

¹⁵² Ash and Badgett, *supra* note 92, at 588.

¹⁵³ See Badgett & Gates, *supra* note 145, at 3.

¹⁵⁴ Badgett, M. V. Lee, and Gary J. Gates. 2004. "The Business Cost Impact of Marriage for Same-Sex Couples." <http://www.iglss.org/media/files/busimpact.pdf> (accessed November 2007).

¹⁵⁵ Branscome, James M. and Beth Levin Crimmel. 2007. "Employer-Sponsored Single, Employee-Plus-One, and Family Health Insurance Coverage: Selection and Cost, 2005." Agency for Healthcare Research and Quality, MEPS Statistical Brief #175, July.

¹⁵⁶ Human Rights Campaign Foundation. 2006. *Workplace Guide to Domestic Partner Benefits*, April 6. http://www.hrc.org/Template.cfm?Section=Search_the_Database&Template=/CustomSource/WorkNet/srch_list.cfm (accessed May 2007).