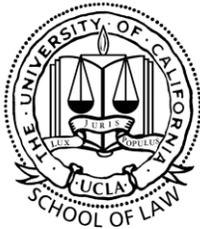


COUNTING ON COUPLES
**FISCAL SAVINGS FROM ALLOWING SAME-SEX
COUPLES TO MARRY IN CONNECTICUT**

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the
**Williams
PROJECT**



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Executive Summary

If the State of Connecticut were to allow same-sex couples to marry, the State's expenditures and tax revenues would be affected since marriage involves both rights and responsibilities that have fiscal implications. According to the U.S. Census 2000, Connecticut has 7,386 same-sex couples. Based on the experience in other states, we predict that half of those couples, or 3,693, will choose to marry during the first three years the Connecticut extends marriage to same-sex couples. Overall, we estimate that the result of those marriages on the state budget would be a net gain of at least \$3.1 million per year for the first three years.

If, instead, Connecticut were to create a civil union status that gave same-sex couples the same rights and responsibilities of marriage within the State, we predict that the net gains would be somewhat smaller, or approximately \$2.1 million per year for the first three years.

State income tax revenues will stay the same.

If same-sex couples are allowed to marry and file jointly, then the number paying lower taxes will offset the number of couples whose taxes will rise, and the net effect will be a small annual increase in tax revenues of just over \$100,000. However, the state will lose an equal amount because employer contributions for domestic partner benefits will no longer be taxable for married couples.

Administrative cost increases will be less than fees generated.

The State will pay a small amount (approximately \$4,000) to replace marriage forms that assume married couples are only of different sexes, but the fees paid by Connecticut same-sex couples for marriage licenses will more than offset those expenses.

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

Spouses are obligated to provide for one another's basic needs. If same-sex couples marry, public assistance programs can count the spouse's income and assets in assessing eligibility for state health and income assistance programs. We estimate that the total savings to the State will be \$11.2 million per year if the federal Defense of Marriage Act (DOMA) poses no obstacle to accruing these savings. Even if DOMA does prevent the State from accruing these savings for state-federal programs such as SSI and Medicaid, the State will still save over \$1.4 million each year from state means-tested public benefit programs.

Revenues generated by the state succession tax will fall in 2006 but not in later years.

The State will see a drop of approximately \$107,000 in succession tax revenues in 2006, but scheduled changes in that tax mean that future years will see no loss of succession tax revenues if same-sex couples can marry.

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State sales and lodging tax revenues will rise.

As out-of-state couples travel to Connecticut to marry and as in-state couples hold weddings, the State's wedding and tourist industries will see an increase in spending. The State will receive an additional \$1.9 million per year in sales tax revenues from such spending. If civil unions are enacted, we predict that the additional revenue would be roughly \$1 million less per year because out-of-state couples are not likely to visit Connecticut to enter a civil union.

No increases in court system expenditures are likely to result.

Any increase in demands on the family court system will be very small relative to the existing average caseload of judges and to the normal year-to-year variation in total caseloads. Thus, we estimate no increase in state court system expenditures.

The State may see a very small increase in payments for grants to elderly and disabled homeowners and renters.

If the state treats same-sex couples similarly to married couples in these programs, a small number of grant recipients will receive a relatively small increase in their grant payments. Thus, we estimate that the any increase in costs for these programs will be negligible.

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INTRODUCTION

Marriage comes with a variety of legal rights and obligations that have an impact on the State of Connecticut's expenditures and tax revenues. This study assesses the links between these rights and obligations and various budget categories to produce an estimate of the overall effect of same-sex couples' marriages on the state budget.

Several categories of spending might be affected. On one hand, more marriages could mean higher expenditures for the State on employee benefits, on court administration, and on grants to elderly and disabled homeowners and renters. On the other hand, the State might see lower expenditures on means-tested public benefit programs.

Similarly, state tax revenues might be expected to change. In particular, in this study we estimate the effect of same-sex marriages on revenues from the income tax, sales and lodging tax, and the succession tax.

We draw on data collected by the State of Connecticut as well as additional relevant data sources. The Census 2000 data on same-sex unmarried partners in Connecticut provides important estimates of the number of same-sex couples who might marry if that option were available. Based on Vermont's experience with offering same-sex civil unions,¹ we predict that half of Connecticut's 7,386 same-sex unmarried partner couples, or 3,693 couples, will marry when offered the opportunity.

In general, we approach the task of estimating the net effect of costs and benefits conservatively. In other words, we choose assumptions that are the most cautious from the State's perspective; i.e., making assumptions that tend to predict higher costs to the State and lower benefits and savings. Even so, ***we find that the net effect of allowing same-sex couples to marry will create a positive impact on the state budget of at least \$3.1 million per year under the most conservative assumptions and as much as \$13 million per year under less cautious assumptions.*** Moreover, if there are significantly more same-sex couples in the State than reported in the Census, as evidence suggests,² then the net gains to the State would be even greater.

If the State decides to create a civil union status for same-sex couples instead of extending marriage to them, then we predict that most of the fiscal effects would be the same. The exception, as outlined below in Section 5, would be a smaller gain in sales tax revenues. The net gain from civil unions would be somewhat lower, or approximately \$2.1 million per year.

1. State Employee Benefits and Retirement Plan

All state employees can already enroll a same-sex domestic partner in Connecticut's Health Benefit Plan and the State Employee Retirement System. Because the State already incurs these costs, allowing same-sex couples to marry will not result in additional costs to the State. (In fact, the cost of providing such benefits is small relative to the total cost of providing state employees with benefits. For the period March 2000 through September 2002, the State estimated that the cost of providing coverage for the 336 state employees' partners was \$825,000 -- or approximately 0.1% of the \$700 million cost of health benefits for all state employees.³) The Connecticut Office of Fiscal Analysis also did not foresee any additional cost from allowing same-sex couples to marry.⁴ Accordingly, this report estimates no fiscal impact in this spending category.

However, one new employment-related expense to the State would occur if it extended marriage to same-sex couples: same-sex spouses would become eligible for the legally mandated dependent allowance that unemployment insurance recipients can claim for their nonworking spouses.⁵ Since unemployment insurance is experience rated, the State will ultimately pay for any increases in unemployment insurance payments.

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Approximately 20.3% of unemployment claims involved payment of a dependents allowance (for either a nonworking spouse or dependent child) in the State in 2003-04, and the average payment was \$27.45 per claimant per year.⁶ In calendar year 2004, 818 state employees filed new unemployment insurance claims. Thus, if state employees are similar to other Connecticut employees, then approximately 166 of them were receiving a dependency allowance that cost the State approximately \$4,557. Allowing state employees to marry a person of the same-sex would obviously add very little if anything to this component of the State's unemployment insurance expenses, since most of those employees would not be laid off, those who are laid off are likely to have a working spouse, and the few who would qualify for the nonworking spouse allowance would cost the State very little. Therefore, we do not include any additional expenditure by the State for these dependency allowances for same-sex couples who marry.

2. State Income Tax Revenues

Effect of filing as "married filing jointly": Extending marriage to same-sex couples will have an impact on the income tax revenues collected by the State. Same-sex couples who marry will have the right to use the "married filing jointly" tax status. Two individuals who previously filed as "single" will now combine their incomes and, as a result, may pay more or less in income taxes. Marriage will also likely eliminate the ability of currently "single" taxpayers who have dependent children to use the "head of household" filing status, which would increase the taxes that some couples owed. Overall, our simulations suggest that extending marriage to same-sex couples in Connecticut will have a small positive impact on state tax revenues.

To estimate the net tax impact of allowing same-sex couples to marry, we use the income and household characteristics of same-sex "unmarried partner" couples living in Connecticut gathered by the Census Bureau.⁷ We use the Census data on total income and on the number of children in a household to estimate each couple's taxes twice. First we estimate what couples pay now. Then we estimate their likely tax payments as a married couple. Finally we calculate the difference between their pre- and post-marriage taxes.

We made several assumptions to simplify the tax calculations. First, if the householder reported "own children under eighteen" in the household on Census 2000, then we assume that the householder files as head of household and the partner as single.⁸ Second, we assumed everyone took the maximum property tax credit of \$350.

Overall, the effect on most couples is quite small. If they married, not quite half, or 49%, of same-sex couples would see their taxes rise, 39% would see a decline, and 12% would see no change in their taxes. The average increase is \$310, and the average decrease \$342. Couples with children are more likely to see their taxes rise when married, since a legally unmarried parent can file as head of household, a filing status that provides a larger deduction and credit. Couples for whom one partner has a very low income tend to see the biggest reductions in taxes when marrying.

If all same-sex couples identified by Census 2000 in Connecticut were to marry, the estimated net effect on tax revenues is an increase of almost \$201,541.⁹ If only half of these couples marry, we estimate that the revenue effect will be \$100,770.¹⁰

Effect of taxation of domestic partner benefits: A second impact of marriage would be to eliminate the taxation of employer benefits provided to the same-sex domestic partners of employees. The contributions of employers for health care benefits provided to employees and their spouses and children are not considered taxable income. However, when employers offer benefits to employees' domestic partners, those employer contributions are considered taxable income by the state and federal

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governments. If same-sex couples receiving domestic partner benefits could marry their partners, those benefits would no longer be taxable, thus reducing income tax revenues to the State.

We estimate that the State would lose \$106,000 per year in income tax revenues because spousal health care benefits would no longer be taxable for same-sex couples. Our reasoning has several steps: (1) There are 7,386 same-sex couples, and one-half are likely to marry; (2) one or both partners are employed in 84% of couples; (3) 84% of people in same-sex couples are private sector employees; (4) 46% of employed people are covered by their employers' health insurance; (5) 30% of employees who have employer-provided health insurance in the Northeast work for an employer that provides domestic partner benefits; (6) there are 442 state employees getting domestic partner benefits and paying taxes on them; (7) the average annual employer contribution for family coverage in the U.S. is \$4058; (8) the median income of a person in a same-sex couple is \$33,275 in Connecticut, placing the single employee who would pay taxes on domestic partner benefits in the 5% tax bracket with a .10 personal tax credit.¹¹ Thus we estimate that there are 581 employees in Connecticut who pay an additional \$182 in taxes for the partner benefits that their employer provides, for a total of \$106,021.¹²

Overall, then, the net change in income taxes received by the State would effectively be zero.

3. Public Assistance Programs

The state of Connecticut funds several public benefit programs that provide assistance to low-income individuals and families. Temporary Assistance to Needy Families/Temporary Family Assistance (TANF) and the state supplement to Supplemental Security Income (SSI) provide cash grants. Medicaid, SAGA/General Assistance, the HUSKY program, and the PACE program provide health insurance or subsidized prescription drug benefits.¹³ The federal government also provides funding for some of these programs.

Eligibility for these programs is means-tested, i.e., eligibility depends on the individual's and family's income and assets. When an applicant is part of a married couple, the spouse's income and assets are included in the eligibility determination. Currently, regulations for these public assistance programs do not require the state or federal government to take into account an unmarried same-sex partner's income and assets.¹⁴ Therefore, people with same-sex partners are most likely considered to be single when assessing eligibility for these programs, thus increasing the likelihood that they will become eligible. If participants had a same-sex partner whom he or she could marry, the new spouse's income and assets would then be counted in determining eligibility, thus reducing the likelihood that the original program participant will still be eligible. When participation drops, state expenditures on the program will also fall.

For TANF (and, therefore, for individuals qualifying for Medicaid because they receive TANF), the State determines the eligibility standards and 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, the federal government determines the generally applicable eligibility standards, and states have more limited discretion in developing their own standards and procedures. Because of the federal Defense of Marriage Act (DOMA), the State may not be able to include a same-sex spouse in determining eligibility.¹⁵

However, in assessing eligibility for Medicaid and SSI, it is possible that the State could still take into account the resources of same-sex spouses under state and federal regulations. These regulations require Connecticut to consider the resources of third parties who are legally liable for health care costs. Medicaid is a provider of last resort, and federal and state law require the State to assure that Medicaid recipients utilize all other resources, i.e., third parties, available to them to pay for all or part of their medical care needs before turning to Medicaid.¹⁶ Third parties are entities or individuals who are legally responsible for paying the medical claims of Medicaid recipients.¹⁷ They include any "individual who has either voluntarily accepted or been assigned legal responsibility for the health care" of a Medicaid

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applicant or recipient.¹⁸ Examples of third parties in federal and state Medicaid manuals include absent and custodial parents. In addition, state and federal law require that the incomes of the sponsors of immigrants must be considered when determining an applicant's eligibility.¹⁹ If the State were to consider the income of same-sex spouses when determining eligibility for Medicaid and SSI, then savings from allowing same-sex couples to marry would be at their highest. Below we distinguish between sources of savings to capture the uncertainty of the State's (and possibly the federal government's) future decisions about Medicaid and SSI.

To estimate the impact of extending marriage to same-sex couples, we again draw on Connecticut data from Census 2000. The Census asks respondents to report the amount of income from various sources, and the publicly available data specifies the amount of income that respondents report having received from Supplemental Security Income (SSI) and from "public assistance or welfare payments from the state or local welfare office" in 1999.²⁰ Therefore, we can add up the total paid to individuals in same-sex couples. In 1999, members of same-sex couples in Connecticut received \$1.2 million in public assistance and \$1.5 million in SSI.

Unfortunately, neither the Census nor other datasets can tell us how many people in same-sex couples are enrolled in Medicaid, HUSKY, or PACE. Therefore, we assume that the share of state expenditures for potential same-sex spouses in those programs is the same as for TANF, or 3%.²¹ The second column of Table 1 shows estimated expenditures on people in same-sex couples in each program.

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

- (1) We assume that half of people in same-sex couples will marry, an assumption that takes into account the fact that the possible loss of benefits will deter some marriages.²²
- (2) We assume that some married same-sex couples will continue to receive benefits. When couples marry, the new spouse might also have a low income and few assets, allowing the program recipient to remain in the public assistance program. Furthermore, some spouses may become eligible for family-related benefits as a result of marriage. We make an adjustment that assumes that the same proportion of married same-sex couples will still receive benefits as married couples do. According to the census, in 1999 1.3% of people in same-sex couples received SSI, while only 0.9% of married people did, and 3.0% of people in same-sex couples but only 0.8% of married people received "public assistance." Thus spending on public assistance will fall by roughly 75%.²³
- (3) We inflate the earlier dollar figures to put the savings in 2004 dollars.
- (4) We use data on the State's share of spending to isolate the State's share of savings.

Table 1 shows that the total expected savings to the State is \$11.2 million per year. The greatest savings come in the Medicaid category. This estimate of almost \$10 million savings on Medicaid is roughly in line with a recent Congressional Budget Office report on the fiscal impact of same-sex marriage on the federal budget that predicted \$300 million in Medicaid savings for all 50 states in 2014.²⁴ However, if the federal government prohibited the State from counting a same-sex spouse's income and assets to calculate eligibility for Medicaid and SSI, then the State's savings from state-run public benefits programs would be \$1.4 million per year.

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Table 1: Reduced expenditures on public assistance programs

	Estimated annual state spending on people in same-sex couples	State savings if couples can marry
SSI	\$1,486,700	\$67,709
TANF	\$1,189,370	\$494,540
Medicaid	\$50,898,005	\$9,719,193
HUSKY	\$738,517	\$99,515
PACE	\$2,234,841	\$819,442
Total savings (including Medicaid)		\$11,200,399
Total savings (excluding Medicaid and SSI)		\$1,413,497

4. Administrative Costs

Providing Marriages

If the State extended marriage to same-sex couples, the State’s Department of Public Health would need to print new marriage license forms, marriage application forms, and marriage dissolution forms. The current marriage forms, for example, ask for information on the “bride” and “groom.” Connecticut’s Office of Fiscal Analysis estimates that the one-time cost to reprint 40,000 forms to reflect same sex marriages would cost approximately \$4,000, at 10 cents per form.²⁵

Revenue from the state marriage fee, however, would offset these costs through a charge of \$20 for a marriage license. Moreover, most couples would pay an additional \$10 to obtain a certified copy of their marriage certificate.²⁶ If half of resident same-sex couples in Connecticut (3,693) marry, that would generate revenues of \$110,790, or \$36,930 each year for the first three years that Connecticut extends marriage to same sex couples. Moreover, if an additional 46,414 out-of-state same-sex couples marry in Connecticut, the State would generate additional revenue of \$1,392,420 million from these fees alone, \$464,140 each year for the first three years. Thus, the total revenues could be as high as \$1.5 million for marriage license fees, or \$574,930 per year for the first three years. (See below for an explanation of the number of out-of-state couples.) However, the State would also incur administrative costs for processing each marriage and certificate request. We assume that the fee income will largely be offset by those additional administrative costs, so we do not include the fee income in our summary analysis.

Impact of civil unions: One-time administrative costs would be slightly higher if the State enacted civil unions instead of marriage for same-sex couples. The State would need to develop forms to register civil unions and to adapt other state forms, such as death certificate forms. According to the Office of Fiscal Analysis, the Department of Public Health would incur an additional \$16,000 in costs to develop new forms, on top of the costs noted above.²⁷

5. Revenue Gains from Weddings

Four factors suggest that the State is likely to see a surge in wedding spending, and therefore sales tax revenues if it extends marriage to same-sex couples: (a) the State already generates significant tourism revenues from visitors from contiguous and nearby states; (b) couples from all over the United States will want to travel to Connecticut to marry as long as it remains one of a few states that extends marriage to same-sex couples; (c) Connecticut does not require a waiting period for marriages, so

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couples can apply to be married and be married on the same day; and (d) the \$25,000 average amount spent on traditional weddings in Connecticut²⁸ is even higher than the national average of \$22,000. We will examine these factors on potential revenue from out-of-state and in-state couples separately.

The experience with same-sex couples' weddings in San Francisco, CA, and Portland, OR, in 2004 suggests that the economic benefit could be substantial. The couples who married in San Francisco came from 46 states and eight countries in the one-month window of wedding availability.²⁹ Businesses in Portland³⁰ and San Francisco³¹ reported that these visitors spent substantial amounts of money on wedding-related goods and services. Furthermore, Massachusetts businesses experienced an increase in demand for hotels, catering services, and other wedding-related orders when that state began to allow same-sex couples to marry in May 2004.³² Estimates of Massachusetts' potential gain from out-of-state couples coming to the State to marry have exceeded \$100 million.³³

However, as of today, Connecticut would have no competition from other states for these visitors, since Massachusetts does not currently allow out-of-state same-sex couples to marry there.

Out-Of-State Couples

Connecticut receives large numbers of tourists from six states that do not allow same-sex couples to marry: New York, New Jersey, Pennsylvania, Maine, Rhode Island, and New Hampshire. Together, these states have almost 100,000 same-sex couples who could easily choose to hold a marriage ceremony in Connecticut. As noted earlier, we estimate that approximately half of same-sex couples will want to marry. Therefore, Table 2 below shows that 46,414 out-of-state couples are likely to travel to Connecticut if same-sex marriages are legalized, since same-sex couples are not allowed to marry in those states (and are not allowed to marry in Massachusetts). These 46,414 couples will lead to an increase in tourism dollars for state businesses and an increase in sales tax revenues for the State.

Of course, the fact that they have to travel may deter some couples from coming from out-of-state, but our model compensates for this travel deterrent in two ways. First, we focus on the states where the travel deterrent would be the least -- states contiguous to Connecticut. Second, any deterrent effect in our model due to travel should be offset by the fact we do not take into account couples who will travel from the rest of the United States. In other words, it is likely that couples would also travel from California, Florida, Texas, etc., if Connecticut extended marriage to same-sex couples.

Table 2: Number of Out-of-State Couples Marrying in Connecticut

State	No. of Same-Sex Couples	No. of Same-Sex Couples Traveling to CT to Marry
New York	46,490	23,245
New Jersey	16,604	8,302
Pennsylvania	21,166	10,583
Maine, Rhode Island, and New Hampshire ³⁴	8,568	4,284
TOTAL	92,828	46,414

Source: Tavia Simmons and Martin O'Connell, Bureau of the Census, U.S. Dept. of Commerce, *Married-Couple and Unmarried-Partner Households: 2000*, Census 2000 Special Reports, CENSR-5, 2003.

We estimate the spending per couple from existing data on tourism in Connecticut. Based on 2003 figures from the Connecticut Office of Tourism, the average visitor from New York spent \$879 in 2003 (2004 dollars).³⁵ We use this figure to represent the likely spending by same-sex couples traveling to Connecticut to marry. We believe it is fair to assume that these couples would spend at least as much

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on their weddings as an average tourist spends on a non-wedding trip. Table 3 shows the breakdown by spending category.

Table 3: Travel Expenditure Patterns for Hotel, Motel and Resort Lodgers

Category	Overnight Visitors' Spending (2004 Dollars)
Lodging	\$208
Entertainment	\$114
Dining	\$192
Shopping	\$186
Other	\$71
Wagers	<u>\$108</u>
Total	\$879

We predict that 46,414 couples will wed, and Table 3 suggests that each couple will spend an average of \$879. These couples will therefore generate approximately \$41 million in tourism dollars. This is a conservative estimate --the amount could well be higher if couples bring out-of-state friends or family members with them to their weddings or if the couples spend money on wedding-related goods and services such as flowers, photography, or parties. To put this total in perspective, the revenue generated from tourism in Connecticut in 2001 was nearly \$10.7 billion (2004 dollars).³⁶ Thus out-of-state couples would boost tourism-related business revenues in the State by 0.4%.

In-State Couples

According to the U.S. Census 2000, Connecticut has 7,386 same-sex couples. As noted above, we predict that half of those couples, or 3,693 couples, will choose to marry over the first three years. These in-state couples might also spend less than the \$25,000 average on their weddings, since some couples may have already had a large commitment ceremony or other celebration of their relationship. Furthermore, some spending on weddings might simply be diverted from some other spending category, so it would not be new spending that would add to the state's overall business revenues and tax coffers. On the other hand, same-sex couples may be older than most newly wed couples, so same-sex couples may have access to savings that will be spent on weddings, contributing new spending to the state. And in-state couples are likely to invite out-of-state visitors to their weddings.

Since we cannot know precisely how these factors will balance out, we make a conservative assumption that average wedding and wedding guest expenditures will total one half of the average, or \$12,500 per in-state couple. Estimated additional wedding spending from in-state couples would therefore approximate \$46,162,500.

Increases in Lodging and Sales Tax Revenues

Connecticut will benefit directly from the collection of sales tax on the approximately \$87 million in wedding-related expenditures from in-state and out-of-state couples. Connecticut collects a sales tax of 6% on most items and a tax of 12% for lodging expenses. Therefore, to estimate sales tax revenue, we must first separate lodging from other expenses. Referring back to Tables 3 to obtain average expenses, we calculate that the wedding expenditures will generate \$5.8 million in tax revenues, as shown in Table 4. We predict that these revenues will accrue to the state over a three-year period as existing couples decide to marry and have time to plan their weddings. Thus, revenues will increase approximately \$1.9 million per year in new tax revenues.

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Table 4: Calculations of Tax Revenues from Wedding Expenditures (first 3 years)

	Number of couples	Additional spending	Tax Rate	Tax Revenue
In-State Couples	3,693	\$46,162,500	6%	\$2,769,750
Out-of-State Couples	46,414			
Lodging		\$19,654,112	12%	\$1,158,493
All other	46,414	\$31,143,794	6%	\$1,868,628
Total		\$86,960,406		\$5,796.871

Impact of civil unions

If the State of Connecticut were to create a new status of civil unions for same-sex couples rather than extending marriage to them, we would expect our projected tourism revenues to drop considerably. Vermont and California now offer very similar statuses and would be competing with Connecticut for out-of-state same-sex couples. Therefore, we assume that the number of out-of-state couples interested in a Connecticut civil union would be less than the number interested in traveling to Connecticut to marry. Even if we make the most pessimistic projection, taking out the out-of-state couples completely and limiting revenue gain from civil unions to in-state couples, the State would still gain over \$900,000 per year, assuming that these couples treat entering the civil union as they would a wedding.

6. Impact on Succession Tax Revenue

Extending marriage to same-sex couples will have a minimal impact on the amount of revenue that the State of Connecticut collects from its succession tax. We have considered the role of likely expenses and possible bequests, and found that – given the current phase-out of Connecticut’s succession tax, which is due to be completed in 2008 – the legalization of same-sex marriage would have a negligible effect on succession tax revenues.

Estimating same-sex marriage’s precise impact on succession tax revenue is difficult. In addition to the challenges associated with estimating the number of unmarried couples who would marry, such couples will vary in terms of the size of their estates, the extent to which they currently choose to leave all or part of their estates to their partners, the other beneficiaries to their estates, and the measures they take to mitigate the taxation of transfers to their partners. Accordingly, we estimate the impact of legalizing same-sex marriage on succession tax revenues using the most conservative (tax generating) assumptions about them.

Mortality of Married Same-Sex Spouses

To determine the impact of legalizing same-sex marriage on succession tax revenue, we must first estimate the number of individuals in same-sex marriages who will die each year. To do so we assume that 50% of Connecticut’s same-sex couples will get married under the new law, which represents 3,693 couples, or 7,386 individual same-sex spouses.³⁷ We then use Connecticut’s annual age-adjusted death rate (0.008) to estimate the mortality rate for individuals in these couples.³⁸ Thus, we estimate that 59 individuals in same-sex marriages in Connecticut will die each year.

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Relevant State Tax Laws

The Connecticut succession tax applies to transfers of property upon death, including those made in contemplation of or taking effect at the transferor's death. The rate and amount of the tax depends upon the beneficiary's relationship to the decedent and the date of death. Beneficiary Class AA consists of spouses, while Class A beneficiaries include parents, grandparents, children, grandchildren, and great-grandchildren, whether natural or adoptive. Both Class AA and Class A beneficiaries are currently exempt from the succession tax. Class B beneficiaries include the decedent's siblings, nieces and nephews, stepchildren, and any spouses or unremarried widow(er)s of the decedent's children. Class B beneficiaries are exempt from the succession tax as of 2006. More distant relatives (such as a cousin, aunt, uncle, sister-in-law or brother-in-law, stepsister, stepbrother, step-grandchild, or niece or nephew related by marriage) and unrelated individuals are considered Class C beneficiaries. Under current law, a decedent's unmarried partner would fall into Class C and thus be subject to the consequent succession tax rate.

Extending marriage to same-sex couples will allow for decedents' same-sex spouses to be recognized as Class AA beneficiaries, exempt from the succession tax. This change will result in a reduction of revenue from the succession tax to the extent that those who would choose to marry their same-sex partners are currently leaving bequests to their partners.

For deaths occurring during 2006, bequests to a Class C beneficiary valued up to \$600,000 are exempt from the succession tax. A rate of 18.59% applies to bequests valued between \$600,000 and \$1,000,000. For bequests over \$1,000,000, a Class C beneficiary is responsible for \$74,360 in taxes plus 20.02% of any amount exceeding \$1,000,000.

For deaths occurring during 2007, bequests to Class C beneficiaries are exempt from the succession tax up to a value of \$1,500,000, and then taxed at a rate of 20.02%.

The succession tax has been repealed for deaths occurring in 2008 and after.

A separate Connecticut estate tax has been eliminated and will not be imposed on estates of decedents dying after January 1, 2005.

Median Succession Tax for Surviving Unmarried Same-Sex Partners

In order to estimate the impact of extending marriage to same-sex couples, we first estimate the median tax that is currently being paid by decedents' surviving unmarried partners. For this analysis, we use the median net worth of households in the United States from the 2001 Survey of Consumer Finances, adjusted for inflation.³⁹ We do not use the median net worth for all couples, but instead the median net worth for 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 unmarried partners might pay no inheritance tax while others might pay a great deal. 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.⁴⁰

Next we take into account the probate and funeral expenses that will reduce the taxable value of these estates. Nationally, the average cost to probate an estate is 2% to 10% of the value of the estate.⁴¹ We incorporate a conservative figure into our model, using 2% of the value of the estate as an estimate of the average probate cost.⁴² To estimate funeral expenses we use the current average cost of an adult funeral in the United States, \$6,500.⁴³

In order to determine the decedent's bequest to his or her unmarried partner, we next take into account two common types of bequests that do not generate inheritance taxes under Connecticut law,

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those to the decedent's children and to charities. Many of the same-sex couples who would marry in Connecticut have children: 26% of unmarried couples in the State have children under 18 of their own in their households.⁴⁴ Some individuals in these couples will leave all or a portion of their estates to their children.

It is difficult to estimate 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.⁴⁵ So for our analysis, we 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, the same percentage as the lowest estimate for married couples. This estimate is conservative because it is probable that same-sex couples in Connecticut are currently more likely than married couples to leave bequests to their children, or more of their estate to their children, as a way to avoid the tax consequences of leaving bequests to their partners. We estimate that, on average, these individuals will leave half of their estates to their children.⁴⁶ We then calculate a weighted average for bequests to children, 2%, for all individuals in unmarried partnerships.⁴⁷

Next we account for the fact that many individuals, particularly those with larger estates, will have charitable bequests, the largest form of bequest except for bequests to surviving spouses.⁴⁸ Both Connecticut and the IRS exempt such bequests from taxation.⁴⁹ While a recent study revealed that 8% of the population has included charitable bequests in estate plans⁵⁰, the best information about charitable bequests comes from federal estate tax returns, which in recent years have only been required for estates worth over \$600,000. The data about such returns indicate that the frequency and size of charitable bequests increase with the value of the estate.⁵¹

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 17% will make charitable bequests and such bequests will be 29% of their net estate.⁵² We use these statistics to create a weighted average charitable deduction of 5% for all decedents falling in our top quartile. Again, these estimates are conservative because it is likely that members of same-sex couples in Connecticut are currently more likely to make more and larger charitable bequests than members of married couples in order to avoid the tax consequences of leaving bequests to their unmarried partners.

After these deductions are taken out, we make two additional conservative assumptions. First, we assume that the remainder of the decedent's estate will be left to the unmarried partner. Second, we assume that the decedent has deployed no other estate planning strategies to reduce the surviving partner's succession tax liability, or the tax liability of the estate in general. It is quite likely that in order to avoid succession taxes, decedents with unmarried partners, especially wealthy ones, leave portions of their estates to other exempt beneficiaries and take other measures to reduce their unmarried partners' tax burden.

Finally, to estimate the median tax burden for surviving unmarried partners in each percentile group, we apply the Class C succession taxation rate to our estimated median bequests to those partners. The calculations apply only for 2006 and 2007, after which the succession tax will cease to exist.

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Table 5: 2006 Estimated Succession 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 (B*0.98)	D Funeral Expenses (C-6500)	E Bequests to Children [D-(B*0.02)]	F Charitable Bequests [E-(B*0.05)] (top 25%)	G Tax [(F-600,000)*0.1859]
Less than 25%	1,304.60	652.30	639.25	0	0	0	0
25-50%	48,388.80	24,194.40	23,710.51	17,210.51	16,726.62	16,726.62	0
51-75%	185,727.60	92,863.80	91,006.52	84,506.52	82,649.25	82,649.25	0
76-90%	510,217.20	255,108.60	250,006.43	243,506.43	238,404.26	225,648.83	0
91-100%	1,544,053.40	772,026.70	756,586.17	750,086.17	734,645.63	696,044.30	17,854.63

Table 6: 2007 Estimated Succession 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 (B*0.98)	D Funeral Expenses (C-6500)	E Bequests to Children [D-(B*0.02)]	F Charitable Bequests [E-(B*0.05)] (top 25%)	G Tax [(F-1,500,000)*0.2002]
Less than 25%	1,304.60	652.30	639.25	0	0	0	0
25-50%	48,388.80	24,194.40	23,710.51	17,210.51	16,726.62	16,726.62	0
51-75%	185,727.60	92,863.80	91,006.52	84,506.52	82,649.25	82,649.25	0
76-90%	510,217.20	255,108.60	250,006.43	243,506.43	238,404.26	225,648.83	0
91-100%	1,544,053.40	772,026.70	756,586.17	750,086.17	734,645.63	696,044.30	0

Aggregate Impact on Succession Tax Revenues

To determine the aggregate impact of legalizing same-sex marriage on succession tax revenues, we multiply the estimated number of same-sex spouses likely to die annually by the estimated median tax burden for surviving partners in each percentile group (Table 5 for 2006 and Table 6 for 2007). 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 succession tax revenues.

Distributing the number of same-sex spouses dying annually across all percentile groups, in 2006 (Table 5) we find a projected succession tax burden for the top percentile group only. We calculate a potential overall loss to the State of \$107,128. Because the phase-out of the succession tax has raised exemption levels to such a significant amount for 2007, we find that the tax liability for unmarried same-sex partners is negligible.

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Our model predicts that on average only six people in a same-sex marriage will die each year in Connecticut who might have had to pay a succession tax prior to the State's extension of marriage to same-sex couples – individuals falling within the top 10% of households in terms of net worth. As Tables 5 and 6 above show, on account of the 2007 exemption rate of \$1,500,000, our model results in a finding that, on average, these people would not currently pay any succession tax.

Of course, our model is based on medians and averages, so in 2006 and 2007 it is possible that in fact more than six individuals in a same-sex marriage might die who fall into the top 10% of households in terms of net worth, and these individuals might have bequests to their surviving spouses worth over \$600,000 and \$1,500,000. However, the model demonstrates that it is unlikely that extending marriage to same-sex couples will have any significant impact on the State's succession tax revenues in 2006 and 2007.⁵³

The Connecticut Office of Fiscal Analysis estimated that the succession tax “revenue loss could exceed \$1 million annually” for the remaining years of the tax if the General Assembly were to approve same-sex marriage or civil unions.⁵⁴ The calculations underlying this estimate are not included in the report, so it is difficult to tell what assumptions the OFA used for its analysis. However, it is worth noting that the OFA report was written in October 2002, which, at the time, left three fiscal years before the succession tax was scheduled to be repealed completely, a process that involves incremental increases in the exemption amounts for each class of beneficiaries.⁵⁵ Assuming that the OFA calculated the fiscal impact of the legislation starting with 2003 revenues, it would have started when the succession tax exemption for Class C beneficiaries was only \$400,000.

In contrast, our analysis takes 2006 – the earliest that the currently proposed legislation might go into effect – as the fiscal year in which succession tax revenue would first be affected by allowing same-sex couples to marry. After the General Assembly passed additional amendments to the succession tax phase-out in 2003, the exemption amount for Class C beneficiaries in 2006 was set at \$600,000.⁵⁶ This higher threshold, along with our allowances for probate, funeral costs, and likely tax-exempt bequests, may account for the difference between our estimate and the one produced by the OFA in 2002.

7. Impact on the Judicial System

Legalizing same-sex marriage would allow same-sex couples the same access to Connecticut's courts as is provided to all spouses. Married persons can use state courts to protect wills, enforce the responsibilities of marriage, end a marriage, and provide for a child. Married persons also have certain rights to sue third parties who may have been responsible in some way for the death of their spouse.

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

Although Connecticut state employees can access benefits for their domestic partners, there is no statewide domestic partnership registry and no Connecticut law expressly affords gay and lesbian couples rights based on their relationship at this time. Same-sex couples can, however, access certain limited rights by obtaining or creating specific legal documents. This includes co-parent adoption, custody orders, and visitation rights. Thus, legalizing same-sex marriage will not increase the burden on courts with regards to these proceedings.

We have already determined that an average of only 59 people in same-sex marriages would be expected to die in a year, which means that the courts would not experience a noticeable increase in the number of testation proceedings.

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The only significant way in which legalizing same-sex marriage might augment court filings is by allowing same-sex spouses to petition to dissolve their relationships in court. Based on the Connecticut divorce rate⁵⁷ and the experience of Vermont under its civil union legislation⁵⁸, we estimate that legalizing same-sex marriage will add 12 to 59 dissolution cases to the docket each year.⁵⁹

Currently, Connecticut's Superior Courts handle over 30,000 domestic relations filings each year.⁶⁰ Adding 59 filings to this caseload would be an increase of less than two-tenths of one percent (0.00197). The annual fluctuations in family law filings are far greater than this. In the ordinary course of business, Connecticut courts handle fluctuations ranging from 900 to 6,600 filings each year (Table 7). New filings by married same-sex couples will be an insignificant blip on this radar screen.

Table 7: Annual Fluctuations in Family Law Filings, 1999-2002

Year	Domestic Relations Filings	Change From Prior Year
2002	29,290	4,813
2001	34,103	910
2000	35,013	6,697
1999	41,712	6,609

Source: National Center for State Courts, "Court Statistics Project," http://www.ncsconline.org/D_Research/CSP/CSP_Main_Page.html.

The insignificance of the cost of these filings is also evident when compared to the caseload of the average Superior Court judge. The average Superior Court judge handles over 3,000 cases each year.⁶¹ Even if all 59 of the new cases added by legalizing same-sex marriage went to one judge, it would only increase his or her docket by 2%. Alternatively, if these cases are spread out among all of the 180 Superior Court judicial positions in Connecticut, only 33% of these judges would have even one (1) case added to his or her docket, and the remaining 67% would have no additional cases.

Regardless of how the cases would be distributed throughout the courts, the number of additional cases is so small that we conclude legalizing same-sex marriage would not result in any actual expenditure by the State court system. In other words, the court system would not need to hire any additional judges, clerks, bailiffs, or staff, or build any additional courtrooms or infrastructure, to handle these cases. Nor would there be any additional cost associated with services related to dissolution proceedings, such as mediation and support enforcement. Indeed, any same-sex dissolution cases would generate revenue from the standard filing fees, which would be available to cover variable administrative costs.

Legalizing same-sex marriage would also result in negligible costs related to victim compensation and services. Counseling for victims of domestic violence and surviving relatives of homicide victims is already available to same-sex partners through private providers under contract with the Judicial Department. Additionally, the number of home studies requested by the Probate Court in stepparent adoption cases under the new legislation would be so small as to create no additional burden on the Department of Children and Families. In neither area would legalizing same-sex marriage burden the State financially.

Family violence services are one area where the State court system could encounter additional expense upon the legalization of same-sex marriage. Criminal defendants who meet certain criteria may enroll in Connecticut's Family Violence Education Program (FVEP), a pretrial diversion program participation in which may lead to charges being dismissed. However, the statute identifies as "family violence" an act of violence between "household members," which it defines to include any "persons sixteen years of age or older...presently residing together or who have resided together" or "persons in,

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or hav[ing] recently been in, a dating relationship.”⁶² Thus, presumably, same-sex partners who live (or have lived) together are already eligible for the FVEP; opening marriage to such partners would not increase the financial burden associated with an obligation the State has already assumed.⁶³

Thus we conclude that because there would be no need for additional judges, staffing, courtrooms, or programming to handle the number of cases that legalizing same-sex marriage would add, it is likely that revenues created from additional filing fees⁶⁴ would offset any other administrative or marginal costs for handling these cases. Connecticut’s Judicial Department would not incur any financial burden as a result of legalizing same-sex marriage.

8. Impact on Grants to Elderly and Disabled Homeowners and Renters

Under Connecticut state law, elderly and disabled homeowners and renters and their spouses are granted certain payments to offset property tax payments and rental costs.⁶⁵ Eligibility for the grants depends on an individual’s or couple’s income, among other factors. Qualifying single elderly or disabled homeowners can receive a grant of up to \$1000, and married homeowners can receive up to \$1250 to offset property taxes. Qualifying single renters receive up to \$700, while qualifying married couples who are renters can receive up to \$900 per year. Both of these programs generate expenses for the State, since the State reimburses towns for the full amount of the program.

Currently, an individual owner or renter with a same-sex partner could qualify for either a pro-rated benefit (for owners) or a benefit calculated based on the individual’s share of rental expenses. Thus individuals in unmarried same-sex couples are likely to already qualify for these benefits. However, two legally single individuals qualifying for the maximum credit will receive \$250 less than married couples in the owners’ program and \$200 less than married couples in the renters’ program.

To estimate the increase in state expenditures if same-sex couples could marry, we use data from the Office of Policy and Management on these programs.⁶⁶ Because we cannot know exactly how many new married couples would result if same-sex couples could marry, we make assumptions that will generate the highest possible cost to the state — a “worst-case scenario.” We assume that 5% of unmarried program recipients are gay or lesbian and that the same proportion of those individuals would have a partner as the overall proportion of married couples in the program (29% in the owners program and 8.6% in the renters program). Furthermore, as in the other sections of this report, we assume that half of those same-sex couples will marry. Then we multiply our calculation of the number of potentially married couples by the difference in the maximum grant payments for single people compared to married couples to estimate the total additional state spending. Table 8 shows that the combined estimate for the two programs is quite small, or \$69,307 more in spending on these programs for FY 2003-04.

Even this small estimate almost certainly overstates the most likely impact of allowing same-sex couples to marry, however. First, the estimated number of individuals in a couple does not account for the fact that in some cases both partners are currently counted as unmarried recipients, so the number of *couples* getting the grant increase will be smaller than calculated here. Second, most recipients do not qualify for the maximum grant. In fiscal year 2003-2004, the average grant to a qualifying owner was \$467, and the average qualifying renter received \$433. Relatively few recipients qualified for the highest grant: 1.8% of married owners, 13.4% of unmarried owners, 4.9% of married renters, and 14.4% of unmarried renters. Third, the same-sex spouse’s income might make the couple ineligible, thus reducing the expenses of this program. Therefore, we believe that the state’s additional spending on these programs for married same-sex couples will be far less than \$69,307.

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Table 8: Estimated increase in State payments for homeowners' and renters' grants

	Married Recipients	Unmarried recipients	Total	Estimated same-sex indivs who might marry	Maximum difference in grant	Increase
Owners	12,750	31,038	43,788	226	250	\$56,484
Renters	2,807	29,698	32,505	64	200	\$12,823
Total						\$69,307

9. Conclusions

Table 9 summarizes the findings of earlier sections on the annual impact of same-sex marriages on the Connecticut State Budget. Overall, all of the budget categories show a net positive impact, except for the reduction of succession tax revenues (which will disappear after 2006) and increases in state payments for homeowners and renters. However, those adverse impacts are small. Taking all of the estimated effects described earlier implies that the state budget would see a net gain of \$12.9 million from marriages of same-sex couples if the state uses a same-sex spouse's income and assets to determine eligibility for SSI and Medicaid (net effect 1) or \$3.2 million without the Medicaid and SSI savings (net effect 2). If the State creates civil unions, the net gain will be reduced by the \$1 million per year in sales tax revenues that would have come from out-of-state couples, so the net gain would be \$2.1 million to \$11.9 million.

Table 9: Summary of fiscal impact of marriages by same-sex couples

<u>Budget items</u>	<u>Net effect (1)</u>	<u>Net effect (2)</u>
Income tax revenues	\$0	\$0
Public benefit expenditures	\$11,200,399	\$1,413,497
Sales and lodging tax	\$1,900,000	\$1,900,000
Succession tax (2006 only)	-\$107,000	-\$107,000
Elderly & Disabled Homeowner & Renters Grants	-\$69,307	-\$69,307
Total	\$12,924,092	\$3,137,190

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Notes

¹ *The Impact On California's Budget Of Allowing Same-Sex Couples To Marry*, May 2004. R. Bradley Sears, Esq., UCLA School of Law, and M. V. Lee Badgett, PhD, The Institute for Gay and Lesbian Strategic Studies.

² For evidence that the 2000 Census undercounted the number of cohabitating same-sex couples in the United States, see M.V. Lee Badgett & Marc A. Rogers, Institute For Gay and Lesbian Strategic Studies, "Left Out of the Count: Missing Same-Sex Couples in Census 2000" (2003) (noting that two surveys estimated the undercount at 16% to 19%), http://www.iglss.org/media/files/c2k_leftout.pdf (last visited on Oct. 30, 2004). David M. Smith & Gary J. Gates, Human Rights Campaign, "Gay And Lesbian Families In The United States: Same-Sex Unmarried Partner Households" (2001) (estimating undercount at 62%), http://www.hrc.org/Template.cfm?Section=Census_20001&Template=/ContentManagement/ContentDisplay.cfm&ContentID=13396 (last visited Oct. 30, 2004).

³ Connecticut General Assembly, Office of Fiscal Analysis, *Same-Sex Partners In Connecticut*, 2002-R-0834, 10/05/2002, http://www.cga.ct.gov/olr/2002/2002Backgrounders/Same_sex_0834.htm (last visited Dec. 17, 2004).

⁴ Connecticut General Assembly, Office of Fiscal Analysis Report, 10/04/2002, <http://www.cga.ct.gov/olr/ofadoc/ofacivilunion1.htm> (last visited Dec. 17, 2004).

⁵ Conn. Gen. Stat., Title 31, Chapter 567, § 234.

⁶ Data on claimants receiving dependent allowances and on average allowance paid from 7/1/03 to 6/30/04 from personal correspondence with Dana Placzek, Office of Research, Connecticut Department of Labor, January 18, 2005. Data on initial claims in year ending 3/31/04 from State Benefits Data, U.S. Dept. of Labor, Employment and Training Administration, http://workforcesecurity.doleta.gov/unemploy/content/data_stats/datasum04/1stqtr/benefits.asp#Connecticut (last visited Feb. 17, 2005).

⁷ We extracted the same-sex unmarried partner couples from the 5% Public Use Micro Sample of Census data for Connecticut and used household weights to make statewide estimates.

⁸ "Own children" are those legally related by birth or adoption to the householder. The census data does not provide information on whether the children are also related to the partner, nor does the census data allow us to identify other children in the household who belong to the partner.

⁹ The Office of Fiscal Analysis estimated a larger revenue gain of \$700,000 to the state, but they did not provide sufficient detail to uncover the reasons for the difference in our estimates.

¹⁰ Social science research suggests that the prospect of paying higher taxes does not discourage most couples from marrying, so we assume that the half of couples marrying will include couples with tax increases as well as decreases. See James Alm and Leslie A. Whittington, "For Love or Money? The Impact of Incomes Taxes on Marriage." *Economica*, Vol. 66, August 1999, pp. 297-316

¹¹ Steps (2), (3), and (8) come from calculations from the Census 2000 Public Use Microsample. Steps (5) and (7) come from the Employer Health Benefits 2004 Annual Survey, Henry J. Kaiser Family Foundation and Health Research and Educational Trust, <http://www.kff.org/insurance/7148/index.cfm>, last accessed March 13, 2005. Step (4) is from "Employee Benefits in Private Industry, 2003," U.S. Department of Labor, Bureau of Labor Statistics, Sept. 17, 2003.

<http://www.bls.gov/news.release/ebs2.toc.htm>. Step (6) is from the Office of Fiscal Analysis, <http://www.cga.ct.gov/2005/fc/2005SB-00963-R00024-FC.htm>, last accessed March 13, 2005.

¹² We also assume that all employers who offer domestic partner benefits report those payments as taxable income to the employee and that no employees are already receiving family coverage. For instance, an employee with children who is already in a family health care plan may see no increase in employer costs if a domestic partner is added. For both of these reasons, these figures most likely overestimate the amount of taxes currently paid for partner benefits.

¹³ For descriptions of these programs, see the Connecticut Department of Social Services, <http://www.dss.state.ct.us/Dss.htm>.

¹⁴ For definition of the spousal support requirement for recipients of public assistance, see Conn. Gen. Stat. 4a-12 (2004) ("legally liable relative means the husband or wife of any person receiving public assistance...and the father and mother of such person under the age of eighteen years"); Conn. Gen.

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Stat. 17b-81a (2004) ("The commissioner shall investigate the financial condition of each legally liable relative and shall make a determination as to the financial ability of each such relative in accordance with the uniform contribution scale...") and Conn. Gen. Stat. 17b-261(a) (2004) ("Medical assistance shall be provided for any otherwise eligible person whose income, including any available support from legally liable relatives and the income of the person's spouse or dependent child is not more than...").

¹⁵ DOMA is a federal law that limits the definition of "spouse" in all federal laws and regulations to refer "only to a person of the opposite sex who is a husband or a wife." Defense of Marriage Act, Pub. L. 104-199, § 1, 100 Stat. 2419 (1996) (codified at 1 U.S.C. § 7 (1997)). "Spouse" is the term used to specify individuals whose assets and income may be counted for SSI and Medicaid eligibility purposes. Thus, arguably, DOMA would prohibit the state from interpreting the term spouse in the regulations to include a same-sex 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. David Mace, *Critics Say Rule Change Violates Civil Unions*, THE TIMES ARGUS, April 17, 2003. Recent correspondence from the Centers for Medicare and Medicaid Services to state agencies in Vermont and Massachusetts suggests that the states cannot treat same-sex spouses in the same way that different-sex spouses are treated in the Medicaid program.

¹⁶ 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.

¹⁷ Conn. Gen. Stat. 17b-265 (2004) ("In accordance with 42 USC 1396k, the Department of Social Services shall be subrogated to any right of recovery or indemnification which an applicant or recipient of medical assistance or any legally liable relative has against a private insurer or other third party, as defined in 42 CFR 433.136, for the cost of hospitalization, pharmaceutical services, physician services, nursing services and other medical services.") incorporating 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.").

¹⁸ See generally, CENTERS FOR MEDICARE AND MEDICAID SERVICES, STATE MEDICAID MANUAL, 3900-3910.15, 3900.1 and 3900.2 (2003).

¹⁹ National Center for Children in Poverty Columbia University, Connecticut, Public Health Insurance for Parents, Eligibility Requirements, Immigrant Eligibility Criteria [HTTP://WWW.NCCP.ORG/STATE_DETAIL_CT_POLICY_24.HTML#NOTE_D](http://www.nccp.org/state_detail_ct_policy_24.html#note_d) accessed on February 21, 2005; National Immigration Law Center, Guide to Immigrant Eligibility for Federal Programs, Fourth Edition, 2002; with updates from Update Page, www.nilc.org/pubs/Guide_update.htm (accessed February 21, 2005).

²⁰ Wording from the Census questionnaire, published in U.S. Dep't Of Commerce, U.S. Census Bureau, Public Use Microdata Sample, 2000 Census of Population and Housing, Technical Documentation, (April 2003), at D-8.

²¹ Calculated using Census data for the numerator. The denominator is expenditures on basic assistance and comes from U.S. Dept. of Health and Human Services, Administration for Children and Families, FY 2003 TANF Financial Data, http://www.acf.hhs.gov/programs/ofs/data/tanf_2003.html (last visited July 28, 2004).

²² Research on welfare benefits find at most a very small disincentive effect. See Robert Moffitt, *Incentive Effects of the U.S. Welfare System: A Review*, 30, *Journal of Economic Literature*, Mar. 1992, at 1, 27-31.

²³ The reduction equals $(1 - 0.8/3.0)=0.733$.

²⁴ Congressional Budget Office, "The Potential Budgetary Impact of Recognizing Same-sex Marriages," June 21, 2004, p. 9.

²⁵ Connecticut General Assembly, Office of Fiscal Analysis Report, 10/04/2002, <http://www.cga.ct.gov/olr/ofadoc/ofacivilunion1.htm> (last visited Dec. 17, 2004).

²⁶ Ibid.

²⁷ <http://www.cga.ct.gov/2005/fc/2005SB-00963-R000024-FC.htm>, last accessed March 13, 2005.

²⁸ Telephone conversation 11/24/2004 with Lois Pierce, President, Association of Bridal Consultants/Connecticut.

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²⁹ Mabel S. Teng, San Francisco Assessor-Recorder, Demographics Breakdown Of Same Gender Marriages slides 2-3 (2004), <http://www.alicebtoklas.org/abt/samesexmarriagestats.ppt> (last visited Oct. 30, 2004).

³⁰ See Helen Jung, *Gay Marriages May Bring Joy to Tourism*, OREGONIAN, Mar. 5, 2004, at D1. Joe D'Alessandro, president of the Portland Oregon Visitors Association, is quoted as saying that gay marriage has provided an "economic boost" to Portland as gay couples and their families fly in for weddings. David Sarasohn, *Gay Marriage, Tourism: A Package Deal*, OREGONIAN, Apr. 11, 2004, at C4, also quotes D'Alessandro as saying, "It's definitely having a positive impact, because more people are coming to Portland. 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."

³¹ See Douglas Belkin, *Wedding Bell Bonanza Tourism, Marriage Industry Foresee Boom in Same-Sex Nuptials*, BOSTON GLOBE, Feb. 26, 2004, at 1. Laura Bly, *Localities Cashing in on Same-Sex Marriages*, USA TODAY, Feb. 27, 2004 at 1D. Jung, *note 2*, reports that hotels were full and Macy's department store ran out of wedding rings during the month that San Francisco let same-sex couples marry. Heather Knight, *Windfall in Castro: 'Giddy' Newlyweds Have Been Boon For S.F. Neighborhood*, S.F. CHRON., Feb. 18, 2004, at A1, reports that same-sex marriages were "great for businesses as newlyweds throw their money at the neighborhood's florists, jewelry stores, liquor shops, bookstores and photo processors." Dean E. Murphy, *San Francisco Toasts Gay Weddings*, N.Y. TIMES, Feb. 29, 2004, at 3.

³² See, e.g., Bly, *supra* note 59 at D1; Thea Singer, *Three Swank Cities are Becoming Marriage Meccas for Gay Couples*, BOSTON HERALD, Mar. 22, 2004, at 27. She reports 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 Marie Szanislo, *P'town Set for Gay-Wed Rush*, BOSTON HERALD, Apr. 11, 2004, at 10.

³³ Singer, *note 4*, at 27.

³⁴ Although most visitors to Connecticut come from Massachusetts, we have not included them because Massachusetts residents can get married in their own state.

³⁵ Source: "Spending by Leisure Travelers Increased 18 percent to \$366 Million in 2003," December 18, 2003, Connecticut Office of Tourism

³⁶ Connecticut Center for Economic Analysis, *The Impact of Lodging-Based Tourism on the Connecticut Economy: A Dynamic Impact Analysis*, Revised May 8, 2003.

³⁷ We make this assumption having considered several factors. First, the fact that 44% of Vermont's same-sex partners have chosen to enter civil unions leads us to the conclusion that the more comprehensive set of rights provided to same-sex couples under Vermont law and the higher social status attributed to civil unions has caused a larger percentage of couples to seek legal recognition of their relationships, in contrast to jurisdictions such as California, where only 27% of same-sex couples have registered as domestic partners. At the same time, we assume that the percentage of same-sex couples who marry will not equal the percentage of different-sex couples who marry, which is over 90%.

³⁸ State of Connecticut Department of Public Health, *Connecticut Resident Age-Adjusted Mortality Rate (AAMR) Tables by Cause of Death and Sex*, Table p. 6, available at http://www.dph.state.ct.us/OPPE/Mortality/AAMR_YPLL/All%20residents/1%20year/1998.pdf.

³⁹ Ana M. Aizcorbe, Arthur B. Kennickell, and Kevin B. Moore, *Recent Changes in Family Finances: Evidence from the 1998 and 2001 Survey of Consumer Finances*, Federal Reserve Bulletin January 2003, pp. 6-7 and Table 3.

⁴⁰ While a more inequitable distribution obviously exists in many couples, it is also true that it is just as likely that the wealthier individual in a couple will die as the one with less wealth. Thus, over a large group of people, a better estimate of individual net worth, and the subsequent value of an individual's estate upon death, is reached by dividing the household net worth in two and attributing half to each member of the couple.

⁴¹ American Association of Retired Persons, *A Report on Probate: Consumer Perspectives and Concerns* (1990)(concluding that the average cost of probate is from 2% to 10% of the gross estate).

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⁴² This is also a conservative estimate because the percentages for average probate costs are based on gross estate as opposed to the net worth estate, which we use in our analysis.

⁴³ National Funeral Directors Association, NFDA Fact Sheets, *available at* <http://www.nfda.org/nfdafactsheets.php> (average cost of an adult funeral in the United States is \$6,500).

⁴⁴ Tavia Simmons and Martin O'Connell, *Married-Couple and Unmarried-Partner Households: 2000*, Census 2000 Special Reports, CENSR-5, U.S. Dept. of Commerce, Bureau of the Census, p. 9, Table 4 (2003). The percentage used for same-sex households is a weighted average based on this data. Use of these statistics will undercount the percentage of decedents with bequests to children because this data does not capture couples who only have children over 18.

⁴⁵ J. Thomas Oldham, *What Does the U.S. System Regarding Inheritance Rights of Children Reveal About American Families?*, 33 Fam. L.Q. 265 (1999).

⁴⁶ Obviously, some individuals might leave all of their estates to their children while others may only leave a fraction of their estates. 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.

⁴⁷ Thus, we assume 74% of individuals in same-sex couples in Connecticut do not have children and will leave no bequests to children. Of the 26% 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 $[(74 \times 0) + (22.1 \times 0) + (3.9 \times 0.5)] / 100$.

⁴⁸ *Estate Tax Returns Filed in 2003: Gross Estate by Type of Property, Deductions, Taxable Estate, Estate Tax and Tax Credits, by Size of Gross Estate*, SOI Unpublished Data, available at <http://www.irs.gov/pub/irs-soi/03es01tp.xls>; Gary D. Bass and John S. Irons, *The Estate Tax and Charitable Giving*, OMB Watch, June 2003.

⁴⁹ Conn. Gen. Stat. § 12-347(a).

⁵⁰ National Committee on Planned Giving, *Planned Giving in the United States: A Survey of Donors* (2000).

⁵¹ *Estate Tax Returns Filed in 2003: Gross Estate by Type of Property, Deductions, Taxable Estate, Estate Tax and Tax Credits, by Size of Gross Estate*, SOI Unpublished Data, available at <http://www.irs.gov/pub/irs-soi/03es01tp.xls>; Gary D. Bass and John S. Irons, *The Estate Tax and Charitable Giving*, OMB Watch, June 2003.

⁵² *Id.*

⁵³ Another way of reaching the same conclusion about the negligible fiscal impact of legalizing same-sex marriage would be to estimate from the actual succession tax liability for Class C beneficiaries filing in 2001-02, which is the most recent year for which figures are available. Using this model we would multiply the average succession tax liability for Class C beneficiaries by the estimated number of same-sex spouses who would die during the year $[30,011 \times 6 = 180,066]$. We would then adjust this figure to account for the fact that since 2002, an additional \$400,000 exemption has gone into effect for Class C. The estimated loss for those 6 deaths would be reduced by \$57,200, based on the lowest Class C succession tax rate for 2001-02 $[180,066 - (400,000 \times 0.143) = 122,866]$. Thus legalizing same-sex marriage would represent a succession tax revenue loss of \$122,866, which represents approximately 0.2% of the total succession tax revenue for the State of Connecticut for 2001-02. State of Connecticut Department of Revenue Services, 2001-02 Annual Report, available at <http://www.ct.gov/drs/cwp/view.asp?a=1442&q=270748>.

⁵⁴ Connecticut General Assembly Office of Legislative Research, Office of Fiscal Analysis Report, October 4, 2002, available at <http://www.cga.ct.gov/olr/samesexrelationshipER.asp>.

⁵⁵ In 2003, after the OFA published its analysis, the General Assembly for the second time delayed the remaining steps of the succession tax phase-out, postponing elimination of the tax for Class B and C beneficiaries by an additional two years each. In the process it also readjusted the exemption amounts for the remaining phase-out period.

⁵⁶ *An Act Concerning Expenditures and Revenue for the Biennium Ending June 30, 2005*, PA 03-1, June 30 Special session, § 94, Summary of 2003 Public Acts, Connecticut General Assembly Office of Legislative Research.

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⁵⁷ The National Center for Health Statistics reports a divorce rate of 3.3 per 1,000 population for Connecticut in 2002. "Marriage and divorce rates by State: 1990, 1995, and 1999-2002," National Center for Health Statistics, available at <http://www.cdc.gov/nchs/data/nvss/mar&div.pdf>.

⁵⁸ In Vermont from 2000 to 2003, there were 6,683 civil unions formed. Vermont residents comprise 929 of these unions. There have been 27 dissolutions filed for and received by Vermont residents in this same period (civil unions may only be dissolved by Vermont residents). "Vermont Civil Union Statistics," available at http://www.gaydemographics.org/USA/states/vermont/2000Census_state_vt_civilunions.htm. The 2003 data was provided by Cindy Hooley of the Vermont Department of Public Health Vital Statistics Records Office (December 8, 2004).

⁵⁹ We reached the first number by applying the Connecticut divorce rate to our estimated number of same-sex couples who would marry: $3,693 * 0.0033 = 12$. To calculate a Vermont civil union dissolution rate, we divided the number of dissolutions received in 2003 by the total number of existing civil unions in 2003, i.e. the number of unions formed through the end of 2003 minus the total number of dissolutions received from 2000 to 2003: $14 / (929 - 27) = 0.016$. We then applied this rate to our estimated number of same-sex couples who would marry: $3,693 * 0.016 = 59$. We consider only those civil unions formed by Vermont residents in this calculation, as they are the only unions eligible for dissolution.

⁶⁰ "Domestic relations filings" refers to divorce, custody, paternity, interstate support, and adoption. The National Center for State Courts reports 31,144 domestic relations filings made in Connecticut state courts in 2002.

⁶¹ National Center for State Courts, State Court Caseload Statistics, 2003, Table 8, available at http://www.ncsconline.org/D_Research/csp/2003_Files/2003_SCCS.html.

⁶² Conn. Gen. Stat. § 46b-38a (2003).

⁶³ In its report, the Connecticut Office of Legislative Research's Office of Fiscal Analysis estimates that expanding the family violence docket would cost approximately \$47,000, despite the fact that the statute already includes same-sex couples as eligible for the program. If the state has thus far failed to fund the FVEP adequately to meet its statutory mandate, addressing this deficiency should not be considered a cost of legalizing same-sex marriage.

⁶⁴ The fee for initiating a dissolution proceeding is \$225. State of Connecticut Judicial Branch Court Fees, available at <http://www.jud.state.ct.us/external/super/courtfee.htm>.

⁶⁵ Conn. Gen. Stat., Title 12, Chapter 204a (2003).

⁶⁶ "Report of Adjusted Payments Regarding Connecticut Programs of Tax Relief for Elderly Homeowners and Grants to Elderly Renters for the 2003-2004 Fiscal Year," State of Connecticut Office of Policy and Management, March 1, 2004.