IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THERESA BASSETT, and CAROL KENNEDY, PETER WAYS and JOE BREAKEY, JOLINDA JACH and BARBARA RAMBER, DOAK BLOSS and GERARDO ASCHERI, DENISE MILLER and MICHELLE JOHNSON,

Plaintiffs,

vs.

RICHARD SNYDER, in his official capacity as Governor of the State of Michigan,

Defendant.

Case No. 2:12-cv-10038-DML-MJH

Hon. David M. Lawson

MOTION FOR ENTRY OF AMICUS CURIAE BRIEF OF LOUIS PADNOS IRON AND METAL COMPANY AND CENGAGE LEARNING HOLDINGS II, L.P. (CENGAGE LEARNING) IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

1. Louis Padnos Iron and Metal Company ("Padnos") and Cengage Learning Holdings II, L.P. ("Cengage") (collectively "Amici"), respectfully move this Court for leave to file the brief submitted herewith, as *amicus curiae* in support of Plaintiffs in this action.

2. Padnos is a Michigan corporation with its principal place of business located in Holland, Michigan.

3. Cengage is a Delaware corporation registered to do business in the state of Michigan.

4. Amici are interested in this matter because the passage of Michigan Public Act 297 of 2011 ("Act 297") involves important policy issues underlying Michigan's economic growth. Specifically, Amici are concerned that prohibiting certain public sectors from offering

domestic partner benefits to its employees negatively impacts the economic growth of the State of Michigan by reducing the State's ability to attract new private investment as well as qualified talent within the private sector which further buttresses the lack of a rational basis for Act 297.

5. The economic implications of such a policy impact not only the various public sectors directly regulated by Act 297, but also private companies including Cengage and Padnos.

6. In the attached brief, Amici demonstrate the economic advantages realized by various companies, states, and cities that offer domestic partner benefits and contrast these advantages with the economic hurdles that jurisdictions with prohibitory policies must overcome. Amici believe this submission will assist the Court in its deliberations.

Padnos and Cengage, therefore, respectfully request that this Court grant them leave to file the accompanying brief.

Respectfully submitted,

/s/ Abraham Singer

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Dated: July 19, 2012

IN THE UNITED STATES DISTRICT COURT
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I. INTERESTS OF AMICUS CURIAE

1. Louis Padnos Iron and Metal Company ("Padnos") is a Michigan corporation with its principal place of business located in Holland, Michigan. Cengage Learning Holdings II, L.P. ("Cengage") is a Delaware corporation registered to do business in the state of Michigan. Padnos and Cengage submit this amicus curiae brief because the passage of Michigan Public Act 297 of 2011 ("Act 297") negatively impacts the economic growth of the State of Michigan by reducing the State's ability to attract new private investment as well as qualified talent within the private sector which further buttresses the lack of a rational basis for Act 297. The economic implications of such a policy impact not only the various public sectors directly regulated by Act 297, but also private companies such as Cengage and Padnos.

II. INTRODUCTION

The economic drain that Michigan Public Act 297 of 2011 ("Act 297" or the "Act") will bring to the State eviscerates any supposed cost savings that could result from the statute. The economic benefits that the State gains by promoting diversity and acceptance continue to be eroded through the passage of discriminatory laws and policies such as Act 297. The advantages that programs like domestic partner benefits offer to Michigan include increased ability to draw talented workers and new businesses to the State and to prevent those who graduate from its universities from leaving. Public employers also realize valuable economic advantages such as the ability to be competitive with other states, cities, and private companies in attracting and retaining workers. Public and private entities alike have made clear that policies promoting diversity, like the provision of domestic partner benefits, are good for business and result in significant economic gains. But Michigan loses these positive gains by banning public employers from providing domestic partner benefits.

Furthermore, with the passage of Act 297 Michigan is not poised to be competitive in any market, or in a favorable position to grow its economy. Businesses seek diverse environments with policies that mimic their own. Considering that the number of states, cities, counties, universities, and private companies offering benefits to the domestic partners of same-sex employees has risen consistently since the mid-1990s, Michigan's policies do not mirror those of the marketplace.

Those same businesses that look for an open and welcoming environment also seek large populations of talented and highly-educated people from which to draw employees, but Michigan's discriminatory laws and policies are driving this class of workers away. This loss of talent and the lack of qualified employees to feed new and growing businesses is a distinct problem that has been recognized by Governor Snyder himself.

The prohibition on the extension of benefits to the partners of unmarried public employees will undoubtedly set Michigan back in its efforts to cultivate economic growth and revitalize its cities. The positive economic advantages that offering domestic partner benefits provides significantly outweigh the minimal cost savings that might stem from the Act. Moreover, the Act's effect of repelling business and talent. rather than attracting and retaining it. will negatively impact the State's economy far beyond the cost of providing domestic partner benefits. The Legislature's unsubstantiated cost justification for Act 297 is therefore even more unconvincing in light of the actual effect of the statute. Clearly the Act serves only to promote discrimination and bears no rational relationship to a legitimate state interest, nor is it narrowly tailored to a compelling or important state interest.

Amici are not advocating for any particular standard of review, but suggest that even under a standard of review most favorable to the Governor ("rational basis review"), Act

297 bears no rational relationship to a legitimate state interest. Whether a statute bears a rational relationship to a legitimate state interest is primarily an objective inquiry. *Collins v. Brewer*, 727 F. Supp. 2d 797 (D. Ariz. 2010) (citing *Lawrence v. Texas*, 539 U.S. 558, 580 (2003)). "[T]he court applies a 'more searching form of rational basis review' when a classification harms politically unpopular groups or personal relationships." *Id.* at 804 (citing *Perry v. Schwarzenegger*, 591 F.3d 1147, 1165 (9th Cir. 2010)).

The Michigan House Fiscal Agency's September 6, 2011 legislative analysis of House Bill 4770 (now Act 297) cites the cost to taxpayers as a reason for the imposition of a ban on domestic partner benefits. But, a ban on the provision of domestic partner benefits ignores the considerable economic advantages sustained by employers that offer such benefits, and it impacts the ability of public employers and the state of Michigan to compete for talent and new business.

It is these economic benefits that the Defendant has failed to consider by signing Act 297 into law. The economic benefits are counterintuitive ["contradict" (or) "show the fallacy in" ?? I'm not sure counterintuitive is the right word, but it's ok.] not only to the Legislature's cost rationale, but also to the Governor's own touted "quality of place" initiatives to build Michigan into a more attractive location for talent and businesses.

III. MICHIGAN STANDS TO LOSE THE ECONOMIC ADVANTAGES THAT DOMESTIC PARTNER BENEFIT PROGRAMS PROVIDE TO PUBLIC AND PRIVATE EMPLOYERS

A. Adoption of Domestic Partner Benefits Is Good For Business

The growing number of private companies that offer domestic partner benefits demonstrates that policies promoting employee diversity are good for business. *Economic Motives for Adopting LGBT Related Workplace Policies*, The Williams Institute (October 2011) (Exhibit B); *see also Domestic Partner Benefits: Facts and Background*, Employee Benefit

Research Institute (February 2009) (Exhibit C). Over the past decade, the percentage of private companies providing domestic partner benefits to their employees has risen consistently. In 2000, Hewitt Associates, LLC ("Hewitt") conducted a survey of 570 companies with more than 1,000 employees ("large companies"). *Domestic Partner Benefits*, Hewitt Associates, (2000) (Exhibit D). The results of that survey showed that 22% of large companies offered benefits to the partners of unmarried couples. *Id*. In 2005, Hewitt conducted a similar study of 281 large companies and found that 56% offered domestic partner benefits to their employees. *Survey Findings: Benefit Programs for Domestic Partners & Same-Sex Spouses*, Hewitt Associates LLP (2005) (Exhibit E).

Similarly, studies conducted by the Human Rights Campaign show that the number of Fortune 500 companies offering domestic partner benefits has increased from 69 companies in 1998 to 200 in 2003, and to 286 in 2008. *The State of the Workplace for Gay, Lesbian, Bisexual, and Transgendered Americans*, Human Rights Campaign (2008) at 9 http://www.hrc.org/resources/Entry/thestateoftheworkplace (last accessed March 6, 2012). As of 2011, 88% of the top 50 Fortune 500 companies offered domestic partner benefits to their employees. Exhibit B at 2. At least 50 private employers headquartered in Michigan provide domestic partner benefits. ACLU Fact Sheet (Exhibit F).

These statistics are more than just numbers; they are evidence that companies are continually recognizing that investing in domestic partner benefit programs results in positive returns. The advantages of domestic partner benefit programs include hiring advantages, increased productivity and retention rates among current employees, and positive perception in the consumer market. Hewitt's 2005 study showed that 71% of employers offering domestic partner benefits do so to recruit and retain employees. Exhibit E at 9. In written statements to

Congress, companies like Dow Chemical, IBM, American Airlines, General Electric, Chubb, TIAA Cref, Nike, and Levi Strauss & Co. have attested to the competitive advantage that offering domestic partner benefits lends to their recruiting efforts. The statements these companies submitted to the Senate Committee for Homeland Security and Government Affairs in support of the proposed Domestic Partnership Benefits and Obligations Act are included in Exhibit G.

Companies offering domestic partner benefits also observe a positive response from their employees, regardless of whether they participate in the plan. *Id*. This is likely because providing benefits to domestic partners demonstrates that the company has respect for and values all of its employees' contributions to the company. Judy Greenwald, *More U.S. Employers Seen Adding Benefits for Domestic Partners*, Business Insurance, Vo. 37, Issue 32 (Aug 2003) at 1 (quoting Ed Kahn, director of human resources and strategy integration at Shell Oil Co.) (Exhibit H). Retention of employees is enhanced because they feel more comfortable bringing their whole selves to work and performing their jobs with the support of their family structure. *See* Exhibit F, Statement of William H. Hendrix, III, Ph.D., Global Leader, Gays, Lesbians and Allies at Dow, The Dow Chemical Company for the hearing on Domestic Partner Benefits for Federal Employees, October 15, 2009.

Additionally, companies offering domestic partner benefits find that it makes them more competitive not only in the employee market, but in the consumer market as well. Many employers note that fostering diversity through programs such as domestic partner benefit plans allows them to service a more extensive and diverse client base. Exhibit B at 8. Companies like American Airlines state that "there is no question that [providing domestic partner benefits to employees] helps us to be a much stronger contender as a world-class marketing organization." *See* Exhibit F, Statement of Carolyn E. Wright, Vice President, Corporate Human Resources, American Airlines. American Airlines acknowledges that while their customers consider service, value, convenience and comfort when choosing an airline, they also "appreciate inclusion and equal respect too." *Id*.

The bottom line is that domestic partner benefits are a low cost, high return investment for employers. "Any employer who has based their reason for not offering [benefits] on cost really has not done their homework." Greenwald, *supra*, quoting Karen Roberts, Senior VP for Aon Consulting. The Governor and the State Legislature have undeniably failed to do their homework.

B. Public Entities Realize Substantial Economic Advantages When Domestic Partner Benefits Are Made Available to Their Employees

Just as private companies have recognized that extending benefits to domestic partners can be a cost effective way to recruit and retain talent, and promote workplace harmony, so too have public employers. As of December 2010, twenty-two states and the District of Columbia offered domestic partner benefits to their employees, a significant increase from the 13 states and the District of Columbia that offered benefits in 2007. *State Employee Health Benefits Report*, National Conference of State Legislatures (updated June 2011) at 8-9 (Exhibit I) and *Domestic Partnership Benefits: Equity, Fairness, and Competitive Advantage*, American Association of State Colleges and Universities (October 2007) at 5 (Exhibit J). And as of October 2007, at least 151 city and county governments across the nation offered them as well. Human Rights Campaign, *supra* at 9.

The percentage of universities that offer domestic partner benefits is also on the rise for the fifth straight year. Dustin Walsh, *Universities: Veto Bill Banning Partner Benefits*, Crain's Detroit Business (December 18, 2011) at 3 (Exhibit K). Universities across the country, including Michigan universities, use domestic partner benefits as a recruitment tool. Recognizing that a ban on domestic partner benefits would sorely undermine their recruiting efforts, Michigan universities vehemently opposed the ban. *Id*.

The arguments made by public employers in support of domestic partner benefits echo those of private companies: they provide valuable recruiting and retention tools for individuals as well as businesses, and they cultivate welcoming and diverse cultures in the workplace. To illustrate, the city of Louisville, Kentucky recently voted to extend benefits to employees' domestic partners. In signing the order, Mayor Fischer stated the city "must value all employees, and all families equally." He also declared that "[i]f Metro Government is to attract the best and brightest talent, it must offer benefits that are competitive with the private sector." *City to Offer Domestic Partner Benefits*, Louisville Mayor Newsroom (July 15, 2011), http://www.louisvilleky.gov/Mayor/News/2011/7-15-11+partner+benefits.htm (last visited March 7, 2012) (also attached as Exhibit L).

Taxpayers also profit when benefits are provided to domestic partners. Case studies have shown that if benefits were extended to all partners, state taxpayers would actually see net savings. Exhibit A at 3. More residents covered by insurance means fewer residents using supplemental security income, temporary assistance for needy families, Medicaid, and state children's health insurance programs. *Id*. Public employer domestic partner benefit policies also offer advantages for the business community and the state, since diversity-friendly policies are attractive to many workers and businesses as discussed in Section III.

IV. DISCRIMINATORY LAWS SUCH AS ACT 297 WORK AGAINST THE STATE'S INTEREST OF ATTRACTING AND RETAINING BUSINESSES AND TALENTED WORKERS

A. Michigan's Economy Suffers When Talented and Educated Workers Choose To Relocate To Other States

Policies that foster diversity are more attractive to young workers, whereas restrictive policies like that embodied by Act 297 tend to drive that demographic to more open and tolerant cities and states. A report of the Michigan Capital News Service confirms that young people are leaving Michigan at a disturbing rate, many in search of jobs, but others because they want to live "where there is a vibrant scene, where there is an idea of density, diversity, … and kind of a much more liberal way of looking at things." Capital News Service, Bleak Economy, Gloomy Winters Drive Young Graduates Away, December 2, 2011 (Exhibit M).

Governor Snyder has acknowledged the "brain drain" problem in Michigan and is supposedly working to keep and attract future generations to Michigan, notwithstanding his endorsement of Act 297. As part of this initiative, he has stated that Michigan must not only provide educational and career opportunities, but also "a quality of life that is second to none." *See e.g*. "A Special Message from Governor Rick Snyder: Developing and Connecting Michigan's Talent" (December 1, 2011) (Exhibit N). In particular Governor Snyder stated that in order to amass a population of highly skilled talent, the State must "create and expand places where workers, entrepreneurs and businesses want to locate, invest and expand." In other words, a "quality of place" must be established. *Id*.

Indeed, the social policies and environment of a state do play a part in the consideration of many in their decision to relocate, and a discriminatory law restricting public employers' ability to offer benefits to unmarried partners is contrary to what most of the young demographic seeks. Peter J. Hammer, Discrimination Threatens Michigan's Future Economic Growth, Written Testimony in Support of House Bill No. 4192: Legislation to amend the Elliott-Larsen Civil Rights Act to Include Sexual Orientation and Gender Identity (Exhibit O). Thus, the views of the great majority of college students who will eventually enter the workforce elsewhere are directly at odds with Michigan's discriminatory laws and policies. Kellie Woodhouse, *Majority of University of Michigan students at odds with key state policies,* AnnArbor.com (February 26, 2012) (Exhibit P). "More liberal people [like those who attend the University of Michigan] are going to leave Michigan and go to larger urban areas." *Id*. (quoting University of Michigan Professor Michael Heaney).

Michigan needs its cities to be able to compete with those in neighboring states as well as other growing cities across the country, but passing discriminatory laws like Act 297 – which pulls a valuable economic tool from Michigan's public employers – puts the State at a notable disadvantage. A study conducted by the Williams Institute on the financial effects of domestic partner benefits in Arizona, a state which passed a law similar to Act 297 banning domestic partner benefits (which was later struck down as lacking a rational basis in violation of the Equal Protection Clause), noted that in competing with its "peer" states Arizona stood to lose economic ground by restricting public employers from providing domestic partner benefits. *Memorandum to Sen. Ken Cheuvront and Rep. Robert Meza*, The Williams Institute, February 12, 2007 (Exhibit Q).

In 2009, The Wall Street Journal asked six experts in demographics, economics, geography, and urban issues to rank the top ten cities that attract mobile, educated workers in their twenties. Sue Shellenbarger, *The Next Youth Magnet Cities*, The Wall Street Journal (September 30, 2009) (available online only) http://online.wsj.com/article/SB100014240527

4870378720457442912720525316.html (last visited March 7, 2012). The experts identified eleven cities and metropolitan areas (in ranking order): Washington, Seattle, New York, Portland (Oregon), Austin, San Jose, Denver, Raleigh-Durham, Dallas, Chicago, and Boston. While the availability of domestic partner benefits to public employees in these jurisdictions may not be the primary driving factor for many young professionals to relocate, their availability certainly embodies the culture that these individuals are seeking.[1] By enacting a ban on the provision of domestic partner benefits, public employers are stripped of a competitive tool in their own efforts to draw business to the state. And just as important, the State will undoubtedly lose the positive economic influences that flow from providing those benefits.

B. Act 297 Impedes Michigan's Ability to Attract and Grow New Business

Michigan says it is committed to attracting new business with an emphasis on life sciences, advanced technology, and alternative energy companies,[2] and few would contest that the continued growth and retention of these industries in the State is essential to its economic well-being. The ability to offer domestic partner benefits is an essential recruiting tool particularly for employers in the tech and life science industries, yet while Act 297 does not restrict the right of a private employer to provide domestic partner benefits, the ban will have a marked effect on the State's ability to attract and retain businesses in the markets it seeks to promote. Advanced technology and life sciences companies demand a dense and diverse pool of educated and talented workers, but a ban on public employer domestic partner benefits sends the wrong message to the State's individual and corporate citizens and to those considering

[1] Closer to home, cities like Columbus, Ohio and Louisville, Kentucky extend benefits to employees' partners, and Indianapolis will consider an initiative soon. Jon Murray, *Mayor, Council Look to Agree*, The Indianapolis Star (February 13, 2012).

[2] *See e.g.* the Michigan Economic Development Corporation's "Growing Industries" web page at: http://www.michiganadvantage.org/Growing-Industries/ .

relocation to Michigan. *See* Exhibit B. In sum, Act 297 decreases the "quality of place" the Governor seeks to achieve. A social environment that is unattractive to young, educated workers—both gay and straight—diminishes the human resources available to companies, thereby impeding the State's ability to entice new business. *Id.*; *see also* Exhibit N.

The economic benefits Michigan has accrued by allowing public employers to offer benefits to domestic partners are lost with the passage of Act 297. Regions that do not embrace the benefits of diversity-friendly policies risk losing talented workers to cities and states that do. This gives rise to the simplest of mathematical equations: fewer businesses and workers equals less revenue for the state and local governments.

The sustained upward trend in the number of states, universities, local governments, and private companies offering domestic partner benefits is not simply a coincidence; it demonstrates that these programs are demanded by consumer and labor markets. Michigan cannot afford to move in the opposite direction of these demands, nor can it risk the obstacles Act 297 will create to the state's economic growth. The infinitesimal costs the Act may save are completely undermined by the negative effect the statute will have on the State's economy.

V. CONCLUSION

Any minimal cost savings incurred by the state by banning domestic partner benefits to public employees are undercut by the negative impact the Act will have on the economy and the missed economic advantages that domestic partner benefit programs provide. It is therefore respectfully requested that the Court enter judgment permanently enjoining enforcement of Act 297 by the Defendant.

Respectfully submitted,

/s/ Abraham Singer

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Dated: July 19, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of July, 2012, a copy of the foregoing ***Motion for Entry of Amicus Curiae Brief of Louis Padnos Iron And Metal Company and Cengage Learning Holdings II, L.P. (Cengage Learning) in Support of Plaintiff's Motion For Preliminary Injunction***, ***Brief in Support thereof***, *and this* ***Certificate of Service*** were filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Abraham Singer
ABRAHAM SINGER (P23601)

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E	Hewitt Survey (2005)
F	Michigan DP Benefits Fact Sheet
G	Corporate Statements for the United States Senate
H	More U.S. Employers Seen Adding Benefits for Domestic Partners
I	NCSL State Employment Health Benefits Report
J	AASCU article re Domestic Partnership Benefits
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Q	The Williams Institute Memo re Financial Effects of Domestic Partner Benefits on State of Arizona

EXHIBIT A

Center for American Progress

One Simple Step for Equality

States prove that the federal government can offer domestic partner benefits with ease

Winnie Stachelberg, Josh Rosenthal, and Claire Stein-Ross September 2008

Center for American Progress

One Simple Step for Equality

States prove that the federal government can offer domestic partner benefits with ease

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Executive Summary

Health care looms large on the agenda as the nation looks toward a new Congress and president in 2009. Health care costs are growing faster than even energy costs, rising $45 billion more than energy in the past eight years.[1] Americans with chronic diseases and other pre-existing conditions often wonder if their treatment will be covered by insurance, or if they will be able to afford insurance at all. And almost 46 million Americans still live without health insurance coverage, while many more get by without adequate access to care.[2]

The federal government could take one simple, but essential step that would immediately expand quality coverage to millions of Americans: extending health benefits to same-sex partners of federal employees, who are twice as likely to be uninsured as their heterosexual counterparts.[3] Federal employees in same-sex partnerships currently have no access to benefits for their partners. Domestic partner benefits present an opportunity for the federal government to improve the quality of its workforce, and indicate its acceptance of all American families.

Congress is currently considering the Domestic Partner Benefits and Obligations Act (H.R. 4838/S. 2521), which would extend these benefits, along with the other rights and responsibilities of married couples, to federal employees in same-sex domestic partnerships. Congressional passage of this bill would place the federal government among the ranks of thousands of private companies, hundreds of municipalities, and 15 states and the District of Columbia that have already put such policies into action.*

This report examines the experiences of these states, which have extended benefits to same-sex domestic partners without complications or added expenses. In fact, many have actually been able to attract higher quality staff. The states show that a domestic partner benefit program for federal employees would likely have the following characteristics:

- **Low enrollment:** Few employees will enroll in the expanded benefit program. For example, only 0.7 percent of Connecticut states employees took advantage of the domestic partner program for same-sex couples.

* Vermont, New York, Oregon, California, Connecticut, Maine, Rhode Island, Washington, New Mexico, New Jersey, Montana, Illinois, Alaska, Arizona, and Hawaii.

- **Minimal costs:** The benefits would create only a marginal added cost. In Iowa, for example, only 0.5 percent of benefit spending goes toward domestic partners. Even this percentage is higher than we expect the federal government would experience, since many states include both same-sex and different-sex partners in their domestic partner benefit programs, unlike the proposed federal program.

- **Higher retention and recruitment rates:** Gay and lesbian employees often cite benefit programs as a key factor in their decision to leave or stay at a job. As more private-sector employers offer domestic partner benefits, states such as Vermont and Washington have found that matching this benefit helps them to attract the best workforce

- **Strong public support:** When Arizona considered offering domestic partner benefits in 2006, 787 of the 913 public comments concerning the decision were supportive of extending the benefits. Recent polling also shows that 69 percent of Americans believe that same-sex partners should receive benefits.

The Domestic Partnership Benefits and Obligations Act offers an easy choice to legislators. There are both practical and ethical arguments for extending benefits to domestic partners—including the fact that a majority of Americans believe it is the right thing to do.[4] And the experiences of state governments clearly show that domestic partner benefits do not exact a significant cost on the employer.

An Essential Recruitment Tool: Experiences in the Private Sector

The private sector has been the clear leader in offering equitable benefits to employees. Over 8,600 for-profit companies offer same-sex domestic partner benefits to their employees.[5]

Private employers cite a number of factors driving the decision to open up their benefits systems. Chief among these is the correlation between benefits and worker contentment. There is strong evidence that employees—both heterosexual and homosexual—value the option of domestic partner benefits. Forty-eight percent of lesbian, gay, and bisexual workers said in 2003 that domestic partner benefits would be the most important consideration in a potential job switch.[6] And 69 percent of heterosexual workers polled in 2004 said all employees should be guaranteed equal benefits, regardless of sexual orientation.[7]

Even after staff are recruited, domestic partner benefits help employers retain good employees. Eighty percent of employees who were "highly satisfied" with their benefits expressed strong job satisfaction and 83 percent said that their benefits were a factor in their decision to remain at that job.[8] A majority of employers similarly see benefits as an important retention tool.[9] With this in mind, it is necessary for public employers to maintain the same level of coverage that private companies offer, or risk losing out in the competition for the most desirable workforce.

Simple Processes and Cost Savings: Lessons from the States

Since Vermont first offered domestic partner benefits in 1994, 15 other states and the District of Columbia have followed suit. Across the board, the costs of expanding the benefits has been negligible; the process has been smooth; potential employees have been attracted by the benefits and current employees have been more inclined to remain; and providing the benefits has in turn lowered the cost of other social services, leading to net savings for states. The process in each state is similar. They each require the employee to fill out an affidavit and provide documentation verifying the validity of the relationship. As with a marriage license, there is a fee attached to this declaration, which provides revenue to the state.

The number of employees who have applied for partner benefits varies from state to state, but it is generally very low. And states have seen no more than marginal cost increases when benefits are extended to domestic partners. Most insurance providers consider the same factors when insuring a domestic partner as a spouse, and the premiums therefore remain the same. A Hewitt Associates study revealed that coverage that includes domestic partners is no more expensive for employers than coverage that does not.[10]

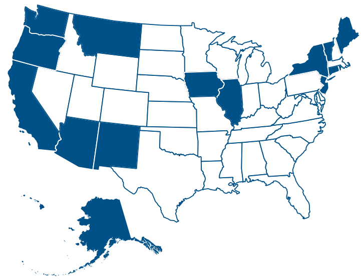
Case studies by the Williams Institute show that, if benefits are extended to all partners in the state, the state will actually experience net savings. As more residents are covered by insurance, costs for Supplemental Security Income, Temporary Assistance for Needy Families, Medicaid, and the State Children's Health Insurance Program would decrease, more than offsetting any potential rise in state benefit costs.[11]

The Congressional Budget Office conducted a study on the potential value for the federal government in recognizing domestic partnerships. The study found that enrolling the same-sex partners of retired employees in the Federal Employees Health Benefits Program would increase costs by less than $50 million a year through 2014 (current employees and spouses' insurance is covered through appropriations funding). The CBO also concluded that if all 50 states and the federal government were to allow same-sex couples the same rights and responsibilities as opposite-sex couples, the federal government would save nearly $1 billion per year through resulting increases in tax revenue and decreases in the costs of government support programs.[12]

The one complicating factor for the provision of domestic partner benefits is that many states, as well as the federal government, tax domestic partner benefits as "imputed income," unlike benefits for other family members. As explored in the Center for American Progress and Williams Institute 2007 report "Unequal Taxes on Equal Benefits," this unequal tax treatment imposes an unnecessary financial and accounting burden on both employers and employees. Both Oregon and Rhode Island made a special effort to correct the inequality; two years after the benefits became available, Oregon began exempting the benefits from employers' tax liability, while Rhode Island established a loan program to assist some employees with the increased taxation.

The federal government will be able to look for guidance to the 15 states and the District of Columbia who already offer same-sex domestic partner benefits for their employees as it enters the process of considering the Domestic Partner Benefits and Obligations Act. States began offering these benefits in different ways—from union negotiation to legislation to judicial decisions—but all have seen lower rates of enrollment and lower costs than expected. Their experiences show that the federal government has a lot to gain from offering same-sex domestic partner benefits without serious costs.

Year States Instituted Domestic Partner Benefits



Vermont	1994
New York	1995
Hawaii	1997
Oregon	1998
California	1999
Connecticut	2000
Maine	2001
Rhode Island	2001
Washington	2001
DC	2002
Iowa	2003
New Mexico	2003
New Jersey	2004
Montana	2005
Alaska	2006
Illinois	2006
Arizona	Oct. 2008

Vermont

Vermont became the first state to begin offering benefits to the domestic partners of state employees, in 1994. The program now covers between 300 and 400 employees each year, and the availability of such benefits has been advantageous in recruiting potential new employees. The original plan was to expand coverage to same-sex partners only, but the legislation that was passed extended benefits to both same-sex and opposite-sex partners. Although there were initial, marginal increases in premium costs following the provision of benefits, they have ultimately had no effect on state costs.[13] As the earliest state to champion equal benefits, Vermont's experience is perhaps the best indicator that the benefits' effects are positive, both in the short- and long-term.

New York

New York has been providing benefits to the partners of state employees since the beginning of 1995. Although there was some negative reaction when the benefits were initially announced, as well as debate over whether to include both same-sex and opposite-sex couples, the benefits system has been unproblematic. The New York state government currently covers 4,881 domestic partners, and the majority of these are opposite-sex partners.

The plan has, overall, been easy to implement. Any employee with dependent children is already enrolled in a family benefits program; adding a partner to this has no effect on the employee's premium. If one employee seeks to provide coverage for another state employee, the total costs actually decrease. As in other states, New York requires that employees provide proof of the partnership in order to expand the coverage. This documentation has caused only minimal problems, as has confusion over income imputation to cover additional costs. New York does not keep records on the effect that the benefits program has had on employee attitudes, but the state believes that the coverage for domestic partners has been helpful in recruiting potential employees.[14]

Hawaii

Hawaii adopted the Reciprocal Beneficiaries Act in 1997, which allows residents who are barred from marriage to register for certain privileges that are afforded to married couples. The benefits are available to anyone who cannot legally be married, although most who have filed under this law are same-sex domestic partners. The law, however, places no legal requirements on Health Maintenance Organizations or Mutual Benefit Societies. The state's attorney general further decided to remove the law's application to private entities.[15]

The law was renewed in 1999, but some elements that provided government employees with health insurance were not, and many advocates for gay rights argue the program has been ultimately ineffective in advancing equality. The system remains in place, but few have taken advantage of it,[16] giving the legislature little motive to expand the rights and benefits.

Oregon

The Oregon Supreme Court ruled in 1998 that denying equal benefits to the domestic partners of government employees was a violation of the state's constitution. Oregon was the first state to successfully frame the debate in this way, and also the first state to require both local and state government to equalize their benefit plans.

Beginning in tax year 2000, Oregon also distinguished its benefits program by exempting the benefits from taxes for qualified domestic partners. The state legislature later passed the Oregon Family Fairness Act in 2007 that, while respecting the voter-approved ban on same-sex marriage, establishes a procedure for obtaining a civil union, and extends to those who seek one the privileges of married couples, including insurance benefits.[17]

The Williams Institute earlier this year released an analysis of the effect of a state-wide domestic partnership registry on Oregon's budget. Overall, they estimate state savings of between \$1.5 million and \$3.7 million biennially—between \$100,000 and \$1.2 million due to the inclusive benefits plan alone. The death benefits that may become available to surviving domestic partners through the Oregon Family Fairness Act would increase state costs by an estimated \$20,000 per year for the first three years, with the cost diminishing after that.[18]

California

California passed three laws in 1999 to promote equality for the gay and lesbian community. One of the three measures provided for the creation of a domestic-partner registry for which both same-sex partners and opposite-sex partners age 62 or older are eligible. The laws also established hospital visitation rights for all partners, and health insurance coverage for state employees.[19] Fewer than one half of 1 percent of state employees have applied for the partner benefits since they have been offered.[20]

Last year, California became the first state to go one step further and require all contractors with the state to provide benefits. The Equal Benefits Ordinance applies to any business with a state contract for more than $100,000.[21] It grants a few exceptions, but lack of compliance can result in a termination of the contract.[22]

This year, the 2008 California Supreme Court decision to extend marriage to same-sex couples also established equal benefits for all families in the state (with the exception of federal taxation of those benefits). These equal benefits are at risk of being revoked by the anti-marriage Proposition 8.

Connecticut

Connecticut began offering domestic partner coverage to its employees in 2000, after several unions came together to argue that the state should provide the insurance. Prior to the implementation of benefits, the state expected approximately 1 percent of its 50,000 employees to register a partner and the cost to equal approximately 0.5 percent of total benefit costs.[23] During the first two years that benefits were available, 336 employees—approximately 0.7 percent of state workers—sought the benefits for a partner, bringing the cost of state-provided benefits up by $825,000. This amounts to roughly 0.1 percent of the state's total benefits cost.[24] As in many other states, benefits for domestic partners of employees are eligible for taxation, unlike the benefits for spouses, which contributes to the states' income tax revenues.[25]

Maine

Maine's State Employee Health Commission authorized in 2001 the extension of health insurance to the domestic partners of state employees. Later that year, the state legislature voted to establish a domestic partner registry, which offers further rights to all committed same-sex couples in the state. There was initially negative feedback from a small number of employees, particularly retirees, but this quickly abated and the state employee domestic partnership program was implemented without difficulty.

About 240 employees and retirees currently receive the benefits, and the cost to the state is $1,718,844 annually.[26] Because adding a partner is equivalent to adding a spouse, the only real change to cost or procedure is the need for a manual calculation of the premium deduction and the taxable benefit.[27]

Rhode Island

Rhode Island's state assembly amended Statute 36-12-1 in 2001 to provide insurance benefits to the domestic partners of state employees. The state realized in 2005 that federal law requires employees to pay federal income tax on these benefits and to fix this unequal treatment, and the assembly passed Statute 36-12-15, creating the Domestic Partner Income Tax Loan Account. This program offers a one-time no-interest loan to state employees with additional tax burdens of $500 or more from their domestic partner benefits for tax years 2002-2005.[28] A number of large private employers in Rhode Island began offering the benefits long before the state, including the Hasbro Corporation in 1997, and Brown University in 1994.[29]

Washington

The Public Employees Benefits Board voted in 2000 to begin offering insurance benefits to the domestic partners of Washington state employees.[30] The states made projections about the cost of legalizing same-sex marriage, many of which would also be applicable to extending domestic partner benefits. When a spouse or partner is included in an employee's benefit package, the overall cost typically decreases. The state expected to save between $300,000 and $2.1 million each year on benefit spending alone, depending on the structure of the benefits.[31]

During the implementation process, some problems arose around the role of a partner as a dependent. Complications surrounded the share of benefit costs that an employee was required to pay, and how the benefits' value would be taxed. The state eventually made slight changes to the payroll process and reverted to making manual changes as necessary, rather than altering the entire system. As the state transitioned to offer the benefits, the benefits board voted to also include the children of domestic partners and extend Medicare benefits to qualifying partners. This necessitated another slight tax change, done manually at the close of each tax year.

Washington currently insures approximately 1,000 employees' partners; the Public Employees Benefits Board has requested that this coverage be expanded to opposite-sex partners as well, which would add approximately 3,000 employees to the benefits program. The most common issues still raised about the benefits are their tax implications, and whether to begin including opposite-sex partners. The state does not separate out costs related to domestic partner coverage, but no marked change has been seen. Because the state passed a non-discrimination law in 2006, and a law establishing a partner registry the following year, the way in which eligibility is determined has been modified. This is expected to increase administrative costs. However, the state's Human Resources Department reports seeing a positive boost in recruitment and retention since the benefits were instituted.[32]

District of Columbia

The District of Columbia City Council passed in 1992 the Health Care Benefits Expansion Act, making it the one of the earliest government entities to recognize domestic partners. The law allowed for District employees' partners to receive insurance coverage, but congressional funding did not permit its implementation until 2002. The law enables employees to use leave time to care for a partner or his/her dependents, to attend the funeral of a partner or dependents, or for the birth or adoption of a dependent. It also guarantees domestic partners hospital visitation rights.[33]

The District of Columbia has experienced no problems with cost or implementation,[34] and a number of additional laws have passed since that extend rights and responsibilities to domestic partners. The lack of distinction made between domestic partner benefits and traditional coverage in D.C., as well as in many other states, serves as a testament to the facility with which such a program can be introduced and put into practice.

Iowa

Iowa has been providing equal benefits to domestic partners and spouses since 2003 after an effort led by the American Federation of State, County, and Municipal Employees. Iowa state employees are allowed to add a partner to coverage just as they would any other family member, and any difference in cost is solely due to having a family plan versus a single plan. The state's contribution toward medical benefits is the same for each; the state does not contribute to dental benefits for any of its employees.[35]

Domestic partner coverage amounts to less than one-half of 1 percent of the roughly $300 million budget for employee insurance and benefits. Because of the tax implications of the benefits, only 74 employees currently utilize the benefits—far fewer than originally expressed interest. There are still some complaints about the tax structure for the benefits, but the process and implementation were both quick and relatively seamless. Although the state has not catalogued any particular effect in recruitment, most large Iowa employers do offer the benefits.[36]

New Mexico

Governor Bill Richardson of New Mexico issued Executive Order 2003-010 in 2003, which extended health insurance benefits to the partners of state employees. Richardson instructed his staff to further investigate recognizing domestic partnerships on a statewide level. The Williams Institute provided a memorandum early in 2008 to the sponsor of the Domestic Partners Rights and Responsibilities Act (HB 9), which would have allowed both same- and opposite-sex couples to register as domestic partners.[37]

The Williams Institute's research indicates that, in addition to the financial boon that comes with commitment ceremonies and celebrations, domestic partnerships would have a positive effect on businesses. They conclude that domestic partner benefits increase employer competitiveness; enrollment and costs would likely be minimal; the state budget would see a net gain; and emphasizing diversity and equality has a positive long-term effect on businesses.[38] Although HB 9 never left the state legislature, the Williams Institute findings nonetheless demonstrate the financial and practical incentives of extending insurance benefits to domestic partners.

New Jersey

The New Jersey state legislature passed the Domestic Partnership Act in 2004, which required all New Jersey businesses to offer insurance coverage to employees' registered same-sex partners. However, existing state law places no obligation on employers to cover the cost of benefits, meaning that the financial effect on employers would be, if anything, marginal.[39]

Benefit costs for the expanded coverage are determined in the same manner as they had been prior to the legislation. Family coverage includes a partner just as it would for spouses and children, which means that if an employee already has children included in his or her benefits plan, there would be no change. If an employee pays for part of his or her coverage, the same level of payment would be required to cover a partner. Although the benefits are not included in calculating state income tax, the employee is still required to pay federal income taxes, as well as Social Security and Medicare taxes on the value of the benefits—spouses and children's benefits are not subject to this taxation.[40]

Residents have not been able to register for domestic partnerships since New Jersey's civil union law took effect in 2007. Partnerships established prior to 2007 are still recognized, and state employees who enter civil unions are eligible for any benefits that would be accorded a heterosexual spouse, though these are taxed in the same way as domestic partner benefits.[41]

Montana

A court decision in 2005 added Montana to the list of states providing domestic partner benefits to state employees. Around 140 employees have included their domestic partners in the state plan. There has been no noticeable increase in benefit costs to the state. Additionally, the state has found that, given that workers accept decreased salaries when they enter the public sector, generous benefits help keep the state's package competitive.[42] This echoes the Williams Institute's findings that offering equal benefits increases recruitment and reduces turnover, as well as creates a healthier environment for workers.[43]

Illinois

Illinois Governor Roy Blagojevich issued an executive order, effective July 1, 2006, that extended health, dental, and vision insurance coverage to the domestic partners of state employees. The 37,000 state employees who are members of the American Federation of State, County, and Municipal Employees began receiving these benefits in 2004 following a contract negotiation, and the state will adopt that contract's guidelines for all state employees. The state expected an enrollment increase of roughly .5 percent, with an annual state cost increase of approximately $2.2 million. The state also expected net savings once it began providing the same set of benefits to all its employees. State government officials, including the human resources director and insurance benefits director, joined advocacy groups to praise the governor's decision to extend the benefits.[44]

Alaska

Alaska's Supreme Court ruled in 2006 that the state was required to provide the same health insurance to employees' same-sex partners as they granted to employees' spouses. The decision was handed down in an equal protection case that had been brought by several state employees. All Alaska state employees at the time applied the same proportion of their salary toward insurance, yet only married employees were able to obtain coverage for a partner. Conservative activists and legislators attempted to constitutionally bar the equal benefits following this ruling, but their efforts were ultimately unsuccessful.[45]

Alaska hired a consulting firm to project enrollment and cost increases, taking into consideration the state university system and the city of Juneau, which had previously instituted the benefits. Extending benefits to same-sex and opposite-sex domestic partners was considered. If coverage was only added for same-sex domestic partners, enrollment was expected to increase 0.5 percent and costs were projected to rise between $84,000 and $120,000 for active employees and between $533,000 and $760,000 for retired employees. If coverage was expanded to different-sex domestic partners as well, enrollment was projected to increase by 2.0 percent, and costs were projected to increase between $390,000 and $544,000 for active employees and between $2,226,000 and $3,181,000 for retired employees.[46]

Arizona

Arizona's domestic partner benefits program will take effect in October 2008, and will include coverage for the partners of state and public university system employees. The decision to begin offering the benefits came out of a Department of Administration proposal and was unanimously approved by the Governor's Regulatory Review Council this spring. Under the new rules, domestic partners, as well as their dependents, will qualify for state employee benefits.

Those in favor of expanding benefits argue it will improve recruitment and retention; given the prevalence of the benefits at other institutions and organizations, it can be difficult for the state to remain competitive without providing similar benefits. Governor Napolitano and her staff also pointed to the issue of fairness in championing the benefits. The state predicts enrollment of between 317 and 853 employees, costing the state up to $4.25 million. The issue has undergone much debate in Arizona, but public opinion supports the council's ruling; 913 individuals and groups wrote to the Department of Administration about the benefits, with 787 writing in favor and only 112 in opposition.[47]

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EXHIBIT B

the Williams INSTITUTE

Brad Sears
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Economic Motives for Adopting LGBT-Related Workplace Policies

Introduction

This study evaluates the economic impact of corporate non-discrimination and benefits policies by analyzing the extent to which economic reasons motivate corporations to adopt such policies. The past decade has seen a large increase in the number of corporations adopting LGBT-related workplace policies. In 1999, 72% of Fortune 500 companies included sexual orientation in their non-discrimination policies, and only a handful included gender identity.[1] By 2009, 87% of such companies included sexual orientation and 41% included gender identity in their non-discrimination policies.[2] Over the same time period, the percentage of Fortune 500 companies offering domestic partner benefits increased from 14% to 59%.[3] This study reviews statements issued when adopting such policies by the top 50 Fortune 500 companies and the top 50 federal government contractors.

Since companies began to adopt these policies, and state and local governments began to amend their laws to prohibit sexual orientation and gender identity discrimination, arguments have been made that the requirements are costly and burdensome for private businesses. As recently as May 2011, the Tennessee legislature repealed an ordinance passed by the city of Nashville requiring city contractors to include sexual orientation and gender identity in their non-discrimination policies.[4] The Tennessee Chamber of Commerce initially supported the state bill, stating that "employment standards…should not create an additional burden on companies that are endeavoring to become competitive".[5] The Chamber later withdrew its support.[6]

In contrast to these arguments, many private companies have supported these policies for the opposite reason—because they make good business sense. In 2009 and 2010, during the consideration of the Employment Non-Discrimination Act (ENDA),[7] a statute that would prohibit sexual orientation and gender identity discrimination in the workplace, a number of private sector employers reported to Congress that these policies are good for the corporate bottom line.[8]

Overall, we find that almost all of top 50 Fortune 500 companies and the top 50 federal government contractors (92%) state that, in general, diversity policies and generous benefit packages are good for their business. In addition, the majority (53%) have specifically linked policies prohibiting sexual orientation and gender identity discrimination, and extending domestic partner benefits to their employees, to improving their bottom line.

Key Findings

- The majority of these companies prohibit sexual orientation and gender identity discrimination.
    - All but two (96%) of the top 50 Fortune 500 companies include sexual orientation in their non-discrimination policies and 70% include gender identity.
    - 81% of the top 50 federal contractors include sexual orientation in their non-discrimination policies and 44% include gender identity.
- The majority of these companies already provide benefits to the same-sex domestic partners of employees.
    - 88% of the top 50 Fortune 500 companies extend domestic partner benefits, including health insurance, to the same-sex domestic partners of employees.
    - At least 52% of the top 50 federal contractors extend domestic partner benefits, including health insurance, to the same-sex domestic partners of employees.
- Based on a review of corporate statements issued to announce a policy, almost all of the companies (92%) that prohibit these forms of discrimination or extend domestic partner benefits to their employees state that policies promoting employee diversity in general are good for their bottom line (36 of 41 contractors and 46 of 48 Fortune 500 companies).
- The majority of the companies (53%) that prohibit these forms of discrimination or extend domestic partner benefits have expressly linked either these specific policies, or diversity that specifically includes LGBT people, to a positive impact on business (17 of 41 contractors and 30 of 48 Fortune 500 companies).
- When companies adopt LGBT-related workplace polices, the most frequently mentioned economic benefits include:
    - **Recruitment and Retention.** Recruiting and retaining the best talent, which in turn makes the company more competitive.
    - **Ideas and Innovation.** Generating the best ideas and innovations by drawing on a workforce with a wide range of characteristics and experiences.
    - **Customer Service.** Attracting and better serving a diverse customer base through a diverse workforce.
    - **Employee Productivity.** Increasing productivity among employees by making them feel valued and comfortable at work.
    - **Public Sector Clients.** Securing business by responding favorably to specific policy requests or contracting requirements from public sector clients.

- **Employee Relations and Morale.** Maintaining positive employee morale and relations by responding favorably to specific policy requests from employees and unions.

While most of the large companies in this study did tie policies related to diversity in general, and LGBT employees more specifically, to the corporate bottom line, many also expressed that doing so was consistent with corporate values such as treating employees with respect and fairness and because it is "the right thing to do." However, no company stated that the policies would be costly, but enacted them anyway only because it was the "right" or fair thing to do.

Methodology

The research presented in this memo is based on a review of the non-discrimination and diversity policies and benefits policies of the top 50 Fortune 500 companies (2010) and the top 50 federal government contractors (2009) (collectively "companies" or "employers").

The top 50 federal contractors were determined by the dollar amount of their combined federal contracts. Due to partnerships involving two or more companies contracting under one name, and to separate awards to subsidiaries of the same company, the top 50 contractors consist of 48 unique entities. The percentages reported in this study are based on the number of companies represented, but for simplicity, they will be referred to as "the top 50 contractors".

For each company in the two groups, we began by ascertaining whether its non-discrimination policy includes sexual orientation and/or gender identity and whether it extends domestic partner benefits to its employees with same-sex partners. This information was gathered primarily through the HRC Corporate Employer Database, and supplemented with additional information gathered from the companies' websites and online job postings.

Using these sources, we could not identify whether eight contractors and one Fortune 500 company prohibit discrimination based on sexual orientation and gender identity or provide domestic partnership benefits. We attempted to contact these nine companies by email or by phone on March 31, 2011 with a follow-up contact on April 12, 2011 to ascertain whether they provide these protections. However, eight of these companies have not yet responded to our inquiries.

We have made several assumptions in order to categorize these eight companies for purposes of this study. If a company had a non-discrimination policy that included characteristics other than sexual orientation and gender identity, we assumed that the company does not prohibit discrimination based on sexual orientation or gender identity. If we were unable to find a non-discrimination policy that included sexual orientation or gender identity, and found no evidence that the company offer domestic partner benefits, we assumed that the company does not extend domestic partner benefits. For two companies, we could not find any information on non-discrimination or benefits policies, so we assumed that the companies do not have sexual orientation and gender identity non-discrimination policies, and do not extend domestic partner benefits.

Further, many companies, including those with sexual orientation and gender identity non-discrimination policies, do not publicly indicate whether they extend domestic partner benefits. If a company did not document that it offers domestic partner benefits in publicly available corporate materials, or was not profiled on the HRC Corporate Employer Database, we assumed that the company does not extend domestic partner benefits. For this reason, our determination that 48% of companies do not offer domestic partnership benefits may be higher than the actual percentage.

For those companies that include sexual orientation and/or gender identity in their non-discrimination policies or extend domestic partner benefits, we thoroughly reviewed company issued-documents, news articles, and other sources to find company statements expressing why these policies were implemented and why the company supports a diverse workforce that includes LGBT people. We then consulted these same sources to find more general statements on diversity within the company or the benefits programs offered by the company. Finally, the companies were contacted twice in April 2011 with a request to provide any information addressing the decision to include sexual orientation or gender identity in the non-discrimination policy or the decision to extend domestic partner benefits. None of the companies have yet responded to the requests for information, so all information in this study is based on written documents described above.

If a company expressed a reason for enacting the policies that was related to corporate competitiveness or success, we coded the motive as economic. We then identified the most commonly mentioned benefits resulting from these policies:

- Recruitment and Retention.
- Ideas and Innovation.
- Customer Service.
- Employee Productivity.
- Public Sector Clients.
- Employee Relations and Morale.

The findings below provide examples of statements that express how these economic benefits accrue from enacting these polices.

Findings

Statements on Sexual Orientation and Gender Identity Non-Discrimination Policies and Domestic Partner Benefits

The majority of companies (53%) that prohibit sexual orientation and gender identity discrimination or extend domestic partner benefits have expressly linked either these specific policies, or diversity that specifically includes LGBT people, to a positive impact on business. Sixty-three percent of the top 50 Fortune 500 companies with these policies have justified them with a business rationale. Similarly, 41% of contractors with such policies have expressly linked these particular policies, or the creation of a diverse workforce that includes LGBT people, to a positive impact on business.

Recruitment and Retention

The most commonly cited economic benefit of sexual orientation and gender identity inclusive non-discrimination policies and/or a diverse workforce that includes LGBT people is that by promoting inclusiveness and equal opportunity, employers are able to recruit and retain the best talent, which in turn makes the company more competitive. For example, a Senior Vice President of top 50 Fortune 500 company, and top 50 federal contractor, Lockheed Martin said of these policies, "Ensuring a positive and respectful workplace and robust set of benefits for everyone is critical to retaining employees."[9] Similarly, the chairman and CEO of top 50 Fortune 500 company, and top 50 federal contractor, Hewlett-Packard said that the company decided to extend domestic partner benefits in part to "enhance competitiveness as a great place to work so [the company] can attract and retain top talent."[10] Making a similar point, Provost Robert Holub of the University of Tennessee, a top 50 federal contractor, said of the omission of sexual orientation from the university's prior employment non-discrimination policy, "We fool ourselves if we believe that the absence of a direct statement regarding discrimination against gays and lesbians does not harm our institution…We are probably hurt not only by gay and lesbian candidates preferring to go elsewhere, but by heterosexuals who are as horrified as I am that we will not pledge to treat gay and lesbian applicants without prejudice."[11] The university's policy now includes sexual orientation and gender identity.

Ideas and Innovation

Several of the companies identified the link between these policies and promoting their business success in the variety of ideas and innovations that result from fostering a workforce with a wide range of characteristics and experiences. For example, top 5 federal contractor General Dynamics "recognizes that the best ideas and solutions are developed by gathering input from people who have different perspectives as well as tangible differences…such as age, gender, ethnicity, national origin, physical ability, military experience, and sexual orientation, among others."[12] Federal contractor Raytheon's Chief Diversity Officer said that these policies "reflect the strides the company has made to build a culture that recognizes, respects, and leverages individual and cultural differences. Our commitment to diversity and inclusion is our undeniable pathway to success for individuals and the company."[13] And Vice President of Global Workforce Diversity at IBM, a top 50 Fortune 500 company and a federal contractor, said that "at [IBM], we are creating an environment that allows employees to operate in the marketplace and the workplace where they can personally influence client success, foster innovation, as well as exhibit trust and personal responsibility in achieving IBM's business goals… Our goal is to assemble the most talented workforce in our industry, and to use the skills of that diverse team to respond to the needs of our clients. The contributions that are made by GLBT IBMers accrue directly to our bottom line and ensure the success of our business."[14]

Customer Service

Some companies find that they are better able to serve a diverse customer base when they have a diverse workforce that includes LGBT people. For example, Marcela Perez de Alonso, Executive Vice President of Human Resources of Hewlett-Packard, said that the company "is strongly committed to attracting, developing, promoting and retaining a diverse workforce to better serve our increasingly diverse customers."[15] Rod Gillum, Vice President for Corporate Diversity and Responsibility at Fortune 500 company General Motors said that "non-discrimination policies and practices… [are the company's] way of showing GLBT customers that we support the community and appreciate their business."[16] And Geri Thomas, Diversity and Inclusion Executive of Fortune 500 company Bank of America stated that a diverse workplace that "respect[s] and valu[es] nationalities, cultures, sexual orientation, religions, economic and social backgrounds and disabilities…gives [the company] the advantage of understanding and meeting the needs of diverse customers, clients, and shareholders."[17]

Employee Productivity

Other employers state that these policies increase productivity by LGBT employees who feel valued and comfortable at work. The Director of Diversity at federal contractor Booz Allen has said that the company is committed to "valuing people from all backgrounds, across all cultures, and regardless of sexual orientation or gender identity. We recognize that…our people can serve our clients best when they can be authentic in the workplace."[18] And an employee of federal contractor Boeing said of the decision to include gender identity in the company's non-discrimination policy that it would help to create a "fully engaged workforce" that was part of the company's "core business strategy."[19]

Public Sector Clients

Some of these companies added these policies in response to requirements of public sector clients. For example, federal contractor Bechtel Group added sexual orientation to its non-discrimination policy and extended domestic partner benefits in order to bid for a contract with San Francisco after the city passed an ordinance requiring that all city contractors have a sexual orientation non-discrimination policy and extend equal benefits.[20] Fortune 500 company Chevron extended domestic partner benefits for the same reason.[21]

Employee Relations

Some of these companies added these policies in response to requests from clients or employees. For example, federal contractor California Institute of Technology said that it extended domestic partner benefits to respond to the requests of employees and because doing so was consistent with the university's policy of non-discrimination.[22] The "Big 3" auto companies (Ford, General Motors, and DaimlerChrysler), two of which are top 50 Fortune 500 companies, agreed to offer domestic partner benefits in response to union requests.[23]

General Diversity and Benefits Statements

Nearly all of the top 50 contractors and the top 50 Fortune 500 companies state in company-issued documents that diversity is good for business. Of these companies that include sexual orientation and/or gender identity in their non-discrimination policies or extend domestic partner benefits, 92% have linked diversity to corporate success (88% of contractors and 96% of Fortune companies), suggesting that these employers treat LGBT employees equally to serve diversity goals. These employers provide similar business-related explanations as the companies above offer in support of non-discrimination policies specific to sexual orientation and gender identity and domestic partner benefits.

Recruitment and Retention

The ability to recruit and retain top talent is also frequently cited by these companies to support diversity more generally. For example, federal contractor Raytheon recognizes "the importance of retaining, attracting and developing a diverse range of world-class talent in employee ranks to maximize the potential of the company, and to bring the most value to the shareholders."[24] Fortune 500 company Procter & Gamble states that diversity "enables [it] to be the 'employer of choice' that hires, engages, and retains the best talent."[25] And federal contractor Creative Associates International "celebrates and is committed to a vibrant and diverse workforce…[and] know[s] that recruiting and retaining the best talent in [the] field is critical to success."[26]

Several companies have also recognized that generous benefits programs also help to attract and retain talented employees. For example, federal contractor United Technologies Corporation states that it "will attract, motivate and retain competent, dedicated people by designing compensation and benefits programs that are competitive in our worldwide marketplace."[27] And federal contractor Textron states that its "benefits and compensation programs are designed to reflect our commitment to attracting and retaining talented and motivated people."[28]

Ideas and Innovation

Commonly, contractors and Fortune companies locate the link between diversity and corporate success in the variety of ideas that result from employing a workforce with a broad spectrum of backgrounds and experiences. For example, Ford Motor Company (ranked 8 on the Fortune 500 list, and also a federal contractor) states, "Our diversity makes us a better company, a stronger company, by bringing fresh perspectives, experiences and life responsibilities, and by fostering a truly collaborative workplace."[29] Similarly, top 5 federal contractor Northrop Grumman takes "pride in creating a working environment where diversity and inclusion is valued and leveraged to foster creativity and innovation, thereby allowing us to meet the business challenges of tomorrow."[30] And federal contractor ITT is "committed to building a workforce that mirrors the world in which we do business" because it "will lead to improved creativity, innovation, decision-making, and customer service and is essential to achieving premier status."[31]

Customer Service

Several employers find that diversity lends to corporate success by allowing the workforce to connect with a diverse customer base. For example, federal contractor HealthNet stated that "the best way to serve [its] diverse member base is by maintaining a diverse workforce."[32] For federal contractor UTC, "diversity is a competitive asset that enables [it] to more closely reflect and respond to the diverse needs of [its] markets, customers and communities."[33] And Fortune 500 company CVS believes that "having a broad range of ideas and viewpoints through a diverse workforce increases chances of success with the customer."[34]

Employee Productivity

Other employers tie diversity in general to corporate success by focusing on an increase in productivity among employees who feel valued and comfortable at work. For example, federal contractor Boeing promotes diversity to "provide a work environment for all employees that is welcoming, respectful, and engaging…[which] in turn increases productivity, quality, creativity and innovation."[35] And federal contractor L-3 Communications, "to compete and win in the industry[,] continually strives to create an environment where everyone is a valued member of the team with the opportunity to maximize his or her personal contribution."[36] And Fortune 500 company SuperValu's "goal is to create an environment of diversity and inclusion for people of all backgrounds. …[W]e'll have an atmosphere where each person feels comfortable and eager to contribute fully."[37]

Public Sector Clients

Some employers mention all of these ties between diversity and profitability, along with meeting public sector contract requirements. For example, top 50 federal contractor and top 50 Fortune 500 company McKesson states that "diversity and inclusion are good for business" because these values allow the company to "reflect and respond to a diverse customer base; keep pace with changing demographics; improve productivity, creativity and quality; improve teamwork and decision-making; demonstrate corporate citizenship; and support government contracts."[38]

Corporate Values

In addition to stating that diversity is good for the bottom line, several of the top 50 contractors and the top 50 Fortune 500 companies value diversity for reasons not directly related to corporate financial success. Among these reasons, fairness and respect for employees appeared the most often. For example, federal contractor Oshkosh Truck supports diversity in the company because it believes in treating employees "with dignity, respect, and fairness."[39] Fortune 500 company Chevron states that diversity is "good business practice," but also that it is "the right thing to do."[40] Similarly, Fortune 500 company CVS Caremark states that "diversity is consistent with our values of respect and openness, and we believe it is the right thing to do."[41]

Conclusion

Nearly all federal contractors and Fortune 500 companies reviewed in this study have stated that diversity is good for the bottom line. Most of these companies explicitly include sexual orientation and gender identity in their non-discrimination policies, and many explicitly state that differences in sexual orientation and gender identity contribute to the diversity of a workforce. In addition to showing that policies that promote diversity in general make good business sense, a number of employers have also expressly linked the inclusion of sexual orientation and/or gender identity, or the extension of domestic partner benefits, to positive business outcomes.

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EXHIBIT C

FACTS from EBRI

Employee Benefit Research Institute ▪ 2121 K Street, NW, Suite 600 ▪ Washington, DC ▪ 20037

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Domestic Partner Benefits: Facts and Background

(Updated February 2009)

■ What is a "domestic partnership" and what proof of the relationship is required?

- Domestic partner benefits are benefits that an employer chooses to offer to an employee's unmarried partner, whether of the same or opposite sex.
- An employer wishing to implement a domestic partner program needs to create a definition of what an eligible domestic partner is. The most common definitions contain four or five core elements: 1) The partners must have attained a minimum age, usually 18; 2) Neither person is related by blood closer than permitted by state law for marriage; 3) The partners must share a committed relationship; 4) The relationship must be exclusive; 5) The partners must be financially interdependent.
- An employer also must decide whether the domestic partner program is to cover same-sex couples only or include opposite-sex couples.
- Documentation of proof of a domestic partner relationship can take many forms. It is up to the employer to determine what is appropriate. Some employers are satisfied with the partners signing a written statement of their relationship. Some employers may require proof of some financial relationship, such as a joint lease or mortgage. Whatever documentation is required must be germane to the issue of validating a domestic partnership, or it could lead to claims of invasion of privacy.

■ What is included in domestic partner benefits and how many employers offer this benefit?

- Most employers that offer domestic partner benefits to their workers offer a range of only low-cost benefits, such as family/bereavement/sick leave, relocation benefits, access to employer facilities, and attendance at employer functions. However, most public attention involving domestic partner benefits involves employers that offer health insurance coverage to domestic partners.
- According to a 2007 survey by Hewitt Associates, 54 percent of surveyed firms offered coverage for domestic partners. Seventeen percent of firms offered domestic partner coverage to same-sex couples only; 1 percent of firms offered coverage to opposite-sex couples only; 32 percent of surveyed firms offered coverage for same or opposite-sex couples. According to a 2005 Hewitt Associates study, of those employers that offered domestic partner benefits, 83 percent offered the coverage to dependents of domestic partners. These numbers represent a significant increase since 2002, when 19 percent of surveyed firms offered domestic partner benefits.
- According to the Human Rights Campaign Fund, which describes itself as the largest national lesbian and gay political organization in the United States, as of May 16, 2008, 9,374 employers offered domestic partner benefits. Of that number, 8,653 are private-sector companies, with 270 of the Fortune 500 companies offering domestic partner benefits. A listing of firms that offer full health insurance coverage to domestic partners is posted by the Human Rights Campaign at www.hrc.org/

■ Why an employer offers domestic partner benefits:

- *Market competition and diversity*—The attraction to employees of a comprehensive benefits package that offers health and retirement coverage is well-documented. Given the typically diverse contemporary work force, some employers try to design their benefits package to appeal to that diversity and maintain a recruitment edge. According to a 2005 Hewitt Associates study, the number-one reason for offering domestic partner benefits was to attract and retain employees (cited by 71 percent of organizations offering benefits to same-sex couples and 69 percent to opposite-sex couples).
- *Fairness*—Many employers believe that by offering benefits to legally married partners of employees and not offering the same benefits to the partners of non-legally married employees discriminates on the basis of sexual orientation and/or martial status. Many employers have a formal policy against discrimination on the basis of sexual orientation, as the practice is illegal in some jurisdictions. The decision to offer domestic partner benefits communicates to employees that the employer is committed to its stated policy. According to a 2005 Hewitt Associates study, there was no statistical difference among organizations that

said offering domestic partner benefits to same-sex (65 percent) and opposite-sex (64 percent) couples was the fair/right thing to do.

■ **Costs of domestic partner benefits:**

- This is the primary concern for employers, especially with regard to health benefits, since extending coverage to more individuals increases the cost of health benefits. There are two components driving the cost issue: 1) How many new enrollees the plan can expect to receive; and 2) What risks are likely to be associated with those individuals. In 2005, Hewitt Associates found that in 88 percent of the organizations that offer domestic partner benefits, they comprise less than 2 percent of total benefit costs.
- In a 2005 study of domestic partner benefits, Hewitt Associates found that on average 1 percent of eligible employees offered domestic partner coverage in the health plan actually elected to take it. Many employers, in the planning stage, had anticipated an enrollment rate of 10 percent. In an earlier 1994 study, Hewitt found employers that allow only same-sex couples to enroll domestic partners in the health plan reported a lower enrollment rate, compared with those employers that allow opposite-sex couples to enroll. Overall, Hewitt found in 1994 that 67 percent of the couples electing domestic partner coverage were opposite-sex couples.
- Hewitt found, in 2000, that employers are no more at risk when adding domestic partners than when adding spouses. Experience has shown that the costs of domestic partner coverage are lower than anticipated. There are several reasons why: The employees eligible for domestic partner coverage tend to be young, and, as a result, healthy; enrollment in domestic partner coverage is low, primarily due to the fact that most domestic partners already have coverage through their own employers; any increased risk of AIDS among male same-sex couples appears to be offset by a decreased risk among female same-sex couples; and same-sex domestic partners have a very low risk of pregnancy.
- Most recent estimates (1996) of the lifetime costs of treating a person with HIV disease range from $71,143 to $424,763. By way of comparison, the cost of a kidney transplant can be as high as $200,000, and the cost of premature infant care can run from $50,000 to $100,000.

■ **Qualification for benefit privileges under current federal law:**

Tax Treatment

- The U.S. Internal Revenue Service (IRS) has addressed the issue of domestic partner coverage in several private letter rulings. According to those rulings, employment-based health benefits for domestic partners or nonspouse cohabitants are excludable from taxable income only if the recipients are legal spouses or legal dependents. The IRS also states that the relationship must not violate local laws in order to qualify for tax-favored treatment. See below for a discussion of the 1996 Defense of Marriage Act.
- The IRS leaves the determination of marital status to state law.
  - ♦ *Tax-Favored Treatment*—There are 11 states plus the District of Columbia that recognize common law marriages[a] and all states recognize common law marriages legally contracted in those jurisdictions that permit it. (http://topics.law.cornell.edu/wex/table_marriage) Couples in those jurisdictions that have a common law marriage do receive the tax favorable treatment in an employment-based plan for domestic partner coverage.
  - ♦ *No Tax-Favored Treatment*—See below for discussions of California's, Connecticut's and Massachusetts' recognition of same-sex marriages. Some cities (i.e., San Francisco and New York City) allow domestic partners to register their relationship with the city, but these registries do not provide legal status as marriage or common law marriage.
- The tax, for those who do not receive tax-favored status, is determined by assessing a fair market value for covering the domestic partner. This amount is then reported on the employee's W-2 form and is subjected to Social Security FICA and federal withholding taxes.
- Employees with domestic partners, including same-sex spouses, can get federal tax-free employer health benefits in two ways: (i) the partner qualifies as the employee's tax dependent for health plan purposes or (ii) the employee claims a federal tax exemption for the partner.

Sec. 125 Flexible Benefits and Spending Accounts

- Employee flexible benefit allowances that include extra money or credits toward providing coverage for a domestic partner are treated as taxable income.
- Flexible spending account benefits may not be provided to a domestic partner because such accounts can include only nontaxable income.

Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)

- Under federal law, no requirement exists that a plan must extend COBRA rights to domestic partners who lose coverage due to what would otherwise be a qualifying event. An employer may choose to extend COBRA coverage to a domestic partner but is under no legal obligation to do so.

Health Insurance Portability and Accountability Act of 1996 (HIPAA)

- Domestic partners may not be considered as dependents. However, an employer that provides health insurance to domestic partners may want to include them in the certification procedure for documenting the partnership and apply the other HIPAA requirements for consistency in administration.

Defense of Marriage Act of 1996 (DOMA)

- For purposes of federal tax law and benefits, DOMA established federal definitions of (a) "marriage" as a legal union only between one man and one woman as husband and wife; and (b) "spouse" as a person only of the opposite sex who is a husband or wife. Because of DOMA's provisions, if a state extends marriage to same-sex couples, same-sex partners would not be treated as spouses for federal tax and employee benefit purposes.
- Because marriages are granted through state law, DOMA also gives states the choice to recognize same-sex marriages legally performed in other states. The law does not specifically outlaw same-sex marriage, and states remain free to recognize same-sex marriage if they so choose. But by making one state's recognition of another state's legal acts optional in this instance, DOMA essentially creates an exception to the Full Faith and Credit Clause of the U.S. Constitution, thus raising constitutional questions concerning the validity of the law. Because Vermont created a parallel civil union rather than sanctioning same-sex marriage, the new law does not create an opportunity to challenge DOMA's constitutionality. Since the enactment of DOMA in 1996, the issue has not come before the U.S. Supreme Court for a decision.
- Among the states that ban same-sex marriage, 16 do so by law; eight do so by state constitution; and 18 states ban same-sex marriage and civil unions by state constitutions. www.hrc.org/your_community/index.htm

■ **State and local government actions affecting domestic partner benefits:**

Benefits generally are regulated at the federal level by the Employee Retirement Income Security Act of 1974 (ERISA), and private employers that choose to offer domestic partner benefits must follow federal law (see section above). Most recent legal activity concerning domestic partner benefits has involved state and local governments acting in their capacity as employers, but subject to local political and legal circumstances. As a result, some jurisdictions have taken very different approaches to the issue, such as:

Connecticut Supreme Court, Elizabeth Kerrigan et al. vs. Commissioner of Public Health, et al.

- October 28, 2008, Connecticut became the third state to legalize same sex marriage in a 4–3 ruling by the state's Supreme Court. (www.jud.state.ct.us/external/supapp/Cases/AROcr/CR289/289CR152.pdf)
- The state enacted a civil union law in 2005 that provides same-sex couples with some of the same rights and responsibilities under state law as marriage. Connecticut became the second state in the United States (following Vermont) to adopt civil unions, and the first to do so without judicial intervention.
- In the case *Kerrigan v Commissioner of Public Health*, eight same-sex couples argued that the state's civil union law was discriminatory and unconstitutional because it established a separate and therefore inherently unequal institution for a minority group. Citing equal protection under the law, the state Supreme Court agreed.

California Supreme Court, In re Marriage Cases

- May 15, 2008, the California Supreme court ruled by 4–3 that marriages between people of the same sex are legal, thereby overturning an existing statutory ban on same-sex marriage. The ruling went into effect June 14, 2008. (www.courtinfo.ca.gov/opinions/documents/S147999.PDF)
- Proposition 8 "Limit on Marriage" would amend the California state constitution to define marriage as between one man and one woman. Fifty-two percent of the electorate voted in favor of Proposition 8 in November 4, 2008, general election. The California Supreme Court agreed to consider challenges to Proposition 8 in March 2009. (www.courtinfo.ca.gov/courts/supreme/highprofile/prop8.htm)

Supreme Judicial Court of Massachusetts, Hillary Goodridge & others vs. Department of Public Health & another

- The Massachusetts Supreme Judicial Court held Nov. 18, 2003, that "barring an individual from the protections, benefits, and obligations of civil marriage solely because that person would marry a person of the same sex violates the Massachusetts Constitution." The court stayed the entry of judgment for 180 days "to permit the Legislature to take such action as it may deem appropriate in light of this opinion." (http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=ma&vol=sjcslip/sjcNov03c&invol=1)
- The Massachusetts State Senate asked the court for an advisory opinion as to whether legalized civil unions would be sufficient for same-sex couples. The court ruled on Feb. 6, 2004, that they would not, saying, "Because the proposed law by its express terms forbids same-sex couples entry into civil marriage, it continues to relegate same-sex couples to a different status. ... The history of our nation has demonstrated that separate is seldom, if ever, equal."
- The state court's decision providing state recognition of same-sex marriages went into effect on May 18, 2004. On March 29, 2004, the state legislature narrowly passed a state constitution amendment ballot measure that would overturn Goodridge. The amendment must be approved a second time in the 2005–2006 session of the legislature. On June 14, 2007, the effort to ban same-sex marriage by amending the state constitution was defeated.
- At this point it is unknown what impact the Massachusetts action might have on the federal Defense of Marriage Act, although it is speculated that a challenge arising out of a Massachusetts same-sex marriage (if one occurs) ultimately will test the legality of DOMA before the U.S. Supreme Court. In November 2004, the U.S. Supreme Court refused to hear a case trying to overturn the Massachusetts decision.

San Francisco City Marriages

- On Feb. 12, 2004, San Francisco Mayor Gavin Newsom ordered the city to begin approving same-sex marriages, and since then city clerks have conducted hundreds of same-sex marriage ceremonies. While state law and a voter-approved referendum passed in 2000 (Proposition 22) define marriage as a union of a man and a woman, Newsom maintains that the state constitution's broad equal protection clause pre-empts those laws. Legal challenges to the city's action currently are underway.

Vermont's Civil Union Law for Same-Sex Couples, Effective July 1, 2000

- On April 26, 2000, Vermont's governor signed into law H. 847 (Act 91) establishing a system of civil unions for same-sex couples, effective July 1, 2000. Couples entering into a civil union in Vermont will have the same state-guaranteed rights and privileges (and obligations) as married couples, even though they will not be considered "married" under state law.
- The highly controversial law stemmed from a unanimous ruling Dec. 20, 1999, by the state Supreme Court (*Stan Baker et al., vs. State of Vermont et al.),* which held that there was no state constitutional reason for "denying the legal benefits and protections of marriage to same-sex couples." The case could not be appealed to a federal court because the ruling was based on Vermont's constitution, so federal law did not apply.
- The Vermont Supreme Court did not give permission for legalizing same-sex marriages, but instead ordered the state legislature to come up with some method for implementing its decision. Because the legislature created a domestic partnership equivalent to marriage, employers are expected to be able to retain more design flexibility over their benefit plans, and ERISA will shield self-funded employers from being forced to cover "domestic partners" of Vermont employees.

Benefit Provision

- Because ERISA pre-empts state law provisions that relate to employee benefit plans, private employers will not be required to recognize civil unions as marriages for the purposes of employee benefit plan design. The exception to this is with regard to state family leave benefits and workers compensation benefits, which are not ERISA-covered programs.
- Insurers in Vermont are required to offer coverage to parties in civil unions and their dependents if they offer such coverage to spouses and dependents. It appears that employers are not required to purchase such policies for their employees. The insurance provisions of the law took effect on Jan. 1, 2001.

Who Is Eligible for a Civil Union and What Are the Rights and Benefits?

- Civil unions are available to two unrelated persons of the same sex who:
    1) Are at least 18 years old.
    2) Are competent to enter a contract.

3) Are not already married or in a civil union.
4) Have a guardian's written permission if they are under a guardianship.

There is no residency requirement, but to dissolve a civil union the parties must follow the same procedures required for divorce.

- Parties to a civil union have exactly the same rights and obligations as married couples and are subject to the state domestic relations laws regarding support, custody, property division, and dissolution of the relationship.

Reciprocal Beneficiary Relationships

- Related persons who cannot marry or enter into a civil union (i.e., siblings) can now enter into a "reciprocal beneficiary" relationship. This relationship will entitle them to more limited spousal-type rights than civil unions. Generally, these rights relate to health care decisions, hospital visits, and durable power of attorney for health care (Hawaii has had a similar reciprocal beneficiary law since 1997).
- Two states have enacted civil union laws which provide all the same rights and responsibilities as marriage: New Hampshire (www.gencourt.state.nh.us/legislation/2007/HB0437.html) and New Jersey. (www.njleg.state.nj.us/2006/Bills/A4000/3787_I1.PDF)

San Francisco Nondiscrimination in Contracts-Benefits Ordinance, Effective Jan. 1, 1997

- The Air Transport Association of America successfully sued the City of San Francisco, claiming airlines do not have to comply with the city's ordinance because the airlines' benefit packages are governed by federal law, specifically ERISA, which pre-empts state and local laws with regard to employee benefits. In an April 10, 1998, ruling, the U.S. District Court for the Northern District of California upheld the San Francisco ordinance *except* with regard to airlines. In her ruling, Judge Claudia Wilkens stated that the city acts as a "market participant" in dealing with city contractors—other than airlines—and the law therefore does not violate the ERISA pre-emption provisions. However, in the city's dealing with airlines at the city-owned airport, the city acts as a regulator, and not a market participant, so therefore the ordinance is pre-empted by ERISA with regard to the airlines, the judge ruled. The ruling applies the "market participant" standard to situations where the city wields no more power than an ordinary consumer in its contracting relationships.
- In November 1999, Los Angeles and Seattle joined San Francisco in enacting an ordinance that requires private employers that contract with the cities to provide benefits to the domestic partners of workers.

State and local governments as employers

Because state and local laws tend to vary significantly, there can be sharply different approaches by state and local governments—acting as employers—in the benefits they offer to their workers. For example:

- Virginia—In April 2000, the Virginia Supreme Court, in a unanimous ruling, struck down Arlington County's domestic partner benefits ordinance, holding that the county had exceeded its authority under state law.
- Oregon—A 1998 state appellate court ruling (*Tanner v. Oregon Health Sciences University*), held that the Oregon Constitution requires all state and local government agencies to offer equal benefits to gay and married employees.

For more information, contact Ken McDonnell, (202) 775-6367, or see EBRI's Web site at www.ebri.org.
Sources: Melody A. Carlsen, "Domestic Partner Benefits: Employer Considerations," *Employee Benefit Practices*, International Foundation of Employee Benefit Plans (fourth quarter 1994); Hewitt Associates, *Domestic Partners and Employee Benefits: 1994*, Research Paper (Lincolnshire, IL: Hewitt Associates); Hewitt Associates, *Survey Findings: Domestic Partners 2000* (Lincolnshire, IL: Hewitt Associates, 2000); Hewitt Associates, *Survey Findings: Benefit Programs for Domestic Partner & Same-Sex Couples 2005* (Lincolnshire, IL: Hewitt Associates, 2005); Hewitt Associates, *SpecSummary: United States Salaried: 2007–2008* (Lincolnshire, IL: Hewitt Associates, 2007); Barry Newman, Paul Sullivan, RTS, and Michele Popper, *Domestic Partner Benefits: An Employer's Perspective* (Newburyport, MA: Alexander Consulting Group, June 1996); Washington Resource Group of William M. Mercer, Inc., "Vermont Enacts Civil Union Law for Same-Sex Couples," *GRIST Report* (May 15, 2000).

[a] For a listing of states recognizing common law marriage, see *Common Law Marriage* at ExpertLaw. (www.expertlaw.com/library/family_law/common_law.html)
[b] The United States Constitution ordinarily requires every state to accord "Full Faith and Credit" to the laws of its sister states. Thus, a common law marriage that is validly contracted in a state where such marriages are legal will be valid even in states where such marriages cannot be contracted and may be contrary to public policy. Note: Under current law, this applies to common law marriages only; not all states permit common law marriages; and DOMA defines marriage as between a man and woman (see the section on DOMA above for application to same-sex marriages). For a discussion of the legal issues involved in *Common Law Marriage*, see ExpertLaw. (www.expertlaw.com/library/family_law/common_law.html)

EXHIBIT D

Domestic Partner Benefits

2000

About This Survey

In February and March 2000, Hewitt Associates LLC conducted a survey on the topic of Domestic Partner Benefits. The questionnaire was distributed to 2,023 organizations. These organizations were sampled from Hewitt Associates' mailing list, which includes client and nonclient companies. A total of 570 questionnaires were completed and returned. Ninety-four percent of returned surveys were from companies with over 1,000 employees.

Information gathered includes:

- Prevalence of nondiscrimination policies related to sexual orientation and marital status;
- Prevalence of domestic partner coverage;
- Domestic partner program design;
- Definition of domestic partner; and
- Impact of offering domestic partner benefits.

Contents

Survey Highlights

Survey Highlights

Prevalence

Twenty-two percent of participating companies currently offer domestic partner benefits to employees in some fashion. The large sample size allows us to have confidence in this result, which is accurate within +/-3 percentage points at the 95% confidence level.[1]

Of those companies offering domestic partner benefits, 76% indicated they implemented these benefits to attract and retain employees, by far the most prevalent reason. The next most frequently given reason, to comply with a nondiscrimination policy, was cited by 30% of the survey participants.

Thirty-five percent of the participating companies that do not offer domestic partner benefits indicated they may consider doing so within the next three years.

Design

Among the 22% of employers that do provide domestic partner benefits:

- Most cover both same-sex and opposite-sex partners. In general, those companies use the same definition of domestic partner for both same- and opposite-sex partners.
- 87% require some form of "proof" of domestic partnership, such as a signed affidavit.
- 98% have pricing structures that require the same contribution for domestic partners as for spouses.
- Over two-thirds (68%) require a minimum time period to pass before an employee can replace one domestic partner with another, and 92% require the employee to notify the company when a domestic partner relationship ends.

[1] $H^2 = (z^2/n)(\pi)(1-\pi)$. Where H=precision, z=1.96 (at 95% confidence level), n=sample size, π=proportion of respondents who answered "yes."

Participant Company Demographics

Participant Company Demographics

This section of the report describes the survey sample. The following sections detail survey results, including the percent of employers offering domestic partner benefits and other overall results, program design, how employers define domestic partners, the impact of offering these benefits, and a comparison to the "100 Best Companies to Work for in America."

The 570 companies that participated in this survey vary greatly in size, with staff size ranging from 81 to 300,000 employees. Only 5 respondents reported fewer than 500 employees. Comparing companies that do offer domestic partner benefits with those that do not produces similar results, though there is a somewhat greater concentration of smaller employers in the latter group.

Number of Employees

	Percent of Companies		
	All Companies	**Companies With Domestic Partner Benefits**	**Companies Without Domestic Partner Benefits**
0–1,000	6%	4%	6%
1,001–5,000	37%	29%	40%
5,001–10,000	23%	23%	23%
10,001–20,000	14%	20%	13%
20,001–30,000	7%	9%	7%
30,001–40,000	3%	4%	3%
40,001–50,000	2%	2%	2%
50,001–100,000	5%	5%	4%
Over 100,000	3%	4%	2%
	100%	100%	100%
Median	6,500	8,171	6,000
Average	16,064	18,959	15,222
Range	81–300,000	450–140,000	81–300,000
	(n=559)	*(n=126)*	*(n=433)*

Participant Company Demographics

The companies that participated in the survey represent a wide spectrum of industries. Overall, 45% of survey respondents conduct business in the manufacturing sector, and 55% conduct business in the nonmanufacturing sector.

Industry Representation

Manufacturing		Nonmanufacturing	
Diversified Manufacturing	8.4%	Diversified Nonmanufacturing	1.6%
Aerospace/Defense	1.2%	Agriculture/Forestry	0.4%
Automotive	3.0%	Associations/Foundations	0.4%
Chemicals	2.7%	Banking/Finance	7.3%
Computers/Office Equipment	1.4%	Computer Services/Software	4.6%
Consumer/Misc. Products Mfg.	3.4%	Construction/Engineering	1.6%
Electronics/Electrical	2.8%	Entertainment/Comm./Publishing	3.4%
Food & Beverage	4.3%	Health Care/Medical Services	1.1%
Forest Products/Packaging	2.7%	Hospitality/Restaurants	2.8%
Industrial Machinery	1.1%	Insurance	6.4%
Medical Devices/Products	1.8%	Printing	1.1%
Metals—Steel/Aluminum/Copper	1.1%	Professional Services	3.4%
Metals Fabrication	1.4%	Real Estate	0.4%
Mining/Milling/Smelting	0.9%	Retail (include. wholesale & dist.)	8.9%
Oil/Gas/Diversified Energy	3.0%	Telecommunications	2.5%
Pharmaceuticals/Personal Products	2.7%	Transportation Services	2.8%
Textiles/Apparel Manufacturing	1.4%	Utilities	4.8%
Other Manufacturing	2.0%	Other Nonmanufacturing	1.2%
	45.3%		54.7%

(n=564)

Participant Company Demographics

Union Representation

A slight majority of participating companies (53%) have some union members in their employee base.

Companies With Union Employees

	Percent of Companies
Union	53%
Nonunion	47%
	100%

(n=563)

Looking at those companies with union employees, the percentage of companies conducting business in a manufacturing industry increases approximately 16 percentage points (to 61.6%).

Industry Representation Among Union Employers

Manufacturing		Nonmanufacturing	
Diversified Manufacturing	13.3%	Diversified Nonmanufacturing	1.4%
Aerospace/Defense	2.0%	Agriculture/Forestry	0.3%
Automotive	4.4%	Associations/Foundations	0.0%
Chemicals	4.1%	Banking/Finance	0.7%
Computers/Office Equipment	0.7%	Computer Services/Software	0.7%
Consumer/Misc. Products Mfg.	5.1%	Construction/Engineering	2.0%
Electronics/Electrical	2.4%	Entertainment/Comm./Publishing	3.7%
Food & Beverage	6.8%	Health Care/Medical Services	0.3%
Forest Products/Packaging	4.7%	Hospitality/Restaurants	1.7%
Industrial Machinery	1.7%	Insurance	1.0%
Medical Devices/Products	1.4%	Printing	0.7%
Metals—Steel/Aluminum/Copper	1.7%	Professional Services	1.0%
Metals Fabrication	2.7%	Real Estate	0.3%
Mining/Milling/Smelting	1.4%	Retail (include. wholesale & dist.)	7.4%
Oil/Gas/Diversified Energy	3.4%	Telecommunications	2.4%
Pharmaceuticals/Personal Products	2.4%	Transportation Services	5.1%
Textiles/Apparel Manufacturing	1.0%	Utilities	8.3%
Other Manufacturing	2.4%	Other Nonmanufacturing	1.4%
	61.6%		38.4%

(n=296)

Overall Results

Overall Results

Nearly two-thirds of all companies surveyed (61%) formally prohibit discrimination on the basis of marital status in a firmwide policy, while 0.5% do so in one or more collective bargaining agreements. Over one-third (39%) do not expressly prohibit this type of discrimination.

Practices prohibiting discrimination on the basis of sexual orientation are similar, with 64% of the surveyed companies prohibiting this type of discrimination in policy, 0.2% prohibiting this discrimination in collective bargaining agreement(s), and 36% not formally addressing the issue.

Formal Nondiscrimination Practices

	Percent of Companies Prohibiting Discrimination on the Basis Of:	
	Marital Status	**Sexual Orientation**
Prohibit in firmwide policy	61%	64%
Prohibit in one or more labor agreements	<1%	<1%
Do not formally prohibit	39%	36%
	100%	100%
	(n=550)	*(n=551)*

Overall Results

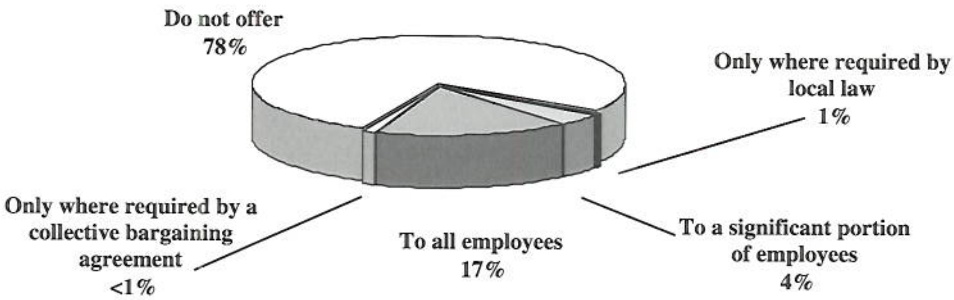
Most of the surveyed companies (86%) handle the issues of marital status discrimination and sexual orientation discrimination in the same manner, that is, formally prohibiting both or not prohibiting either.

Discrimination Policies—Marital Status Versus Sexual Orientation

	Percent of Companies
Formally prohibit both marital status and sexual orientation discrimination	55%
Do not formally prohibit discrimination on the basis of marital status or sexual orientation	31%
Formally prohibit sexual orientation discrimination, but not marital status discrimination	7%
Formally prohibit marital status discrimination, but not sexual orientation discrimination	5%
Unknown, as information was provided on only one type of discrimination	2%
	100%
	(n=557)

Of the 570 companies participating in the survey, 22% offer domestic partner benefits to some or all of their employees, while 78% do not offer this benefit at all.

Offer Domestic Partner Benefits—All Employers

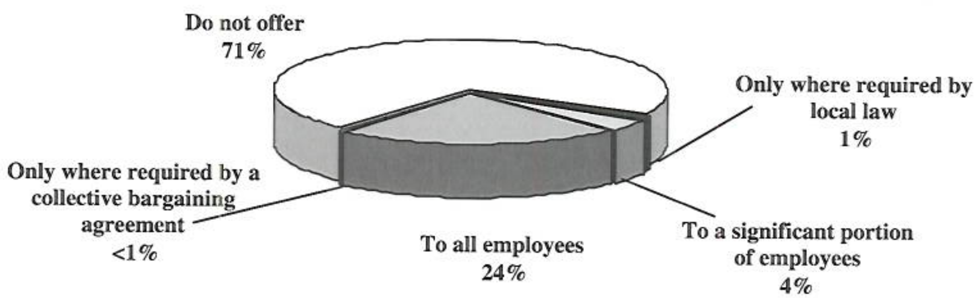


(n=570)

Overall Results

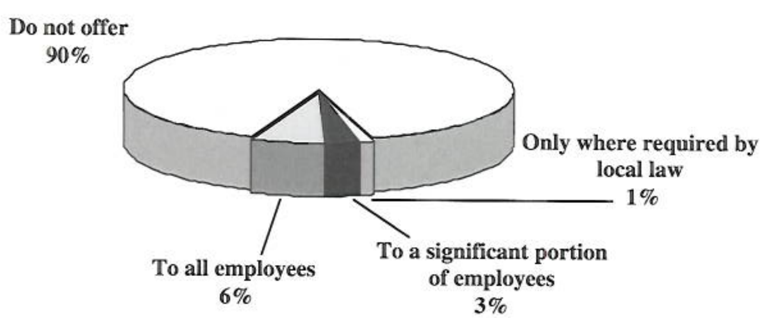
When responses regarding offering domestic partner benefits are compared with responses regarding policies prohibiting discrimination based on marital status or sexual orientation, the findings show that companies with policies prohibiting both kinds of discrimination are more likely to offer domestic partner benefits.

Domestic Partner Benefit Policy—Employers Prohibiting Discrimination Based on Both Marital Status and Sexual Orientation



(n=305)

Domestic Partner Benefit Policy—Employers Prohibiting Neither Type of Discrimination



(n=172)

Overall Results

The following table provides additional detail about how nondiscrimination policies relate to the offering of domestic partner benefits. *Percentages apply only to the companies in each of the detailed discrimination policy categories.*

Domestic Partner Benefits, Relative to Discrimination Policies

	All Employers
Prohibit discrimination based on *both* marital status and sexual orientation	
Domestic partner benefits provided:	
Not provided	71%
To all employees	24%
To a significant portion of employees	4%
Only where required by local law	1%
Only where required by a collective bargaining agreement	< 1%
	(n=305)
Prohibit *neither* type of discrimination	
Domestic partner benefits provided:	
Not provided	90%
To all employees	6%
To a significant portion of employees	3%
Only where required by local law	1%
Only where required by a collective bargaining agreement	0%
	(n=172)
Prohibit discrimination based on *marital status only*	
Domestic partner benefits provided:	
Not provided	100%
To all employees	0%
To a significant portion of employees	0%
Only where required by local law	0%
Only where required by a collective bargaining agreement	0%
	(n=26)
Prohibit discrimination based on *sexual orientation only*	
Domestic partner benefits provided:	
Not provided	68%
To all employees	27%
To a significant portion of employees	5%
Only where required by local law	0%
Only where required by a collective bargaining agreement	0%
	(n=41)

Overall Results

The following table shows the types of domestic partners covered, according to the types of discrimination policies the employer has. Note that no employers with a policy prohibiting discrimination based on *marital status only* provide any domestic partner coverage.

Type of Domestic Partners Covered, by Discrimination Policy

	Percent of Companies
Prohibit discrimination based on *both* marital status and sexual orientation	
Do not provide domestic partner coverage	71%
Cover both same-sex and opposite-sex partners	17%
Cover same-sex partners only	12%
Cover opposite-sex partners only	0%
	(n=305)
Prohibit *neither* type of discrimination	
Do not provide domestic partner coverage	90%
Cover both same-sex and opposite-sex partners	8%
Cover same-sex partners only	1%
Did not indicate type of domestic partners covered	1%
Cover opposite-sex partners only	0%
	(n=172)
Prohibit discrimination based on *sexual orientation only*	
Do not provide domestic partner coverage	68%
Cover both same-sex and opposite-sex partners	17%
Cover same-sex partners only	15%
Cover opposite-sex partners only	0%
	(n=41)

Overall Results

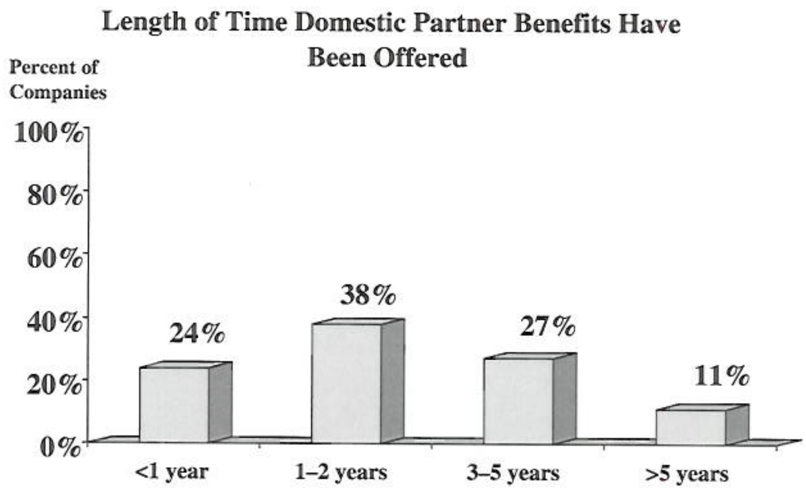
A majority of organizations offering domestic partner benefits originally did so to attract and retain employees.

Reasons Began Offering Domestic Partner Benefits

	Percent of Companies
To attract and retain employees	76%
To comply with a nondiscrimination policy	30%
To comply with local government regulations	17%
Organizational/industry competitiveness	6%
Seemed right/fair	6%
Diversity issues	4%
As a requirement of a collective bargaining agreement	2%
Other (e.g., employee request; acquisition)	8%

(n=125, multiple responses)

Nearly 9 out of 10 (89%) of those organizations that do offer domestic partner benefits began offering these benefits in the last 5 years.



(n=126)

Overall Results

Among those companies not currently offering domestic partner benefits to their employees, slightly over one-third (35%) are considering doing so within the next three years.

Likelihood of Offering Domestic Partner Benefits in the Future

	Percent of Companies
May consider offering next year	11%
May consider offering in the next 2 years	12%
May consider offering in the next 3 years	12%
Are unlikely to consider offering domestic partner benefits in the next 3 years	65%
	100%
	(n=426)

Program Design

Program Design

***Note:** The remainder of this report presents **only** the responses from those 22% of participants that **do offer** domestic partner benefits to same-sex and/or opposite-sex partners.*

Nearly two-thirds of companies with domestic partner benefits (64%) provide coverage for both same-sex and opposite-sex partners. Just over one-third (36%) only offer benefits to partners of the same sex. None of the companies reported offering domestic partner benefits to opposite-sex partners only.

Coverage for Same-Sex Partners, Opposite-Sex Partners, and/or Dependents

		Percent of Companies
Cover same-sex and opposite-sex partners:		64%
and partners' dependents	53%	
but not partners' dependents	11%	
Cover same-sex partners only:		36%
and partners' dependents	28%	
but not partners' dependents	8%	
Cover opposite-sex partners only		0%
		100%

(n=126)

Program Design

When looking at companies offering domestic partner benefits, partners of employees are almost always allowed the opportunity to elect medical and dental coverage (94% to 98%). At over two-thirds of respondent companies, partners are eligible for vision coverage and COBRA-like benefits. Bereavement leave, FMLA-like leave, and life insurance are extended to partners at over one-half of respondent companies. Note that less than one quarter of companies offering domestic partner benefits indicated they offer "other" benefits.

Types of Benefits Extended to Domestic Partners

	Percent of Companies	
	Benefits Extended to Same-Sex Partners	**Benefits Extended to Opposite-Sex Partners**
Medical	98%	98%
Dental	95%	94%
Vision	77%	72%
COBRA or COBRA-like benefits	71%	68%
Bereavement leave	61%	60%
FMLA-like leave	56%	54%
Life insurance	51%	52%
Other (EAP, AD&D, Prepaid legal)	21%	22%
(multiple responses)	*(n=126)*	*(n=81)*

Program Design

Among the group that did indicate offering "other" benefit programs, access to an employee assistance program (EAP) was the most frequently cited benefit, with 44% to 46% of these respondents extending their EAP to domestic partners/their dependents. AD&D coverage, long-term care insurance, and prepaid legal advice were the next most frequently cited other benefits.

"Other" Benefit Programs (Among Those With Any)

	Percent of Companies	
	Same-Sex Partners	**Opposite-Sex Partners**
Employee assistance program	46%	44%
AD&D coverage	19%	28%
Long-term care insurance	19%	17%
Prepaid legal	15%	22%
Adoption reimbursement	15%	11%
Beneficiary for pension/401(k) plan	15%	11%
Relocation and/or travel assistance	12%	17%
Home or auto insurance	12%	17%
Work/life program	8%	11%
Merchandise discounts	4%	6%
Credit union	4%	6%
On-site children's center	4%	6%
Health flexible spending account	4%	6%
Dependent scholarship	4%	6%
Group universal life	4%	0%
Dependent life insurance	4%	0%
Prescription program	4%	0%
(multiple responses)	*(n=26)*	*(n=18)*

Program Design

A slight majority of companies that offer domestic partner benefits (52%) require the employee to sign an affidavit certifying the domestic partnership, while 15% require a signed affidavit plus some "other" proof. And, although 13% of respondent companies use the honor system, requiring no proof, 20% either require written certification with local government, a combination of affidavit/certification/other, or very specifically require one or more types of acceptable tangible evidence.

Required Proof of Domestic Partnership

	Percent of Companies
Signed affidavit (i.e., form certifying relationship)	52%
Signed affidavit plus "other" proof	15%
No proof required	13%
Other combination of affidavit/certification/other	9%
Written certification (i.e., domestic partnership registration with local government)	5%
Other (e.g., specific number of designated types of evidence required)	6%
	100%

(n=124)

Program Design

Almost all of the respondent companies (98%) that offer domestic partner benefits require the same employee contribution for the partner's coverage as they require for spousal coverage. Only two companies (2%) have employee contribution amounts for "employee and domestic partner" that differ from the "employee and spouse" contribution amount.

One of these companies provided details regarding the pricing structure differences. The employer contributes a higher amount for "employee plus spouse" coverage than for "individual" coverage, but makes only the "individual" employer contribution towards "employee plus domestic partner" coverage.

Pricing Structure for Domestic Partner Coverage

	Percent of Companies
The employee contribution required for domestic partner coverage is the same as for spousal coverage	95%
No employee contribution is required for domestic partner coverage or for spousal coverage	3%
The pricing structure is different for domestic partner coverage as compared with spousal coverage	2%
	100%

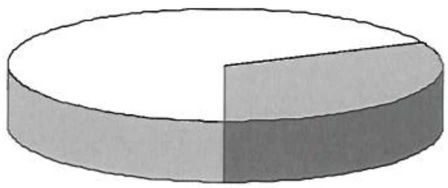
(n=124)

***Note:** If the only cost differences between "employee + spouse" and "employee + domestic partner" coverages were imputed income and the taxation of the portion of "employee + domestic partner" attributed to covering a partner, for purposes of this survey, the contributions are considered equal.*

Program Design

Over two-thirds of companies (68%) offering domestic partner benefits require a minimum amount of time to pass before their employees can replace one domestic partner with another domestic partner.

Is a Minimum Period of Time Required Before a Domestic Partner Can be Replaced?



(n=126)

Of the companies providing detailed information on the length of time that must pass before an employee is allowed to replace one domestic partner with another, slightly over one-half (51%) mandate that a 1-year period must pass, while over one-third of the companies (39%) define the minimum time to be 6 months.

Minimum Time Required Between Domestic Partners

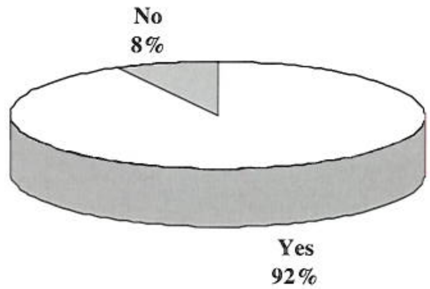
	Percent of Companies
1 year	51%
6 months	39%
Other (e.g., 15 months; 2 years; 6 months, unless partner dies)	10%
	100%

(n=85)

Program Design

Most companies with domestic partner benefits (92%) require their employees to notify the organization when the domestic partner relationship ends.

Required to Notify Company When the Domestic Partnership Ends?



(n=125)

Definition of Domestic Partner

Definition of Domestic Partner

Sixty-five percent of respondents indicated they use the same definition of *domestic partner* for both same-sex and opposite-sex partners. Less than 1% offer benefits to both groups but define *domestic partner* differently for the two groups. The remaining 35% of respondents indicated this issue does not apply to their program, since they offer domestic partner benefits to only same-sex partners.

Same Definition of "Domestic Partner" for Same-Sex and Opposite-Sex Partners?

	Percent of Companies
Yes	65%
No	<1%
Does not apply, we cover only same-sex partners	35%
	100%

(n=124)

Definition of Domestic Partner

On average, companies define domestic partner using 5 different components (range is 1 to 7).

Number of Components in Domestic Partner Definition

	Percent of Companies	
	Number of Components in Same-Sex Definition	**Number of Components for Opposite-Sex Definition**
1 component	6%	5%
2 components	3%	1%
3 components	6%	3%
4 components	11%	11%
5 or more components	74%	80%
	100%	100%
Median number of components	6	6
Average number of components	5.3	5.5
Range in number of components	1–7	1–7
	(n=124)	*(n=79)*

Definition of Domestic Partner

The companies that offer domestic partner benefits were asked how their organizations define *domestic partner* for their benefits programs. The following table identifies the various components used to define domestic partner.

Definition of Domestic Partner: Components

	Same-Sex Partners	Opposite-Sex Partners
Being financially interdependent	83%	87%
Being in an exclusive relationship	82%	90%
Not being related by blood closer than permitted by state law for marriage	82%	87%
Being in a committed relationship	82%	80%
Minimum age	76%	77%
Minimum period of time residing together	73%	72%
Having registered as domestic partners with a government agency	23%	25%
Other	29%	33%
	(n=124)	*(n=79)*

(multiple responses)

Definition of Domestic Partner

The following six tables provide further information about specific requirements for several of these components.

Financial Interdependence

	Percent of Companies	
	Same-Sex Partners	**Opposite-Sex Partners**
Jointly responsible for each other's welfare and financial obligations	40%	46%
Joint accounts/ownership	21%	20%
Jointly responsible for each other's financial welfare and basic living expenses	15%	18%
Responsible for each other's common welfare	5%	6%
Joint accounts/ownership and share living expenses	5%	6%
Other (e.g., live together and are jointly responsible for living expenses during domestic partnership; primary beneficiary on each other's wills and life insurance)	14%	4%
	100%	100%
	(n=78)	*(n=50)*

Definition of Domestic Partner

In an Exclusive Relationship

	Percent of Companies	
	Same-Sex Partners	**Opposite-Sex Partners**
Not married to each other, and not married to or legally separated from anyone else	31%	31%
Not married to or legally separated from anyone else, and no other partner	30%	29%
Sole domestic partner, with indefinite intent to be sole domestic partner	10%	10%
Not married to each other or anyone else, and sole spousal equivalent	6%	8%
No one else involved in relationship (for "x" months or years)	3%	4%
In relationship for "x" months	3%	4%
Other (e.g., statement on affidavit; reside together; mutually exclusive)	17%	14%
	100%	100%
	(n=70)	*(n=49)*

Definition of Domestic Partner

In a Committed Relationship

	Percent of Companies	
	Same-Sex Partners	**Opposite-Sex Partners**
Long-standing *plus* sole domestic partner	16%	17%
Emotionally committed to each other; mutual caring and support	12%	13%
Spouse-like; in all respects like a marriage	12%	7%
Indefinite; long-standing	9%	7%
Emotionally committed and intend to remain so	7%	7%
By statement on an affidavit	7%	7%
Share a close, personal relationship; intimate	5%	9%
Being together "x" months or years	5%	7%
Sole domestic partner	4%	7%
Living together with intent to do so indefinitely	4%	4%
Long-standing plus mutual caring	4%	4%
Other (e.g., jointly responsible for each other's welfare; combinations of above definitions)	15%	11%
	100%	100%
	(n=75)	*(n=46)*

Definition of Domestic Partner

Minimum Age

	Percent of Companies	
	Same-Sex Partners	Opposite-Sex Partners
18 years old	87%	97%
21 years old	2%	3%
Age of consent	10%	0%
18 years plus marriageable in state of residence	1%	0%
	100%	100%
	(n=93)	*(n=61)*

Minimum Period of Time Residing Together

	Percent of Companies	
	Same-Sex Partners	Opposite-Sex Partners
1 year	47%	49%
6 months	47%	46%
Other (e.g., 18 months; 6 months unless partner dies)	6%	5%
	100%	100%
	(n=89)	*(n=57)*

Definition of Domestic Partner

"Other" Defined

	Percent of Companies	
	Same-Sex Partners	Opposite-Sex Partners
Mentally competent to consent to contract or sign an affidavit (when domestic partnership first entered)	34%	27%
Not legally married and/or not having another domestic partner	11%	8%
Reside together and intend to do so indefinitely	9%	11%
Not in this relationship for the sole purpose of obtaining coverage	9%	11%
Reside together	9%	8%
Mentally competent to consent to contract plus share same residence	6%	8%
Mentally competent to consent to contract plus jointly responsible for emotional well-being	6%	8%
Cannot merely be roommates	5%	8%
Other (e.g., sole domestic partner; stated in affidavit)	11%	11%
	100%	100%
	(n=35)	*(n=26)*

Impact of Offering Domestic Partner Benefits

Impact of Offering Domestic Partner Benefits

Domestic partner benefit programs comprise a small percentage of total benefits programs from both enrollment and financial perspectives. At over one-half of the companies offering domestic partner benefits, less than 1% of employees eligible for benefits actually elected coverage for a domestic partner.

Percent of Eligible Employees Electing Coverage for a Domestic Partner

	Percent of Companies
Less than 1%	58%
1.0%–2.9%	32%
3.0%–4.9%	5%
5% or more	5%
	100%
Median	0.5% of employees
Average	1.2% of employees
Range	0%–10% of employees

(n=111)

Eighty-five percent of companies indicated that offering domestic partner benefits comprises less than 1% of total benefit costs.

Financial Impact of Offering Domestic Partner Benefits

Percent of Total Benefits Cost	Percent of Companies
Less than 1%	85%
1.0%–2.9%	14%
3%–5%	1%
5% or more	0%
	100%

(n=99)

100 Best Employers

100 Best Employers

The following three tables compare results from this survey with domestic partner benefit practices at *Fortune's* "100 Best Companies to Work for in America." The 100 Best Companies were selected by study authors Robert Levering and Milton Moskowitz as published in January 2000.

The percentage of the 100 Best offering domestic partner benefits to their employees (44%) is twice the percentage of this survey's participants (22%) that offer domestic partner benefits.

Offer Domestic Partner Benefits

	Percent of Companies
100 Best *(n=100)*	44%
Survey participants *(n=570)*	22%

At the 100 Best companies that offer domestic partner benefits, almost three-quarters (72%) offer coverage to both same-sex and opposite-sex partners. Slightly less than two-thirds (64%) of this survey's participants cover both groups.

Coverage for Same-Sex versus Opposite-Sex Partners

	Percent of Companies	
	100 Best	Survey Participants
Same-sex and opposite-sex partners	72%	64%
Same-sex partners, but not opposite-sex	26%	36%
Opposite-sex partners, but not same-sex	2%	0%
	100%	100%
	(n=44)	*(n=126)*

100 Best Employers

Almost all companies in both comparator groups (98%) use the same pricing structure for domestic partner coverage as for spousal coverage.

Pricing Structure for Domestic Partner Coverage

	Percent of Companies	
	100 Best	**Survey Participants**
The pricing structure for domestic partner coverage is the same as for spousal coverage	98%	98%
The pricing structure is different for domestic partner coverage as compared with spousal coverage	2%	2%
	100%	100%
	(n=44)	*(n=124)*

Participating Employers

Participating Employers

A

Abbott Laboratories
ADC Telecommunications, Inc
Advantica Restaurant Group, Inc.
Advo Inc.
Aera Energy Services
Aerojet-General Corporation
Aetna Services, Inc.
AFC Enterprises, Inc.
AGCO Corp.
AGL Resources
Airborne Express
Albemarle Corporation
Alcatel NA, Inc.
Alcatel USA, Inc.
Alexander & Baldwin, Inc.
Allergan, Inc.
Alliance Coal, LLC
Allmerica Financial Corporation
ALLTEL Corporation
Amcast Industrial Corporation
Ameren Corporation
America Online, Incorporated
American Airlines, Inc.
American Association of Retired Persons
American Cancer Society
American Crystal Sugar Company
American Family Insurance Group
American General Corporation
American Management Systems, Inc.
American Medical Security
Ames Department Stores, Inc.
Amgen Inc.
Anadarko Petroleum Corporation
Analog Devices, Inc.
Aon Corporation
APL, Ltd.
Apogee Enterprises, Inc.
Applied Power Inc.
AptarGroup, Incorporated
Armstrong World Industries, Inc.
Automatic Data Processing, Inc.
AutoNation Inc.
Avery Dennison Corporation
Avid Technology, Inc.
Avnet, Inc.
Avon Products, Inc.
Axel Johnson Inc.

B

Robert W. Baird & Co. Incorporated
Bank One Corporation (Columbus, OH)
C. R. Bard, Inc.
Barnes & Noble Book Stores, Inc.
Basic American Foods
Bass Hotels & Resorts
Bassett Furniture Industries, Inc.
Battelle Memorial Institute
Bausch & Lomb Inc
Baxter International, Inc.
Bayer Corporation
BB&T Corporation
Bear Stearns & Co. Inc.
Beckman Coulter, Inc.
Becton Dickinson and Company
Bell & Howell Company
BellSouth Corporation
Belo Corporation
Bemis Manufacturing Company
Best Buy Company, Inc.
Bethlehem Lukens Plate
BFGoodrich Aerospace
Binney & Smith Inc.
BJ Services Company
The Black & Decker Corporation
Blue Cross Blue Shield of Massachusetts
Blue Cross Blue Shield of North Dakota

BMC Software, Inc.
The Boeing Company
Boise Cascade Corporation
The Bon-Ton
Robert Bosch Corporation
Bowne and Company
Bridgestone/Firestone, Inc.
Briggs & Stratton Corporation
Bristol-Myers Squibb Company
Brown Brothers Harriman & Co
The Budd Company
Burger King Corporation
Burlington Industries, Inc.
Burmah Castrol Holdings Inc.
Burns International Services Corporation

C

Cadillac Plastic
Canandaigua Wine Company, Inc.
Capital Group Companies, Inc.
Carefirst Blue Cross Blue Shield
Carlson Companies, Inc.
Carnival Cruise Lines, Inc.
Carolina Power & Light Company
Caterpillar Inc.
CBS Corporation
CCI/Triad
Cendant Corporation
Ceridian Corporation
CH2M HILL, Inc.
Charter One Bank (Cleveland, OH)
Chas. Levy Company
Checker's Drive-In Restaurants Inc.
The Cherry Corporation
Chevron Corporation
Children's Hospital Medical Center
(Cincinnati, OH)
Chubb Group of Insurance Companies
Circuit City Stores, Inc.
CIT Group - Newcourt Services
Citizens Banking Corporation (Flint, MI)
Citizens Bank (Providence, RI)
CNH Global
The Coca-Cola Company
Collins & Aikman Corporation
The Columbia House Company
Comcast Corporation
Comdisco, Inc.
Commercial Metals Company
Compaq Computer Corporation
Compass Group, USA Division
Computer Sciences Corporation
ConAgra, Inc.
Conseco, Inc.
CONSOL Inc.
Consolidated Papers, Inc.
Consumers Energy Company
Convergys Corporation
Cookson America, Inc.
Cooper Cameron Corporation
Coors Brewing Company
The Copps Corporation
Core-Mark International
Cosmair, Inc.
Costco Companies, Inc.
Country Companies
Countrywide Home Loans, Inc.
Covance Inc.
Cox Enterprises, Inc.
CS First Boston
CVS Corporation

D

DaimlerChrysler Corporation
Dal-Tile International Inc.
DAMARK International, Inc.
Day & Zimmermann
Day-Timers, Inc.
Dayco Products, Inc.
The Dayton Power & Light Company
Deere & Company
Del Monte Corporation
Dell Computer Corporation
The Denver Post
Depuy, Inc.
Deutsche Bank AG
Devro-Teepak, Inc.
DHL Airways, Inc.
The Dime Savings Bank (Uniondale, NY)
The Doe Run Company
Dole Food Company, Inc.
Dollar Bank (Pittsburgh, PA)

Donaldson Company, Inc.
Dow Jones & Co Inc
The Charles Stark Draper Laboratory, Inc.
A. Duda & Sons, Inc.
The Dun & Bradstreet Corporation
DuPont AG Enterprise
Dynegy Inc.

E

The Earthgrains Company
Eastman Chemical Company
Eat N' Park Restaurants, Inc.
Eaton Corporation
Eckerd Corporation
Ecolab Inc.
Elias Brothers Restaurants Inc.
EMC Corporation
Emerson Electric Co.
Emigrant Savings Bank (New York, NY)
Energen Corporation
Enron Corp.
Equant
ESPN, Inc.
Exabyte Corp.
Exide Corporation

F

Fannie Mae
Federal Express Corporation
Federal Reserve Bank of Atlanta
Federal Reserve Bank Of Boston
Federal Reserve Bank of Chicago
Federal Reserve Bank of San Francisco
Federal-Mogul Corporation
Federated Department Stores, Inc.
Feld Entertainment, Inc.
Fireman's Fund Corporation
The First American Financial Corporation
First Data Corporation
First Data Resources
First Virginia Banks, Inc.
FirstEnergy Corp.
FirstMerit Corporation
Fiserv, Inc.
Fisher Scientific International Inc.
Robert Fleming Inc.
Fluor Corporation
Foamex International Inc.
Foley & Lardner
Fort James Corporation
Foster Wheeler Corporation
Fox Entertainment Group, Inc.
Fox Valley Corporation
Franklin Electric Co Inc
Fresenius Medical Care NA
Frito-Lay, Inc.
Fritz Companies, Inc.
Fujisawa Healthcare, Inc.
Fujitsu Business Communication Systems

G

GAB Robins North America, Inc.
Galileo International
GAMBRO Healthcare
The Gates Rubber Company
Gaylord Container Corporation
Genentech, Inc.
General Casualty Companies
General Chemical Corporation
General Mills, Inc.
General Motors Corporation
GenRad, Inc.
Genuine Parts Company
Gerber Childrenswear, Inc.
Goldman, Sachs & Co.
Golub Corporation
GPU, Inc.
GRC International, Inc.
Great American Insurance Co.
The Great-West Life Assurance Company
The Green Point Savings Bank
(Lake Success, NY)
Greyhound Lines, Inc.
GTE Internetworking
The Guardian Life Insurance Company
of America
Gulf States Paper Corporation
Gulfstream Aerospace Corporation

H

H&R Block, Inc.
Hallmark Cards Incorporated
Hannaford Bros. Co.
Harcourt General, Inc.
Harley-Davidson Motor Company
Harris Bank (Chicago, IL)
The Hartford
Hartmarx Corporation
Hawaiian Electric Company, Inc.
Haworth, Inc.
Helmerich & Payne, Inc.
Hercules Incorporated
Herman Miller, Inc.
Hershey Foods Corporation
The Hertz Corporation
Hitachi Koki Imaging Solutions, Inc.
The Home Depot, Inc.
Houghton Mifflin Company
HSBC Bank USA (Buffalo, NY)
Hughes Electronics Corporation
Hughes Supply, Inc.
Hyatt Hotels Corporation

I

ICF Consulting Group, Inc.
ICI Paints North America
IIT Research Institute
IKON Office Solutions, Inc.
Illinois Tool Works Inc.
IMC Global Inc.
Indiana Energy, Inc.
Information Resources, Inc.
Ingram Micro Inc.
Interim Services, Inc.
InterMetro Industries Corporation
International Business Machines Corporation
International Multifoods Incorporated
International Paper Company
Interstate Hotels Corp.
ITT Corporation
IVAX Corporation

J

J&L Specialty Steel, Inc.
Jack in the Box Inc.
JCPenney Company, Inc.
Jim Beam Brands Co.
Jo-Ann Stores, Inc.
Jockey International, Inc.
John Hancock Financial Services Inc.
Johnson Controls, Inc.
Jostens

K

Keane Inc.
Keebler Company
Kelly Services, Inc.
Key Span Energy
Kimberly-Clark Corporation
Kinder Morgan Inc.
Koch Industries Inc.
Kohl's Corporation
Kollmorgen Corp
The Kroger Co.

L

Laclede Gas Company
Lands' End, Inc.
Legg Mason, Inc.
Leland James Service Corporation
Levitz Furniture Corporation
Liberty Financial Companies, Inc.
Lifetouch Inc.
Lindberg Corporation
Loews Corporation
Lone Star Industries Inc.
The Lubrizol Corporation
LVMH Moet Hennessy Louis Vuitton Inc.

M

Mack Trucks, Inc.

Malcolm Pirnie, Inc
Mallinckrodt Inc.
Manpower Inc.
Maritz, Inc.
Marsh Supermarkets, Inc.
Marshall Erdman & Associates
Marvel Enterprises Inc.
Mary Kay Cosmetics, Inc.
McCormick & Company, Inc.
McDermott International, Inc.
McDonald's Corporation
McKesson HBOC, Inc.
Medtronic, Inc.
Merck & Co., Inc.
Merrill Corporation
Michaels Stores, Inc.
Micron Technology, Inc.
Miller Brewing Company
3M
Minnesota Mutual Life Insurance Company
Mitchell Energy & Development Corp.
The MITRE Corporation
Mitsubishi Electric America, Inc.
Mitsubishi Motor Sales of America, Inc.
Moore North America, Inc.
Morrison Knudsen Corporation
Mutual of Omaha Insurance Company
Myers Industries, Inc.

N

National City
Navy Federal Credit Union
NCR Corporation
Neenah Foundry Company
New Jersey Manufacturers Insurance Company
New York Medical College
The New York Times Company
Nextel Communications, Inc.
Niagara Mohawk Power Corporation
NIKE, Inc.
Nippondenso America, Inc.
Nissan Motor Corporation in U.S.A.
Nordstrom, Inc.
Northern States Power Company
Northwest Airlines Inc.
Northwestern Public Service Company
NSK Corporation
NVR, Incorporated

O

Occidental Petroleum Corporation
Ocean Spray Cranberries, Inc.
Oki Semiconductor
Olin Corporation
Olsten Services
Omaha Public Power District
Oracle Systems Corporation

P

PACCAR Inc.
PG&E Corporation
PacifiCorp
PaineWebber Incorporated
PAREXEL International Corporation
The Parsons Corporation
Paychex, Inc.
Peabody Holding Company, Inc.
Pearson Education
Pechiney Plastic Packaging, Inc.
Pella Corporation
Pennsylvania National Mutual Casualty Insurance Company
Pentair, Inc.
People's Bank
Perot Systems Corporation
Peter Kiewit Sons', Inc.
Pfizer Inc.
Pharmacia & Upjohn, Inc.
Philip Services Corporation
Philips Electronics Corporation
Physicians Mutual Insurance Company
Pier 1 Imports, Inc.
Pitt-Des Moines, Inc.
PNC Bank Corp. (Pittsburgh, PA)
Post Properties, Inc.
Potlatch Corporation
Potomac Electric Power Company
Premera Blue Cross

Prestolite Wire Corporation
The Procter & Gamble Company
Progressive Casualty Insurance Company
Public Service Enterprise Group Incorporated

Q

Qualcomm Incorporated
Qualex Inc.
Quantum Corporation
Questar Corporation
Qwest Communications International, Inc.

R

Raytheon Company
RCG Information Technology, Inc.
Recreational Equipment, Inc.
Red Roof Inns, Inc.
ReliaStar
Remington Arms Company, Inc.
Revlon International Corporation
The Reynolds and Reynolds Company
Ricoh Electronics, Inc.
Riverwood International Corporation
Rockwell Automation
Royal Crown Bottling Co. of Chicago
Russell Corporation
Ryerson Tull, Inc.

S

SAFECO Corporation
Safeway Inc.
Salt River Project Agricultural Improvement & Power District
SAP America, Inc.
Sappi Fine Paper North America
Sara Lee Corporation
Scientific-Atlanta, Inc.
E. W. Scripps Company
Seagate Technology, Inc.
Selective Insurance Company of America
Sentry Insurance
Serigraph, Inc.
ServiceMaster Industries, Inc.
7-Eleven, Inc.
Shaklee Companies
Shaw Industries, Inc.
Shell Oil Company
Sidley & Austin
Siemens Corporation
Simplex Time Recorder Company
Smith Corona Corporation
SmithKline Beecham
Sodexho Marriott
Solectron Corporation
Solutia Inc.
Sony Music Entertainment Inc.
Southern California Edison Company
Southwest Airlines Co.
Southwest Research Institute
Spang & Company
Sparton Electronics
St. Paul Pioneer Press and Dispatch
Standard Commercial Corporation
Starbucks Coffee Company
Starwood Hotels & Resorts Worldwide Inc.
Steelcase Inc.
Sterling Chemicals, Inc.
Stratus Computer, Inc.
Stride Rite Corporation
Structural Dynamics Research Corp.
Subaru-Isuzu Automotive Inc.
Sun Microsystems, Inc.
Sunbeam Corporation
Superior Essex
Susquehanna Pfaltzgraff Co.
Svedala Industries, Inc.

T

TAB Products Co.
TASC
Tate & Lyle North America
Tech Data Corporation
Tecumseh Products Company
Tellabs Operations, Inc.
Temple-Inland Inc.
Texaco Inc.
Textron Inc.
The Williams Companies, Inc.

Thomas & Betts Corporation
Thomson Financial Service, Inc.
Thomson Learning
The Timberland Company
The Timken Company
The Toro Company
Times Publishing Company–
St. Petersburg Times
Toshiba America Information Systems
Toyota Motor Sales USA Inc
Tribune Company
Trigon Insurance Company
21st Century Insurance Company
TXU
Tyco International Ltd. (US)

U

U.S. Bancorp
U.S. Office Products Co.
UCAR International Inc.
UGI Corporation
Underwriters Laboratories Inc.
Unilever United States, Inc.
Union Planters Corporation
United Airlines
United Distillers & Vintners
United States Can Company
United States Surgical Corporation
United Technologies Corporation
United Wisconsin Services, Inc.
Universal Foods Corporation
Universal Instruments Corporation
University of Louisville
Unocal Corporation
UnumProvident Corporation
US Airways
USAA

V

Valmont Industries, Inc.
The Valspar Corporation
Varco International, Inc.
Venator Group, Inc.

W

W L R Foods, Inc.
Warner-Lambert Company
Waste Management, Inc.
Wausau-Mosinee Paper Corporation
Weirton Steel Corporation
Wendy's International, Inc.
West Group
Western Digital Corporation
Westvaco Corporation
Whirlpool Corporation
Wickes Furniture Company Inc.
Willamette Industries Inc
Winston and Strawn
Wm. Wrigley Jr. Company
WMS Gaming Inc.
Wolverine World Wide, Inc.
WORLDSPAN LP
Wyle Laboratories
Wyman-Gordon Company

Y

Yellow Corporation

Z

Zenith Electronics Corporation

EXHIBIT E

Hewitt

SURVEY FINDINGS: Benefit Programs for Domestic Partners & Same-Sex Spouses 2005

About This Survey

Ongoing legislation and litigation about domestic partnerships, civil unions, and same-sex marriages make it increasingly important for any organization offering benefits of any kind to monitor activity in the area of domestic partner and same-sex spousal benefits. Not only do the legal implications need to be understood, but related decisions involving benefit programs need to be made—with added complexity for organizations with multiple U.S. locations.

In March and April of 2005, Hewitt Associates LLC conducted a survey to gather information on current practices surrounding this issue. In total, 281 large U.S. organizations with a substantial percentage of benefits-eligible employees participated.

This report presents findings from the survey. Specifically, it provides information on:

- The prevalence of domestic partner benefit programs and related factors;
- Program design, including information on how companies define domestic partner;
- The impact of offering domestic partner benefits, including participation rates and costs;
- The impact of the *Goodridge et al v. Department of Public Health* decision—the 2003 Massachusetts Supreme Court case which led to recognition of a marriage between two persons of the same sex in that state;
- A demographic description, as well as a list of survey participants; and
- An appendix that contains information on how domestic partner is defined at companies that offer benefits to both types of partners and define the term consistently, companies offering domestic partner benefits only to same-sex partners, and companies offering domestic partner benefits only to opposite-sex partners.

In this report, "n" is used to indicate the number of responses for a particular question. Values in the tables and charts are rounded to the nearest whole number; therefore, percentage totals may not add to exactly 100%. The terms "organization," "company," and "employer" are used interchangeably.

For more information about this survey, contact

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Lincolnshire, IL 60069
(847) 295-5000
Email: barb.graczyk@hewitt.com

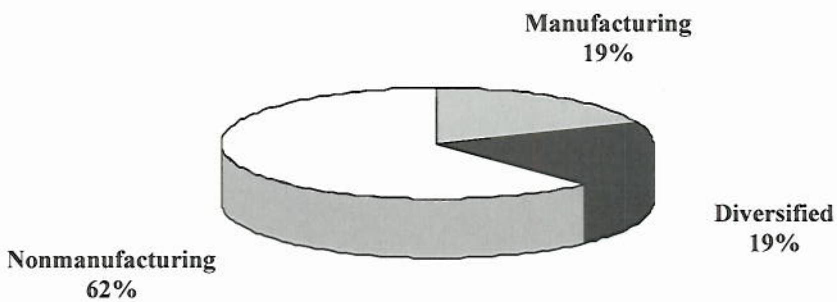
Contents

Participant Company Demographics

This section of the report describes the group of organizations participating in the survey by industry category, number of employees, union status, and whether the participants have employees in three key states.

Two hundred eighty-one companies participated in this survey. From a high level industry perspective, the group was predominantly nonmanufacturing—with nearly two-thirds self-identifying in this category. The remaining organizations were equally split between manufacturing and being diversified.

Industry Representation—High Level



(n=269)

The following table provides a more detailed breakdown of the participant group by industry.

Industry Representation

	Percent of Organizations
Aerospace/Defense	2.49%
Agriculture/Forestry	0.36%
Automotive	1.07%
Banking/Finance	8.90%
Chemicals	2.85%
Computer Services/Software	1.42%
Computers/Office Equipment	1.42%
Construction/Engineering	3.20%
Consumer/Misc. Products Mfg.	2.49%
Education	6.41%
Electronics/Electrical	1.78%
Entertainment/Communications/Publishing	2.85%
Food and Beverage	3.56%
Forest Products/Packaging	2.49%
Government	1.42%
Hospitality/Restaurants	1.78%
Hospitals/Health Care Services and Providers	2.85%
Industrial Machinery/Equipment	1.07%
Insurance	3.91%
Metals/Fabrication/Mining, etc.	2.14%
Oil/Gas/Diversified Energy	2.85%
Pharmaceutical/Medical Devices/Biotechnology	3.91%
Printing	0.71%
Professional Services	3.20%
Real Estate	1.42%
Retail (includes wholesale and distribution)	8.19%
Telecommunications	3.20%
Textiles/Apparel	0.71%
Transportation Services	1.78%
Utilities	5.69%
Other (e.g., Museum, R&D, Waste)	13.88%
Total	100.00%

(n=281)

In general, companies that participated in the survey are large employers that offer benefits to most of their employees.

Looking at the number of U.S. employees according to domestic partner benefit program prevalence, we observe that survey participants with domestic partner benefits are larger than those without such a program.

Number of Employees

	Percent of Organizations		
	All Organizations	Organizations With Domestic Partner Benefits	Organizations Without Domestic Partner Benefits
0–1,000	11%	10%	13%
1,001–5,000	40%	32%	50%
5,001–10,000	17%	18%	15%
10,001–20,000	16%	18%	13%
20,001–30,000	7%	8%	7%
30,001–40,000	3%	5%	0%
40,001–50,000	1%	2%	0%
50,001–100,000	4%	4%	2%
Over 100,000	1%	3%	0%
	100%	100%	100%
Median	5,000	7,000	3,500
Average	12,449	16,214	7,644
Range	280–142,000	400–142,000	280–68,000
	(n=280)	*(n=157)*	*(n=123)*

U.S. Benefits-Eligible Employees

	Number of Employees	Percent of Employees
Median	4,500	98%
Average	9,865	88%
Minimum	250	11%
Maximum	120,000	100%
(n=279)		

Half of the companies in the survey group indicated they have some employees that are unionized and half indicated they do not. Where unionization exists, on average, only up to one-quarter of employees are unionized.

Organizations With Union Employees

	Percent of Organizations
Union	50%
Nonunion	50%
	100%

(n=281)

Percent of Employees That Are Unionized

	Percent of Employees
Median	16%
Average	24%
Minimum	<1%
Maximum	85%

(n=137)

Legislative and judicial activity surrounding domestic partnerships, civil unions, and same-sex marriages in various states prompted us to collect information on the percent of companies that have employees in three of those states—California, which passed a law first in 2001 granting additional rights to domestic partners; Massachusetts, which began to recognize same-sex marriage in 2004; and Vermont, which permitted same-sex couples to enter into civil unions beginning in 2000.

It is important to note that Connecticut enacted a civil union law on April 20, 2005—after this survey was sent to participants. Therefore, the percentage of companies with employees in Connecticut was not collected. The law will allow same-sex couples to enter into civil unions beginning October 1, 2005.

- As outlined below, approximately:
  — ¾ of participants have employees in California;
  — ½ have employees in Massachusetts; and
  — ¼ have employees in Vermont.

- Looking only at organizations with employees in these states, the average estimated percentage of workforce employed in these states was highest in California, followed by Massachusetts, and then Vermont.

Percent of Organizations With Employees in California, Massachusetts, Vermont—And Estimated Percent of Workforce Employed At These Locations (Of Organizations With Employees in the Given State):

	Percent of Organizations	Estimated Percent of Workforce Employed in This State
California	75%	Average=14% Median=6% Range=<1%–100% *(n=200)*
Massachusetts	54%	Average=7% Median=2% Range=<1%–99% *(n=141)*
Vermont	22%	Average=1% Median=1% Range=<1%–10% *(n=51)*
	(n=281)	

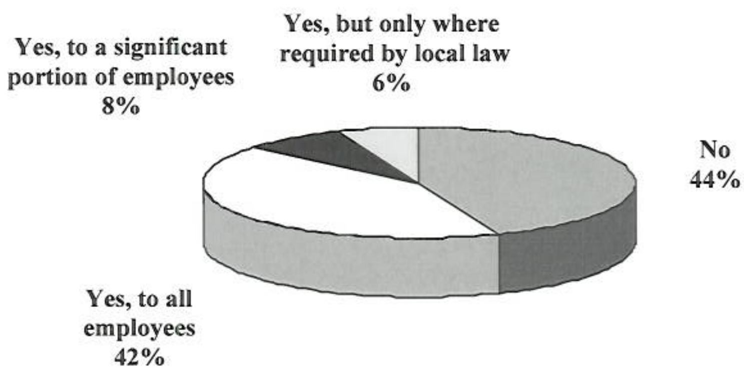
Program Prevalence and Related Factors

This section of the report provides high-level prevalence information. The key statistic—the percent of participating organizations offering domestic partner benefits—is revealed, as are factors that help to explain the increased prevalence of domestic partner benefits.

Prevalence of Domestic Partner Benefits

Fifty-six percent of surveyed companies offer domestic partner benefits to some or all of their employees. This represents a 34 percentage point increase in the past five years of organizations offering benefits to domestic partners. In the year 2000, when Hewitt last conducted a survey on this topic, only 22% of organizations offered benefits to domestic partners.

Offer Domestic Partner Benefits



Yes, but only where required by local law or by a collective bargaining agreement	**<1%**
Yes, but only where required by a collective bargaining agreement	**0%**

(n=281)

In the survey, participants were asked why they currently offer benefits to domestic partners of their employees. Current driving forces are mainly business reasons and reasons related to social responsibility.

- The top reason most companies currently offer domestic partner benefits is *to attract and retain employees*, selected by approximately 70% of companies.

- Closely following this top choice are: *to maintain organizational/industry competitiveness, to support our diversity program,* and *because it seemed the right/fair thing to do,* each selected by one half to two-thirds of responding companies.

Why Domestic Partner Benefits Are Currently Offered

	Percent of Organizations	
	Same-Sex Partners	Opposite-Sex Partners
To attract and retain employees	71%	69%
To maintain organizational/industry competitiveness	66%	59%
To support our diversity program	66%	52%
Because it seemed the fair/right thing to do	65%	64%
To comply with our nondiscrimination policy	41%	32%
At the request of employee(s)	34%	31%
To comply with local government regulations	29%	31%
As a requirement of a collective bargaining agreement	4%	3%
Following a merger or acquisition	3%	4%
Other	4%	3%
(multiple responses accepted)	*(n=154)*	*(n=95)*

Examples of other reasons participants offer domestic partner benefits include: *to comply with bid requirements* and *when there is a business reason provided by local management.*

Many states prohibit employers from discriminating against employees based on marital status, and some states have added sexual orientation to antidiscrimination laws. Because of these laws, employers have developed formal policies prohibiting discrimination on the basis of marital status and/or sexual orientation.

According to survey results, whether or not an organization has such a policy in place seems to be related to domestic partner benefit program prevalence. This relationship was noted in the 2000 Hewitt survey, where findings showed that companies with policies prohibiting both kinds of discrimination are more likely to offer domestic partner benefits.

We start by looking at the percentage of survey participants with a formal policy that prohibits discrimination on either of these factors. As outlined below, we observe a marked increase in the percent of surveyed organizations that prohibit discrimination for each of the two factors (marital status and sexual orientation) since the 2000 survey.

Formal Nondiscrimination Practices

	Percent of Organizations Prohibiting Discrimination on the Basis of:			
	Marital Status		Sexual Orientation	
	2005	2000	2005	2000
Prohibit in firm-wide policy	76%	61%	83%	64%
Prohibit in one or more labor agreements	2%	<1%	1%	<1%
Do not formally prohibit	23%	39%	16%	36%
	100%	100%	100%	100%
	(n=262)	*(n=550)*	*(n=278)*	*(n=551)*

Categorizing participants by whether their organizations have nondiscrimination policies related to marital status only, sexual orientation only, both classifications, or neither, we see changes similar to those in the table on the previous page. Of particular interest, we note:

- A 13 percentage point increase since 2000 in the percentage of organizations that formally prohibit both marital status and sexual orientation discrimination; and

- A 19 percentage point decrease since 2000 in the percentage of organizations that do not formally prohibit discrimination on the basis of marital status or sexual orientation.

Formal Nondiscrimination Policies—Marital Status Versus Sexual Orientation

	Percent of Organizations	
	2005	**2000**
Formally prohibit both marital status and sexual orientation discrimination	68%	55%
Do not formally prohibit discrimination on the basis of marital status or sexual orientation	12%	31%
Formally prohibit sexual orientation discrimination, but not marital status discrimination	9%	7%
Formally prohibit marital status discrimination, but not sexual orientation discrimination	4%	5%
Unknown	6%	2%
	100%	100%
	(n=279)	*(n=557)*

Analyzing domestic partner benefit program prevalence relative to discrimination policies, we once again see that companies with policies prohibiting both kinds of discrimination are more likely to offer domestic partner benefits than companies prohibiting neither type of discrimination. Companies formally prohibiting discrimination on the basis of only sexual orientation or only marital status offer domestic partner benefits more than companies with neither policy in place, but less than those with both types of policies.

Domestic Partner Benefits, Relative to Discrimination Policies

	Percent of Organizations
Prohibit discrimination based on *both* marital status and sexual orientation	
Domestic partner benefits provided:	
Not provided	37%
To all employees	50%
To a significant portion of employees	8%
Only where required by local law	4%
Only where required by a collective bargaining agreement	0%
Only where required by local law or a collective bargaining agreement	1%
	(n=191)
Prohibit *neither* type of discrimination	
Domestic partner benefits provided:	
Not provided	73%
To all employees	12%
To a significant portion of employees	0%
Only where required by local law	15%
Only where required by a collective bargaining agreement	0%
Only where required by local law or a collective bargaining agreement	0%
	(n=33)
Prohibit discrimination based on *marital status only*	
Domestic partner benefits provided:	
Not provided	64%
To all employees	9%
To a significant portion of employees	9%
Only where required by local law	18%
Only where required by a collective bargaining agreement	0%
Only where required by local law or a collective bargaining agreement	0%
	(n=11)
Prohibit discrimination based on *sexual orientation only*	
Domestic partner benefits provided:	
Not provided	46%
To all employees	38%
To a significant portion of employees	12%
Only where required by local law	4%
Only where required by a collective bargaining agreement	0%
Only where required by local law or a collective bargaining agreement	0%
	(n=26)

Program Design

This section of the report provides details on how the 158 participants that offer domestic partner benefits structure those programs. Topics include: groups eligible for domestic partner coverage; how domestic partner is defined; what benefits are offered; and other related issues.

Eligibility by Employee Group

Participating organizations that offer domestic partner benefits were asked which employee groups are eligible for domestic partner benefits; specifically, are salaried, hourly nonunion, and/or hourly union employees eligible?

As outlined in the table below, domestic partner coverage is offered most frequently to salaried employees—in nearly all of the organizations with such a program in place. Hourly nonunion employees are offered these benefits by approximately nine in ten employers. And, where union employee groups exist, nearly seven in ten hourly union employees can elect domestic partner coverage.

Employee Groups Eligible for Domestic Partner Benefits

	Percent of Organizations		
	Overall	**Employers With Unions**	**Employers Without Unions**
Salaried employees	98%	99%	97%
Hourly nonunion employees	89%	92%	86%
Hourly union employees	34%	68%	N/A
Other groups	3%	3%	3%
(multiple responses accepted)	*(n=156)*	*(n=78)*	*(n=78)*

Other employee groups identified by participants as eligible include *employees eligible for benefits* and *both full-time and part-time employees.*

Eligibility of Partners and Dependents

Companies that offer domestic partner benefits were asked if they offer benefits to same-sex and/or opposite-sex domestic partners and to dependents of domestic partners.

Results are provided in the following two tables.

Partners Eligible for Coverage

	Percent of Organizations
Cover same-sex and opposite-sex partners	58%
Cover same-sex partners only	39%
Cover opposite-sex partners only	3%
	100%

(n=158)

Dependents Eligible for Coverage

	Percent of Organizations
Cover dependents of same-sex and opposite-sex partners	56%
Cover dependents of same-sex partners only	27%
Do not provide benefits to dependents of domestic partners	17%
Cover dependents of opposite-sex partners only	0%
	100%

(n=158)

In general, companies that offer benefits to dependents of domestic partners do so in the same fashion they offer benefits to domestic partners.

Partners and Dependents Eligible for Coverage—A Closer Look

		Percent of Organizations
Cover same-sex and opposite-sex partners:		58%
and dependents of both same- and opposite-sex partners	55%	
and dependents of only same-sex partners	0%	
and dependents of only opposite-sex partners	0%	
but not dependents of either	3%	
Cover same-sex partners only:		39%
and dependents of both same- and opposite-sex partners	1%	
and dependents of only same-sex partners	27%	
and dependents of only opposite-sex partners	0%	
but not dependents of either	11%	
Cover opposite-sex partners only:		3%
and dependents of both same- and opposite-sex partners	0%	
and dependents of only same-sex partners	0%	
and dependents of only opposite-sex partners	0%	
but not dependents of either	3%	
		100%

(n=158)

Domestic Partner Defined

Nearly all of the 58% of organizations that offer domestic partner benefits to both same-sex and opposite-sex partners use the same definition of domestic partner for both groups.

Same Definition of Domestic Partner for Same-Sex and Opposite-Sex Partners?

	Percent of Organizations Offering Benefits to Both
Yes	98%
No	2%
	100%
(n=92)	

The following information outlines how domestic partner is defined, whether initial documentation and/or reverification of domestic partnership is required, and what benefits are offered to domestic partners—specific to all participants except the two organizations that offer benefits to both same-sex and opposite-sex domestic partners but define domestic partner differently.

The Appendix provides similar information specific to:

- Companies that offer domestic partner benefits to both same-sex and opposite-sex partners and define domestic partner for both groups in the same manner;
- Companies that offer domestic partner benefits only to same-sex partners; and
- Companies that offer domestic partner benefits only to opposite-sex partners.

Because only two companies offer domestic partner benefits to both same-sex and opposite-sex partners but define the term differently, specifics are not provided.

Most companies continue to define domestic partner using multiple components, although it appears there has been a slight shift to using fewer components over the past five years.

Number of Components in Domestic Partner Definition

	Percent of Organizations
1 component	13%
2 components	3%
3 components	11%
4 components	21%
5 components	36%
6 or more components	15%
	100%

(n=155)

Number of Components in Domestic Partner Definition

	Number of Components
Median number of components	5
Average number of components	4
Range in number of components	1–6

(n=155)

Not many participants stepped outside the pre-identified definitional components by selecting "other" and providing specifics—perhaps signaling that the definition of domestic partner has solidified since 2000. In the 2000 survey, roughly 30% of participants selected "other." In this survey, only 8% did.

- *Being in an exclusive relationship* was the definitional component selected by most organizations. It is likely that this jump to the top spot is due to *in a committed relationship* not being offered as a separate choice in this year's survey—the 88% may capture some of those companies from the 2000 survey.
- Of interest, many of the other pre-identified definitional components were selected by a lesser percent of participants in this survey as compared with the 2000 survey.
- *Registration with a government agency, where applicable*, is the only other pre-identified component besides *being in an exclusive relationship* that increased in usage. This may be due to increased availability of government registries, the desire to use an objective method of certifying domestic partners, or it may possibly signal a stricter definition of domestic partner.

How Organizations Define Domestic Partner

	Percent of Organizations
In an exclusive relationship (e.g., not married to another person)	88%
Partners are financially interdependent	78%
Not related by blood closer than permitted by state law for marriage	73%
Minimum period of residing together	66%
Minimum age	62%
Registration with government agency, where applicable	36%
Other	8%

(n=155; multiple responses accepted)

Examples of other ways domestic partner is defined include:

- Registration with our company;
- Must live together, although no minimum period of time;
- Plan to live together indefinitely; and
- Relationship has been in effect for at least 12 months.

Not surprisingly, when *minimum age* is one of the components used to define domestic partner, nine out of ten participants set the requirement at 18 years of age—the age of majority in almost all states. (Most states define age of majority and legal age to marry at age 18.) When *minimum period of time residing together* is a component, either *1 year* or *6 months* are generally required.

Minimum Age as Part of Definition of Domestic Partner

	Percent of Organizations
18 years	90%
Age of consent	5%
21 years	3%
Other	2%
	100%

(n=96)

Minimum Period of Time Residing Together as Part of Definition of Domestic Partner

	Percent of Organizations
1 year	52%
6 months	44%
Other (e.g., 8 months, 18 months)	4%
	100%

(n=103)

Proof of Domestic Partnership Requirements

Most companies (85%) initially require some proof of domestic partnership, but do not require domestic partnership reverification (64%). When required, the most frequently used method is to have the employee execute an affidavit/sign a certificate of domestic partnership (71%).

Ancillary information provided by participants demonstrates how even a single segment of processing can become complicated. For example, at some companies, all that is required is one specific form of proof of domestic partnership. At another company, proof type A or proof type B might be required. In yet another company, proof A *or* proof B *in conjunction with* proof C can be submitted. Required documentation can vary by state or locality as well.

Required Proof of Domestic Partnership

	Percent of Organizations
The employee needs to execute an affidavit/sign a certificate of domestic partnership	71%
Domestic partnership must be registered with a state's registry if one is available	22%
No proof is required, we use the honor system	15%
Supporting documentation must be provided	10%
Honor system, plus an audit	3%
Other *(affidavit or register with government agency; employee self-certifies online during annual enrollment; etc.)*	3%

(n=156; multiple responses accepted)

Proof of Domestic Partnership—Reverification Practices

	Percent of Organizations
We do not reverify domestic partnership status	64%
Whenever a benefit change adding or continuing coverage for domestic partner/dependent of domestic partner is submitted	25%
Annually	7%
Other frequency	5%
	100%

(n=132; multiple responses accepted)

Types of Benefits Offered to Domestic Partners

All participants with a domestic partner benefits program were asked to indicate what type of benefits are offered to same-sex and/or opposite-sex domestic partners (as applicable) and to opposite-sex *spouses*. Observations include:

- Benefits offered to the three groups are fairly similar.
- Medical and dental coverage are the most-offered benefits, available to almost all employees across all three groups.
- Employee assistance programs, vision benefits, COBRA or COBRA-like coverage, and life insurance are slightly less popular. In each group, roughly 70% to 90% of companies offer these benefits.
- For all but two categories of benefits, the percentage of companies offering the benefit was slightly lower for same-sex domestic partners than for opposite-sex domestic partners. In addition, in all but one category, the percentage of companies offering benefits to opposite-sex partners was slightly lower than to opposite-sex spouses.
- Of interest is that each of the 14 pre-identified benefit categories is offered to same-sex and/or opposite-sex domestic partners by greater than one-fourth of respondents.

The information provided in the column for same-sex domestic partners includes benefits available at companies that offer domestic partner benefits only to same-sex partners, as well as companies that offer domestic partner benefits to both same-sex and opposite-sex partners and define the term in a similar manner. Similarly, the information provided for opposite-sex domestic partners includes benefits available at companies that offer domestic partner benefits only to opposite-sex partners, as well as companies that offer domestic partner benefits to both same-sex and opposite-sex partners and define the term in a similar manner.

Benefits Provided to Domestic Partners

	Percent of Organizations		
	Same-Sex Domestic Partners	**Opposite-Sex Domestic Partners**	**Opposite-Sex Spouses**
Medical	97%	97%	98%
Dental	93%	96%	97%
EAP	79%	85%	84%
Vision	75%	78%	78%
COBRA or COBRA-like coverage	74%	75%	91%
Life insurance coverage for domestic partner/dependent	70%	78%	86%
Bereavement leave	66%	70%	76%
FMLA-like leave	60%	67%	79%
AD&D	46%	48%	58%
Beneficiary status for pension allowed (DCP or DBP)	43%	45%	62%
Adoption benefits	36%	39%	49%
Alternative work schedules	30%	29%	35%
Long-term care insurance	30%	27%	39%
Relocation/trailing spouse or partner benefits	27%	36%	43%
Other benefits offered	7%	4%	4%
(multiple responses accepted)	*(n=151)*	*(n=92)*	*(n=120)*

Other benefits offered to domestic partners include: *cancer and accident coverage; company home loan program; educational/tuition benefits; employee discount; legal benefit; maternity/paternity; mental health + chemical dependency plan; pass privileges; child care resource and referral; pension-type plan.*

Pricing Practices

How do organizations structure the price of domestic partner health benefits coverage compared to opposite-sex spousal health benefits coverage?

- Most companies require a contribution toward the cost of health benefits—for either domestic partners or opposite-sex spouses.
- More than nine in ten employers ask employees to contribute the same amount for domestic partner health benefits coverage as they do for opposite-sex spouses.

Note: *If the only cost differences between "employee + spouse" and "employee + domestic partner" coverages were imputed income and the taxation of the portion of "employee + domestic partner" attributed to covering a partner, for purposes of this survey, the contributions are considered equal.*

Pricing Structure for Domestic Partner Health Benefits Coverage—
Organizations Offering Benefits to Only Same-Sex *or* Opposite-Sex Domestic Partners

	Percent of Organizations
The same employee contribution is required for both domestic partner health benefit coverage and for spousal health benefit coverage	92%
No employee contribution is required for either domestic partner or spousal health benefit coverage	3%
An employee contribution is required for both domestic partner health benefit coverage and for spousal health benefit coverage, but the pricing structure differs. Examples provided: • The full cost of coverage is paid for domestic partners while 50% of the cost of coverage is paid for spouses • There is a greater employee cost for domestic partner coverage than for spousal coverage.	3%
Other • The example provided for "other" pricing structure is: no employee contribution is required for domestic partner coverage.	2%
	100%

(n=66)

Pricing Structure for Domestic Partner Health Benefits Coverage—
Organizations Offering Benefits to Same-Sex *and* Opposite-Sex Domestic Partners

	Percent of Organizations
The same employee contribution is required for both types of domestic partner health benefit coverage and for spousal health benefit coverage.	91%
The same employee contribution is required for both types of domestic partner health benefit coverage, but spousal health benefit coverage differs. Examples include: • Domestic partner will pay full cost of premium, but spouse will pay a small portion of the employee contribution. • Domestic partner pays full premium, no company contribution. • Domestic partners are given credits for a single employee.	4%
No employee contribution is required for either same-sex domestic partner health benefit coverage, opposite-sex domestic partner health benefit coverage, or spousal health benefit coverage.	2%
An employee contribution is required for both types of domestic partner health benefit coverage and for spousal health benefit coverage, but the pricing structure differs amongst all three groups.	0%
Other • The example provided for "other" pricing structure is: registered domestic partners receive the same subsidy as a spouse, otherwise the full cost of coverage is the employee's responsibility.	2%
	100%

(n=90)

Impact of Offering Domestic Partner Benefits

According to survey results, benefit program participation rates are minimal, which is in line with results from the 2000 survey. For comparison, results of the 2000 survey are presented in the table at the bottom of this page. ***Note**: In 2000, this information was not collected separately for partners and their dependents.*

Percent of Eligible Employees Electing Coverage for:

	Percent of Organizations	
	Domestic Partners	**Dependents of Domestic Partners**
Less than 1%	40%	61%
1.0%–2.9%	46%	37%
3.0%–4.9%	10%	1%
5% or more	3%	1%
	100%	100%
Median	1% of employees	1% of employees
Average	1% of employees	1% of employees
Range	0%–7% of employees	0%–5% of employees
	(n=146)	*(n=110)*

2000 Survey—Percent of Eligible Employees Electing Coverage for a Domestic Partner

Percent of Employees Electing Coverage	Percent of Organizations
Less than 1%	58%
1.0%–2.9%	32%
3.0%–4.9%	5%
5% or more	5%
	100%
Median	1% of employees
Average	1% of employees
Range	0%–10% of employees

(n=111)

According to surveyed companies, providing domestic partner benefits has not resulted in substantial costs. At 88% of companies, providing these benefits comprises less than 2% of total benefits costs.

Overall, it appears costs associated with providing domestic partner benefits have risen slightly since 2000. This may be due to an expanded number of benefits being offered within these programs. ***Note****: This year's survey broke down cost of benefits by six categories, while the 2000 survey included four categories.*

Financial Impact of Offering Domestic Partner Benefits

Percent of Total Benefits Cost	Percent of Organizations: 2005 Survey	Percent of Organizations: 2000 Survey
Less than 1%	64%	85%
1%–1.9%	24%	14% (1%–2.9%)
2%–2.9%	7%	
3%–3.9%	2%	1% (3%–4.9%)
4%–4.9%	2%	
5% or more	1%	0%
	100%	100%
	(n=147)	*(n=99)*

Impact of the *Goodridge* Decision

In November 2003, the Supreme Judicial Court of Massachusetts ruled in *Goodridge et al v. Department of Public Health* that the state could not deny gay and lesbian couples the right to marry. The state's legal recognition of same-sex marriage went into effect on May 17, 2004. Because of the ruling's potential to affect employer-sponsored benefit plans, we decided to gauge initial forays into this territory at the one-year mark. Survey participants were asked about same-sex spousal benefits' prevalence in Massachusetts, participation rates, and benefits involved, plus any impact on benefits for same-sex domestic partners.

An estimated[1] 20%–25% of companies with employees in Massachusetts offer same-sex spousal benefits to their employees in Massachusetts. Many more indicated they would cover same-sex spouses in benefits plans if the same-sex spouse met the definition of domestic partner.

On average, less than three employees per company enroll a same-sex spouse for medical benefits over the course of a year. This translates into less than 1% of employees (at most) enrolling a same-sex spouse.

Number and Percent of Massachusetts Employees Enrolling a Same-Sex Spouse for Medical Benefits Coverage Over the Course of a Plan Year

	Number of Employees	Percent of Employees
Median	0	0%
Average	<3	<1%
Minimum	0	0%
Maximum	25	1%

(n=64)

[1] Estimate based on follow-up conversations with participants.

Similar to programs for domestic partners and opposite-sex spouses, the benefits most often available to same-sex spouses are medical and dental coverage.

Benefits Provided to Same-Sex *Spouses*

	Percent of Organizations
Medical	100%
Dental	99%
EAP	82%
Vision	81%
Life insurance coverage	81%
COBRA or COBRA-like coverage	79%
FMLA-like leave	61%
Bereavement leave	61%
AD&D	54%
Adoption benefits	39%
Beneficiary status for pension allowed (DCP or DBP)	39%
Long-term care insurance	37%
Relocation/trailing spouse benefits	34%
Availability of alternative work schedules due to need related to marriage	31%
Other (e.g., education/tuition; LTD survivor benefits)	3%

(n=67; multiple responses accepted)

Apparently, the *Goodridge* decision has not negatively affected benefits offered to same-sex *domestic partners* to any great extent. Less than 1% of companies dropped benefits for same-sex domestic partners in reaction to *Goodridge*.

In these instances, only employees in Massachusetts were affected.

Drop Benefits for Same-Sex Domestic Partners in the Past Year in Reaction to the *Goodridge* Decision?

	Percent of Organizations
Yes	<1%
No	65%
Our organization has never offered domestic partner benefits	35%
	100%

(n=275)

Appendix

This appendix provides information related to how domestic partner is defined, plus verification and reverification practices specific to:

- Companies that offer domestic partner benefits to both same-sex and opposite-sex partners, and define domestic partner the same way for both groups;
- Companies that offer domestic partner benefits to only same-sex partners; and
- Companies that offer domestic partner benefits to only opposite-sex partners. ***Note:*** *We recommend caution when interpreting this information, as only four companies fall into this category.*

Because only two companies offer domestic partner benefits to both same- and opposite-sex domestic partners but define domestic partner differently for the two groups, specifics are not provided.

Organizations That Offer Domestic Partner Benefits to Both Same-Sex and Opposite-Sex Partners, and Define Domestic Partner in the Same Manner

Number of Components in Domestic Partner Definition

	Percent of Organizations
1 component	9%
2 components	2%
3 components	13%
4 components	22%
5 components	36%
6 or more components	18%
	100%

(n=90)

Number of Components in Domestic Partner Definition

	Number of Components
Median number of components	5
Average number of components	4
Range in number of components	1–6

(n=90)

How Organizations Define Domestic Partner

	Percent of Organizations
In an exclusive relationship (e.g., not married to another person)	90%
Partners are financially interdependent	79%
Not related by blood closer than permitted by state law for marriage	78%
Minimum period of residing together	71%
Minimum age	64%
Registration with government agency, where applicable	37%
Other ways domestic partner is defined	8%

(n=90; multiple responses accepted)

Minimum Age as Part of Definition of Domestic Partner

	Percent of Organizations
18 years old	88%
21 years old	5%
Age of consent	3%
Other	3%
	100%

(n=58)

Minimum Period of Time Residing Together as Part of Definition of Domestic Partner

	Percent of Organizations
1 year	53%
6 months	42%
Other	5%
	100%

(n=64)

Required Proof of Domestic Partnership

	Percent of Organizations
The employee needs to execute an affidavit/sign a certificate of domestic partnership	71%
Domestic partnership must be registered with a state's registry if one is available	22%
No proof is required, we use the honor system	16%
Supporting documentation must be provided	11%
Honor system, plus an audit	0%
Other (affidavit or register with government agency; employee self-certifies online during annual enrollment; etc.)	4%

(n=90; multiple responses accepted)

Proof of Domestic Partnership—Reverification Practices

	Percent of Organizations
We do not reverify domestic partnership status	61%
Whenever a benefit change adding or continuing coverage for domestic partner/dependent of domestic partner is submitted	24%
Annually	11%
Other (periodically, as with all dependents; random audit; not yet defined; etc.)	5%
	100%

(n=76; multiple responses accepted)

Organizations Offering Domestic Partner Benefits Only to Same-Sex Domestic Partners

The number of components used to define domestic partner by companies offering domestic partner benefits only to same-sex partners closely parallels the number of components used by companies that offer domestic partner benefits to both same-sex and opposite-sex partners and have a single definition. On average, in these organizations, a domestic partner is defined using four to five components.

Number of Components in Domestic Partner Definition

	Percent of Organizations
1 component	15%
2 components	5%
3 components	8%
4 components	21%
5 components	38%
6 or more components	13%
	100%

(n=61)

Number of Components in Domestic Partner Definition

	Number of Components
Median number of components	5
Average number of components	4
Range in number of components	1–6

(n=61)

How Organizations Define Domestic Partner

	Percent of Organizations
In an exclusive relationship (e.g., not married to another person)	89%
Partners are financially interdependent	79%
Not related by blood closer than permitted by state law for marriage	69%
Minimum age	62%
Minimum period of residing together	62%
Registration with government agency, where applicable	34%
Other ways domestic partner is defined	7%

(n=61; multiple responses accepted)

Minimum Age as Part of Definition of Domestic Partner

	Percent of Organizations
18 years old	92%
21 years old	0%
Age of consent	8%
Other	0%
	100%

(n=38)

Minimum Period of Time Residing Together as Part of Definition of Domestic Partner

	Percent of Organizations
1 year	50%
6 months	47%
Other	3%
	100%

(n=38)

Required Proof of Domestic Partnership

	Percent of Organizations
The employee needs to execute an affidavit/sign a certificate of domestic partnership	69%
Domestic partnership must be registered with a state's registry if one is available	21%
No proof is required, we use the honor system	15%
Supporting documentation must be provided	6%
Honor system, plus an audit	6%
Other	0%

(n=62; multiple responses accepted)

Proof of Domestic Partnership—Reverification Practices

	Percent of Organizations
We do not reverify domestic partnership status	70%
Whenever a benefit change adding or continuing coverage for domestic partner/dependent of domestic partner is submitted	25%
Annually	2%
Other	4%
	100%

(n=53; multiple responses accepted)

Organizations Offering Domestic Partner Benefits Only to Opposite-Sex Domestic Partners

Because of the small number of respondents associated with this group *(n=4)*, we present the results in number format rather than percent format. ***Note:*** *Because of the small number of respondents, we recommend caution when interpreting this information.*

It appears that defining domestic partner benefits may be more simplified at companies that offer domestic partner benefits only to opposite-sex partners. Three of the four participants in this group include only one component in their definition of domestic partner.

Number of Components in Domestic Partner Definition

	Number of Organizations
1 component	3
2 components	0
3 components	0
4 components	0
5 components	1
6 or more components	0
	4
	(n=4)

Number of Components in Domestic Partner Definition

	Number of Components
Median number of components	1
Average number of components	2
Range in number of components	1–5

(n=4)

How Organizations Define Domestic Partner

	Number of Organizations
In an exclusive relationship (e.g., not married to another person)	1
Partners are financially interdependent	2
Not related by blood closer than permitted by state law for marriage	1
Minimum age	0
Minimum period of residing together	1
Registration with government agency, where applicable	2
Other ways domestic partner is defined	1

(n=4; multiple responses accepted)

No table is provided for Minimum Age as Part of Definition of Domestic Partner because none of the participants in this group define domestic partners by minimum age.

Minimum Period of Time Residing Together as Part of Definition of Domestic Partner

	Number of Organizations
1 year	1
6 months	0
Other	0

(n=1)

Required Proof of Domestic Partnership

	Number of Organizations
The employee needs to execute an affidavit/sign a certificate of domestic partnership	3
Domestic partnership must be registered with a state's registry if one is available	2
No proof is required, we use the honor system	1
Supporting documentation must be provided	1
Honor system, plus an audit	0
Other	0

(n=4; multiple responses accepted)

Proof of Domestic Partnership—Reverification Practices

	Number of Organizations
We do not reverify domestic partnership status	1
Whenever a benefit change adding or continuing coverage for domestic partner/dependent of domestic partner is submitted	2
Annually	0
Other	0

(n=3; multiple responses accepted)

Participating Employers

A
Abt Associates
Adaptec, Inc.
AGCO Corporation
Altru Health System
Ameren Corporation
American Electric Power
Amgen
Analogic Corporation
Anixter Inc.
APAC Customer Services, Inc.
Asbury Automotive Group
Aspen Systems Corporation
Avaya Inc.
Avery Dennison Corporation
Axel Johnson Inc.

B
Baker Hughes Incorporated
Banta Corporation
Barnes & Noble, Inc.
Bausch & Lomb, Inc.
Baxter International Inc.
Bayer Corporate and Business Services LLC
BB&T Corporation
BearingPoint
The Beck Group
Best Buy
Binney & Smith, Inc.
Birmingham-Southern College
Black & Veatch
Black Angus Restaurants
Black Hills Corporation
BNA, Inc.
Boise Cascade LLC
BOK Financial Corporation
Borden Chemical, Inc.
Boston Market Corporation
Brinker International
Bristol-Myers Squibb Company
Brooks Automation, Inc.
Brown-Forman Corporation
Brown Shoe Company, Inc.
Brunswick Corporation

C
Cambrex
Capital BlueCross
Caraustar Industries
CarMax, Inc.
Case Western Reserve University
CBS
CDM
Central DuPage Hospital
Central Garden & Pet Company
The Cheesecake Factory
Chevron Phillips Chemical Co.
Chipotle Mexican Grill, Inc.
ChoicePoint Inc.
Chubb Group of Insurance Companies
Cinergy Corp.
Cisco Systems
Citizens Communications
City of Dallas, TX
Claire's Stores, Inc.
Consolidated Edison of New York
Constellation Brands, Inc.
Coors Brewing Company
Corning Inc.
CoStar Group, Inc.
County of Allegheny (Pittsburgh, PA) HR Dept
Cummins Inc.

D
Darden Restaurants, Inc.
Datascope Corp.
Debevoise & Plimpton LLP
Dell Inc.

Delta Technology, LLC
The Denver Newspaper Agency
Diamondcluster International
The Dow Chemical Company
Drexel University

E
Eastern Michigan University
Ecolab Inc.
Employers Mutual Casualty Company
EPRI
Equitable Resources, Inc.
Equity Office Properties
Equity Residential
Experian

F
FedEx Kinko's
Fireman's Fund Insurance Company
First Data Corporation
Fisher Scientific
Fleetwood Enterprises, Inc.
Follett Corporation
Foster Wheeler Inc.
Franklin Templeton
FranklinCovey
Furniture Brands International, Inc.

G
G&K Services
G&K Services, Inc.
Gaylord Entertainment Company
General Dynamics Corporation
Georgia-Pacific Corporation
The Gillette Company
GN ReSound
Gottschalks Inc.
Grainger
Grant Thornton LLP
Graybar Electric Company, Inc.
Greyhound Lines, Inc.
Guardian Life Insurance Company of America
Gulfstream Aerospace

H
Hallmark Cards, Inc.
Harris County, Texas
Henry Ford Health System
Henry Schein, Inc.
Hercules Incorporated
Hershey Foods Corporation
The Hertz Corporation
Hewitt Associates
Hines Interests, L.P.
J. M. Huber Corporation
Humana Inc.

I
I.C. System, Inc.
IDEXX Laboratories, Inc.
Illinois Tool Works Inc.
Ingersoll Rand
Ingram Micro
Intelligroup, Inc.
International Mill Service
IVAX Corporation

J
Jacobs Engineering Group Inc.
Jewish Board of Family and Children's Services

K
Kaman Corporation
Kemper Insurance Companies
Kennametal Inc.
Knoll, Inc.
Kohler Co.

L
Land O'Lakes, Inc.
Lee Enterprises, Inc.
Legacy Health System
Legg Mason
Legg Mason Wood Walker, Inc.
LESCO, Inc.

LG&E Energy LLC
Liberty Mutual Insurance Group
Limited Brands
Loyola University Chicago

M
Manhattan Associates
Marathon Oil Company/Marathon Ashland Petroleum LLC
Marshall Erdman & Associates, Inc.
MasterBrand Cabinets, Inc.
Mattel, Inc.
McDermott Will & Emery LLP
MCI
MedCath Incorporated
Merrill Corporation
Mervyn's
Metris Companies Inc.
The Metropolitan Museum of Art
Mindspeed Technologies, Inc.
Mirant Corp.
Monsanto
Monster Worldwide
Moog Inc.
Motorola, Inc.
Mount Holyoke College

N
National City
Navy Federal Credit Union
NEC America, Inc.
NetBank, Inc.
New York Stock Exchange
News & Record
NIKE, Inc.
Norhrop Grumman Corp.
Norstan, Inc.
Nova Southeastern University
Nu Horizons Electronics

O
Oberlin College
Occidental Petroleum
Ohio Savings Bank
OhioHealth
Oklahoma City Community College
Omaha Public Power District
Outrigger Hotels & Resorts

P
Pacific Gas and Electric Company
PacifiCorp
Packaging Corporation of America
Pactiv Corporation
Papa John's International, Inc.
Pegasus Communications
Peoples Energy Corporation
Perrigo Company
PETsMART
PFF Bank & Trust
Piedmont Natural Gas
Pier 1 Imports, Inc.
The PNC Financial Services Group, Inc.
PRG-SCHULTZ
Princeton University
Purdue Pharma L.P.

R
Raytheon Company
Reed Elsevier
Reed Smith LLP
Republic Services, Inc.
The Reynolds and Reynolds Company
Ricoh Electronics, Inc.
Robert W. Baird
Rockwell Collins
Rohm and Haas
Ryder System, Inc.
Ryerson Tull, Inc.

S
S & C Electric Company
S. C. Johnson & Son, Inc.
Sabre Holdings
Safeco
St. Edward Mercy Medical Center (Fort Smith, AR)
St. Jude Medical, Inc. (St. Paul, MN)

Saint Mary's Regional Medical Center (Reno, NV)
Sallie Mae, Inc.
Kurt Salmon Associates
Salt River Project
Saturn Electronics & Engineering, Inc.
Scientific-Atlanta, Inc.
SEI Investments Company
The Shaw Group Inc.
Shell Oil Company
Showtime Networks
Smurfit-Stone Container Corporation
Soave Enterprises
Sodexho, Inc.
Sonic Automotive, Inc.
Southern Company
Southwest Airlines
Staples, Inc.
Starbucks Coffee Company
State Farm Insurance Cos.
State Street Corporation
Station Casinos, Inc.
Steelcase Inc.
Stein Mart, Inc.
Storage Technology Corporation
Sun National Bank
SUPERVALU INC.
SureWest
Susquehanna Bancshares, Inc.
Syniverse Technologies Inc.

T
TD Banknorth
Third Federal Savings & Loan Association of Cleveland
TIC—The Industrial Company
Time Inc.
The Toro Company
TransUnion
Tulare County
Turner Corporation

U
U.S. AgBank, FCB
U.S. Bank
UGI Utilities Inc.
Underwriters Laboratories Inc.
Unit Corporation
United States Steel Corporation
United Technologies Corporation
University of Dayton
University of Florida
University of Hartford
The University of Memphis
University of Northern Iowa
University of Washington
University of Wisconsin

V
Vail Resorts
Veritas DGC Inc.
Victaulic Co of America
Visteon Corporation

W
Waterloo Industries
Wausau Paper
Wayne State University
Wellpoint, Inc.
West Marine
Westcorp
Weyerhaeuser
WGBH Educational Foundation
Williams

Z
Zachry Construction Corporation

EXHIBIT E

EXHIBIT F

Domestic Partner Benefits for Lesbian, Gay, and Bisexual

Employees and Their Families in Michigan and Nationwide

Hundreds of thousands of employers from every state in the country offer benefits to their employees who have same-sex domestic partners. The percentage of Fortune 500 companies offering same-sex domestic partner benefits increased from 14% to 59% between 1999 and 2009.[1] Many of these private companies specifically link domestic partner benefit policies to a positive impact on the companies' recruitment and retention, employee productivity, and employee relations and morale.[2] Domestic partner benefits make it possible for lesbian, gay male, and bisexual ("LGB") employees to offer their families the protections straight employees can offer their families. Providing these protections is not just good for business—it is also a matter of basic fairness to LGB employees and their families.[3]

Domestic Partner Benefits in Missouri as of 2012

- Currently, at least 50 private employers headquartered in Michigan provide some form of benefits to same-sex domestic partners.
- At least 20 public employers in Michigan provide health insurance coverage for domestic partners of employees through "Other Eligible Adult" criteria, which requires that the person live with the employee and sometimes own property, as well as have legal documents together.
- Michigan governmental bodies that offer these benefits have found no significant difference between the costs of administering a benefit program for employees with same-sex domestic partners and the costs of a program for employees with spouses.[9]
- The costs of adding same-sex domestic partner benefits is small—typically less than 2% of the employer's total benefits costs.[10]

Domestic Partner Benefits Nationwide as of 2012

- At present, 50% of state and local government employers offer survivor benefits for employees with same-sex domestic partners. Because 84% of state and local employees are offered a defined benefit retirement, almost 60% of those with access can name a same-sex domestic partner as a survivor.[11]
- At least 8,673 private-sector for-profit employers offer some form of same-sex domestic partner benefits.[12]
- At least 292 (58%) of Fortune 500 Companies in the U.S. offer some form of same-sex domestic partner benefits.[13]
- At least 293 public employers—65 governmental organizations and 228 state and local governments—provide some form of same-sex domestic partner benefits.[14]
- At least 232 companies provide qualified joint and survivor annuity plans to their employees with same-sex domestic partners. At least 174 companies provide pre-retirement survivor annuity plans to their employees with same-sex domestic partners.[15]
- Approximately 33% of employees working in state and local governments and 29% of employees working in private industry have access to health care benefits for same-sex domestic partners.[16]

Private Employers Headquartered in Missouri Who Currently Offer Some Form of Same-Sex Domestic Partner Benefit.

Affirmations
Blue Cross-Blue Shield
ACLU of Michigan
American Brake and Clutch
Ann ArborNews
Applied Image Technology
ArvinMeritor Inc.
Battle Creek Enquirer
Bay City Times
Beaumont Hospital
Chrysler
Compuware
Delphi Corp
Dickinson Weright
Dow Chemical
DTE Energy
Dykema Gossett PLLC
Flint Journal
Ford Motor
General Motors
Grand Rapids Press
Great Lakes Computer
Guardian Industries Inc
Gunners Meters and Parts
Henry Ford Health System
Herman Miller Inc
Howard and Howard Attorneys
Jackson Citizen Patriot
K and C Engineering
Kalamazoo Gazette
Kellogg
Kirk's Automotive
Medstat Group
Michigan Chronicle
Michigan Public Health Institute
Midwest Bank Note Company
New World Systems Corp
Pridesource
Rg Medical Diagnosis
Saginaw News
Second Chance Body Armor
Steelcase
Stryker
The Gale Group
The Paper (Grand Rapids)
Truck Trailer Transit
TRW Automobile Holdings Corp
Valassis Communications
Visteon Corp
Whirlpool

Public Employers in Michigan Who Currently Offer Health Insurance to same-sex domestic partners of employees (through "Other Eligible Adult" program)

City of Ann Arbor, City of Kalamazoo, City of East Lansing, Ingham County, Washtenaw County, Ann Arbor, Birmingham and Farmington Public Schools, Michigan Civil Service Commission, University of Michigan, Eastern Michigan University, Western Michigan University, Michigan Tech, Northern Michigan University, Wayne State University, Oakland University, Grand Valley State, Michigan State University, Kalamazoo Valley Community College, Lansing Community College

Endnotes

1 Brad Sears and Christy Mallory, *Economic Motives for Adopting LGBT-Related Workplace Policies*, The Williams Institute (October 2011), at 1.
2 *Economic Motives*, at 2-3.
3 *Economic Motives*, at 3, 9; *Domestic Partner Benefits: Facts and Background*, Employee Benefit Research Institute (February 2009) ("EBRI Report"), at 1-2.
4 Affidavit of Daryl Herrschaft, Exhibit 9 in Plaintiff's Statement of Uncontroverted Material Facts in Support of his Motion for Summary Judgment. Supplemented by the *Human Rights Campaign's Employer Database*. The database focuses on major U.S. businesses with at least 500 employees, and therefore provides an inherently conservative number of employers that offer these benefits.
5 Employee data is compiled from websites of the Missouri-based employers who offer benefits to same-sex domestic partners.
6 Employment data for Missouri drawn from the Bureau of Labor Statistics, "Economy At a Glance—Missouri; Data for Sept. 2011."
7 Plaintiff Kelly Glossip's Statement of Uncontroverted Material Facts in Support of His Motion for Summary Judgment, at 8-9.
8 Plaintiff's Statement of Uncontroverted Material Facts, at 9.

9 Affidavit of Daryl Herrschaft, Exhibit 9 in Plaintiff's Statement of Uncontroverted Material Facts in Support of his Motion for Summary Judgment. Supplemented by the *Human Rights Campaign's Employer Database*.

10 Affidavit of M.V. Lee Badgett, Exhibit 10 in Plaintiff's Statement of Uncontroverted Material Facts in Support of his Motion for Summary Judgment; EBRI Report, at 2.

11 Affidavit of M.V. Lee Badgett, Exhibit to Plaintiff's Supplemental Uncontroverted Material Facts in Support of his Motion for Summary Judgment (citing Bureau of Labor Statistics, U.S. Department of Labor, *Employee Benefits in the United States—March 2011*).

12 Herrschaft. Supplemented by the *Human Rights Campaign's Employer Database*.

13 Herrschaft. Supplemented by the *Human Rights Campaign's Employer Database*.

14 Herrschaft. Supplemented by the *Human Rights Campaign's Employer Database*.

15 Herrschaft. Supplemented by the *Human Rights Campaign's Employer Database*.

16 Bureau of Labor Statistics, U.S. Department of Labor, *Employee Benefits in the United States—March 2011*.

EXHIBIT G

Legislative Hearing on the Domestic Partnership Benefits and Obligations Act of 2009

Statement of Carolyn E. Wright
Vice President, Corporate Human Resources
American Airlines

before the

Subcommittee on Federal Workforce, Postal Service, and the District of Columbia
Committee on Oversight and Government Reform

July 8, 2009

Chairman Lynch, Members of the Subcommittee, my name is Carol Wright and I am Vice President of Corporate Human Resources for American Airlines, based in Fort Worth, Texas.

As requested, I have submitted my testimony for the record, and will keep my remarks brief.

Speaking for the more than 80,000 employees of American Airlines and our partners at American Eagle, we are honored to be here today and to address relevant issues in your consideration of Representative Tammy Baldwin's legislation, H.R. 2517, The Domestic Partnership Benefits and Obligations Act of 2009.

As you can appreciate, we are by no means experts on the federal workforce, or the specific human resource and benefits equity questions you are raising with this legislation. We have not had the opportunity to study it in detail nor do I believe we can competently offer recommendations on all aspects of the bill.

Instead, you have encouraged us to share with you our experience as a corporate leader in the private sector and to share our views on best employment practices and inclusion – which speak to the overall goals of this legislation.

First, let me provide just a brief overview of our company. American, American Eagle, and the AmericanConnections® airlines serve 250 cities in 40 countries with, on average, more than 3,400 daily flights. Our combined network fleet totals approximately 900 aircraft. American Airlines is also a founding member of the global oneworld® Alliance, and together with oneworld members, we serve nearly 700 destinations in over 150 countries, with 8,500 daily departures. We also transport approximately 500,000 tons of cargo around the world each day.

At a glance, those statistics highlight our mission for the past 75 years. American recognizes that being a global airline means we are in the business of connecting people and cultures from around the world. Our company will only be successful if the experience we deliver, and the environment we create, is safe, welcoming and respectful of everyone. American also recognizes the relationships among its customers, employees, business partners and suppliers, and the communities that we serve. We must embrace the diversity that exists within each of our key constituencies, and operate in an inclusive manner, for all of these groups to thrive.

As a company that bears the name "American," we also know that much is expected of us, and we hold ourselves to a high standard. From hiring the industry's first African-American flight attendant in 1963, to the first female pilot in 1973, to the creation of our supplier diversity program in the 1980s and our multicultural sales teams in the 1990s, American has a long history of leadership. We also know that promoting diversity is a journey, and American is committed to making further progress as we weave it into the very fabric of our company.

Beginning in 1993, we were the first major airline to include sexual orientation in our Equal Employment Opportunity policy and we added gender identity in 1999. In 1994, we also recognized our lesbian, gay, bisexual and transgender employees as our first official Employee Resource Group. Last month, we celebrated their 15th anniversary.

We saw first-hand how these inclusive steps translated into enhanced loyalty and morale among our people, and gave evidence throughout the company that our words and our actions were aligned. In fact, last September, American wrote a letter to Congress supporting passage of the proposed Employment Non-Discrimination Act – which mirrors our own inclusive recruitment, hiring and retention practices.

Building on these first steps, in the late 1990's, we decided to examine benefits parity for all of our employees, and to identify any gaps in our soft and hard benefits, including health and other insurance coverage, travel companion privileges, and other options that customarily were available to legally married heterosexual spouses.

Philosophically, we have always tried to recognize employees as individuals with their own families' needs, talents and ambitions. All deserve equal respect and acceptance for the true worth and unique experiences and skills they bring to their jobs. We determined that treating employees in committed relationships with same-sex partners as a family, rather than as single people, was consistent with that philosophy. So, in 2000, we became the first major airline to offer benefits to the same-sex partners of our employees as we had long done for married spouses.

I am not able to disclose proprietary financial details about the costs or fiscal implications of our policies, but I can readily report that the actual impact on overall human resource budgets is proportionally modest and manageable.

What are the upsides? In the past decade, we see a stronger workforce in every sense. We are instilling a more enduring sense of loyalty and commitment, and helping to motivate our LGBT employees to be all they can be and to bring their whole identity to work. We never saw this as a special case or privilege, but simply doing the right thing in a business setting that underscores fairness, equity and inclusion.

In our diverse segment marketing strategies, we now can tell a more complete story to all customers about our welcome that is authentic and meaningful. There is no question that it helps us to be a much stronger contender as a world-class marketing organization during this very difficult economy. We know all of our customers consider service, value, convenience and comfort. However, in a very competitive market, we have learned that many appreciate inclusion and equal respect, too.

What are the implications for the federal government and your extraordinarily diverse workforce – which dwarfs so many corporations? We cannot safely predict with any certainty the future market conditions for employment and worker retention. But we can report that America's top corporations are showing the way on best practices. According to research from the Human Rights Campaign, roughly 80% of the Fortune 100 now offers equal, same-sex partner benefits, and the same can be said of 57% of the Fortune 500.

Last year, in a national survey commissioned by Out & Equal Workplace Advocates, and conducted by Harris Interactive with Witeck-Combs Communications, 64% of all American adults agreed that job benefits should be extended equally to committed same-sex partners that are available to legally married spouses.

Mr. Chairman, in closing, I also have a recently-updated document titled "Diversity and Inclusion—A Way of Life at American Airlines" that I would like to submit for the official record.

Again, thank you for inviting American Airlines to be here today, and to report on our past decade experience on this topic. We continue to work hard to sustain and build our commitment to diversity leadership, and hope our testimony reflects some of the lessons we have learned and are proud to share with you.

Thank you and I will be happy to respond to any questions.

AmericanAirlines®

Diversity and Inclusion: A Way of Life at American Airlines

Overview

American recognizes that being a global airline means we are in the business of connecting people and cultures from around the world. The company will only be successful if the experience it delivers, and the environment created, is welcoming and respectful of everyone. American also recognizes the relationship among its customers, employees, business partners and suppliers, and the communities it serves. They are all connected, and diversity and inclusion must be evident across these groups for all of them to thrive.

As a company that bears the name "American," much is expected of us, and we hold ourselves to a high standard. From hiring the industry's first African American flight attendant in 1963, to the first female pilot in 1973, to the creation of our supplier diversity program in the 1980's and our multicultural marketing teams in the 1990s, American has a long history of leadership. American knows promoting diversity and inclusion is a journey, and the company is committed to making further progress in weaving it into the very fabric of the company so it is evident every day.

At American Airlines, diversity means acknowledging different perspectives, ideas and various cultures and backgrounds. It means promoting inclusion, creating an environment where all differences are valued, and where employees can develop to their full potential. At American, diversity means creating a good workplace and fostering good corporate citizenship in the community.

American Airlines is proud of its tradition of diversity, the heritage it bespeaks, and the future opportunities it represents. At American Airlines, diversity is a way of life and everyday part of doing business.

Employee Diversity

American believes the company is strengthened through the diversity of its people. American understands that each employee is unique and the company strives to provide an environment that encourages and values individual experiences, perspectives and ideas. It strives to be a business where employees can respect and value each other regardless of race, gender, age, ethnicity, religion or sexual orientation.

American has been recognized for using the cultural differences among its employees in a way that advances the airline's business priorities while also developing employees' business and leadership skills. Consistently recognized as a leader in its employee policies for inclusiveness and fairness, American's policies have helped the company attract and retain high performing, creative employees.

- Today American Airlines has several officers who are African-American, Hispanic, Asian-American and female, and the number of women officers is among the top in the industry.
- Of American's U.S.-based employees, 40 percent are female and 31 percent are ethnic minorities.
- American has the distinction of being the first major airline to hire a female pilot (1973) and the first to have a female captain (1986).
- The number of female engineers employed by AA exceeds the national average.
- For more than a decade, American Airlines has been a pioneer in implementing fair-minded policies and practices for its gay, lesbian, bisexual and transgender customers and employees. The first major airline to implement same-sex domestic partner benefits (2000), American also offers equal health, pension and travel benefits to same-sex partners of gay and lesbian employees. American was the first major airline to implement both sexual orientation (1993) and gender identity (2001) in its workplace

nondiscrimination policies, and the first major airline to have a recognized GLBT employee resource group – GLEAM.

- In 1963, American hired the industry's first African American flight attendant, Joan Dorsey. And in 1964 American hired its first African-American pilot, Captain Dave Harris. Both worked the remainder of their careers with American and each retired with more than 30 years of service. In 2008, American honored Capt. Harris and Dorsey at a special ceremony to celebrate their places in aviation and company history.
- American is one of the few corporations to voluntarily form a Board of Directors Diversity Committee which provides oversight of American Airlines and American Eagle diversity initiatives.

Employee Resource Groups:
American currently has 16 Employee Resource Groups (ERGs). As a major international airline, ERGs play a particularly important role because they promote a positive, productive work environment while creating avenues for employees to contribute their ideas to the business - helping American develop products and services for its global customer base. In addition, the ERGs play a vital role in connecting American to the communities it serves.

These groups have not only helped American better understand and work with its own employees, they've also helped American tailor its products and services to better meet customers' needs and desires:

- The Indian and Asian/Pacific Islander ERGs provided cultural guidance and helped with menu planning and promotional activities in support of Delhi and Shanghai service introductions.
- The Human Rights Campaign (HRC) Buyer's Guide lists American, in part because of the efforts of the Gay/Lesbian/Bisexual/Transgender ERG in assisting Human Resources with its responses to the HRC's annual survey.
- The African American ERG helped to conduct focus groups with African American customers and employees, to generate ideas on how to make American's marketing, products and services more appealing to the African American consumers.

American's 16 ERGs include: 40+ Employee Resource Group (40+ ERG); African American Employee Resource Group; Asian/Pacific Islander Employee Resource Group; Caribbean Employee Resource Group; Christian Employee Resource Group; Employees with Abilities; Generation Now; Gay, Lesbian, Bisexual and Transgender Employees (GLEAM); Hispanic/Latin Employee Resource Group; Indian Employee Resource Group; Jewish Employee Resource Group; Muslim Employee Resource Group; Native American Employee Resource Group; Parents AAt Work; Veteran Military Employee Resource Group; Women in AAviation.

Community Involvement
The people of American Airlines have long understood that serving a community means more than just flying there — it means contributing to a range of nonprofit organizations and community events and encouraging and facilitating employee volunteerism and donations. From national partnerships to local initiatives, American Airlines strives to make a positive impact on the lives of its customers, its employees, its families, its shareholders, and the communities where they live.

- In 2007, American provided more than $28 million of in-kind and cash support to hundreds of nonprofit organizations in all of the countries it serves.
- American Advocates, launched in 2004, has 10,000 volunteers for various initiatives. Employees and departments have consistently volunteered for community events such as Something mAAgic, the Susan G. Komen Race for the Cure and the American Cancer Society's Relay for Life. Employees also contribute generously to disaster relief efforts, including the tsunami and Hurricane Katrina relief efforts.

- Airline Ambassadors organizes relief missions to areas ravaged by natural disasters, to distribute food, medicine, school supplies, wheelchairs, clothing and toys to orphanages, clinics, especially in Latin America.
- American is a long-term supporter of the United Negro College Fund (UNCF) and its initiatives to provide students in the African American community with opportunities they might not have under other circumstances.
- American Airlines sponsored an Aviation Youth Summit in 2008, in conjunction with the C. R. P. Future Pilots Flight School in Dallas. Named for legendary pilot and original Tuskegee Airman Claude R. Platte, the organization seeks to celebrate the history of the Tuskegee Airmen and continue the legacy of these pioneering heroes. Eagle Senior Vice President – Technical Operations David Campbell was among the featured speakers, sharing with young future aviators the opportunities that exist and tips for pursuing a career in aviation. American also sponsored a performance by legendary actor, James McEachin in Feb. of 2009 to raise funds for the C.R.P. Future Pilots Flight School.
- In 2008, American Airlines announced an expanded relationship with Susan G. Komen for the Cure, and the airline's new role as Komen's inaugural Lifetime Promise Partner. American pledged to raise $8 million and is the first funder of Komen's new category of grants, Promise Grants. The first American grant is funding a five-year study of inflammatory breast cancer (IBC) at The University of Texas M. D. Anderson Cancer Center.

Supplier Diversity

Established in 1989, the mission of American's Diversified Supplier Program is to afford qualified minority, women-owned and small businesses the opportunity to participate as potential suppliers of products and services to the airline. Administered from the Corporate Purchasing Department, the program is represented throughout the corporation by supplier diversity advocates, who are responsible for supporting supplier diversity within their respective departments on a day-to-day basis. Each department establishes annual goals for its supplier diversity spending, and progress is measured to ensure that each department is on track to realize its supplier diversity objective.

Success depends on the supplier's ability to be price competitive in the marketplace, to provide a quality product and/or service, and to deliver that product or service in a timely manner. American attempts to match potential suppliers with customers within the American Airlines organization, to establish a line of communication between the supplier and the customer.

- Since initiation of the Diversified Supplier Program, total expenditures with minority-owned and women-owned suppliers have exceeded $3.6 billion.
- The Diversified Supplier Program focuses on ethnic minority (African American, Hispanic, Native American and Asian Pacific) and women-owned businesses.
- American was the first airline to invite certified LGBT suppliers to participate in our supplier diversity program.

Customer Diversity

American also embraces diversity to better understand its customers, suppliers and the community as a whole. By utilizing the perspectives of various ERGs and the large number of diverse employees, American is able to successfully enhance the customer experience through understanding the different expectations, experiences, and backgrounds of its customers. A number of initiatives are in progress to enhance the overall customer experience for travelers who fly with American, and a series of marketing programs are under way that specifically appeal to key diverse customer segments.

- In January 2008, American developed a robust diversity and inclusion page on aa.com. The link promotes American's diversity efforts in supplier diversity, employees, diversity leadership, awards and recognition, corporate citizenship and on-going marketing initiatives.

- American has dedicated sales teams that focus solely on diverse customer groups, such as the African-American, Hispanic, and Lesbian, Gay, Bisexual and Transgender (LGBT) communities. These sales teams support and partner with many community organizations such as the NAACP, The Thurgood Marshall Scholarship Foundation, and Paul Quinn College. In the Hispanic community, American supports the Hispanic Women's Network of Texas; the League of United Latin American Citizens (LULAC); National Council of La Raza (NCLR) and National Association of Latino Elected and Appointed Officials (NALEO) National Conventions; and the Latina Style 50 Best Practices on Diversity Conference. The LGBT team supports organizations such as Human Rights Campaign, Gay and Lesbian Alliance Against Defamation, Lambda Legal, and amfAR. American Airlines uses specialized and diverse advertising, marketing, and public relations agencies to develop insightful programs that best serve its needs.
- American uses the web to generate revenue and loyalty among its diverse customers as well as educate and inform them of travel-related or company-related information at www.AA.com/rainbow. AAVacations.com now has a microsite, www.AAvacations.com/rainbow, aimed at serving American's loyal LGBT customers who are eager to explore the vacation destinations on this popular Web site. American was the first U.S. airline to launch a vacation package site for LGBT travelers. Additionally, approximately half of American's travelers are women, and American was the first airline to publicly state its commitment to female travelers. www.AA.com/women offers destination information, travel tips, lifestyle and business related events for women consumers.
- American has also established two external advisory councils: one focused on women travelers, the other on LGBT travelers. Advisory Council members provide ongoing and ad hoc market feedback on American's position within their respective communities and offer input on market trends, community concerns and program concepts that promote growth within these customer groups.
- American Airlines leads the industry in African American advertising and is the only airline with a specialized African American advertising manager and budget. American has a dedicated African American advertising agency, which guides the strategic placement of ads – to date, largely in American's most competitive markets such as New York and Chicago.

Awards

Many organizations and publications have recognized American's diversity efforts. The company leads the airline industry in its commitment to diversity initiatives and has been recognized with numerous awards, including:

- In 2009, American Airlines was the sole airline to be named one of the "50 Best Places for Diverse Managers to Work" by DiversityMBA Magazine.
- American Airlines was the only airline to be named one of the nation's "Top 50 Employers" by readers of Equal Opportunity Magazine in 2009.
- Perfect 100 score on Human Rights Campaign's Corporate Equality Index for seven years in a row (2001-2008).
- 2008 Employer of Choice Award – Minority Corporate Counsel Association.
- DiversityInc.'s "Top 25 Noteworthy Companies" – 2008.
- Hispanic Business Magazine's Elite 60 – 2008.
- Latina Style Top 50 Companies for Latinas – 2008.
- American Airlines wins prestigious Cannes Lion award for commercial "Team Building" featuring a diverse workforce - July 2008.
- Black Enterprise Top 15 Companies for Marketing Diversity - July 2007.
- eWomenNetwork Foundation International Femtor® Industry Innovator Award - June 2007.
- Named among DFW Minority Business Council's inaugural Top 20 "Buy Those That Buy Us" award - June 2007.

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GE imagination at work

September 17, 2008

Senator Joseph I. Lieberman
340 Senate Dirksen Building
Washington, DC 20510

Dear Senator Lieberman:

I am the Chief Diversity Officer of General Electric Company (GE") and am writing to provide some information and experience that may be of interest to you in your sponsorship of S. 2521, the bill to provide benefits to domestic partners of Federal employees.

GE, a Fortune 10 company, has been in business about 130 years. We employ approximately 350,000 employees world-wide (approximately 150,000 in the US) and operate in many diverse businesses such as jet engines, power generation, financial services, locomotives, medical imaging and media content. Many of our major businesses have contracts to provide goods or services to the federal government.

Similar to the federal government, we recruit new employees all over the United States and from many different disciplines. We invest a lot of time and resources in designing some of the best approaches to attract and retain key talent at GE.

GE's main health benefits plan added same-sex domestic partner coverage as of January 1, 2004. Our experience in adding this coverage has been consistent with other major employers in terms of cost and administration. Currently, there are approximately 400 domestic partners and 25 dependents of those domestic partners enrolled in the plan. As we have over 300,000 plan participants overall, the effect of adding this coverage on overall cost has been negligible. We would not anticipate significantly higher enrollment even if the benefit were tax-favored.

Administratively, GE utilizes an affidavit process to verify the existence of the relationship except in states that permit civil unions or same-sex marriages. In those states, the marriage or civil union license suffices. Implementation and operation of the affidavit process is largely a manual effort, but as the enrollment numbers are not high, it presents no meaningful burden.

While I could tell you about the impact this offering has had on our recruitment and retention efforts, I thought it would be better to read about it directly in a statement from one of our own employees, a co-chair of the GLBT Alliance at GE, Jayzen Patria:

GE's inclusion of same sex domestic partner benefits has allowed the company to continue to attract and retain gay, lesbian, bisexual and transgender (GLBT) employees.

The addition of these benefits has allowed GE to attract GLBT employees both in broad as well as targeted recruitment activities. As a key benefit and metric of an inclusive culture, domestic partner benefits are listed on ge.com as a demonstration of GE's "commitment to GLBT employees." The benefit allows GE to remain a competitive employer at GLBT-specific recruiting events such as Pride festivals and the annual Out and Equal Workplace Summit, a conference targeted at Fortune 500 companies.

At the recent GE GLBT Alliance Global Meeting, a session was held on 21st Century Talent Acquisition, which included a panel of GLBT students from the University of Texas, Austin. When asked about what they expect from a future employer, the students expressed that while a record of innovation and strong culture were key drivers of an employment decision, the lack of domestic partner benefits would be an automatic disqualifier. In essence, their opinion was that these are basic benefits that an employer must offer in order to even be considered in their job search.

Current GLBT employees frequently echo this sentiment. While most do not participate in these benefits based upon their own individual family status, many indicate that it is a key reason why they remain at GE. In their view, the benefits are not only a protection of the health and welfare of their current and future families, but representative of a culture where they can bring their whole selves to work enabling performance and innovation.

We hope this information has been helpful to you. Feel free to contact me if you have any additional questions.

Sincerely,

Deborah A. Elam

Deborah A. Elam

DAE/sck

Statement for the Record

Kathleen Marvel
Senior Vice President & Chief Diversity Officer
The Chubb Corporation

Committee on Homeland Security & Government Affairs,
United States Senate

The Hon. Joseph Lieberman, Chair

Hearing entitled, "Domestic Partner Benefits for
Federal Employees:
Fair Policy and Good Business"

September 24, 2008

On behalf of The Chubb Corporation, one of America's leading diversified-financial corporations, I would like to express our support for extending domestic partner benefits for Federal employees. We applaud the Committee for holding this hearing. As Chubb's Chief Diversity Officer, I appreciate the opportunity to provide this statement for the Congressional Record and to share with you some of the ways in which having DP benefits has enhanced our ability to attract and retain some of the best and brightest employees in the financial services industry.

As part of our longstanding commitment to workplace fairness, Chubb has offered a robust menu of life, health (medical & dental) and disability benefits to the domestic partners – and the children of domestic partners – of our employees since 1996. When the program was first introduced, 88 employees (out of a universe of approximately 8,000) signed up. By 2001, that number had risen to 128 (29 same-sex couples; 99 opposite-sex couples. In 2002, 150 employees (31 same-sex couples and 119 opposite sex couples) had enrolled in the program. By 2008, 255 employees (60 same-sex couples and 195 opposite sex couples) had signed up. We can only anticipate that these numbers will continue to grow in the years ahead.

You may wonder why, since we feel this is such an important cornerstone of our benefits portfolio, so few employees have taken advantage of the coverage since it was first introduced at Chubb over 10 years ago. There are myriad reasons for this trend; but the main one is, we believe, the unfortunate fact that under current Federal law, the value of employer-provided health coverage attributable to an employee's non-spouse, non-dependent beneficiary (such as a domestic partner or certain grown children covered under a parent's plan) is included in the taxable income of the employee and in the employee's wages for payroll tax purposes. This results in higher income and payroll taxes for these employees than for employees with spousal or dependent coverage (where the value of the coverage is not regarded as taxable income or wages.)

Bi-partisan, bi-cameral legislative proposals introduced last year – S 1556 by Senators Smith, Lieberman, Cantwell, Wyden, Kerry, Akaka, Murray and Dodd; and H.R. 1820 by Representative Jim McDermott and 108 co-sponsors, would amend the U.S. tax code so that DP benefits offered to eligible beneficiaries under employer health plans will not generate taxable income or taxable wages. Chubb is a strong supporter of both S. 1556 and H.R. 1820, and we are working with a coalition of like-minded companies to end the "double-taxation" of DP benefits.

Diversity is about recognizing, respecting and valuing differences. We realize the challenges involved in integrating and valuing diversity in its many shapes, and are committed to fostering an environment in which all employees can realize their fullest potential. We believe that Chubb benefits from the competitive advantage such diversity provides. We pride ourselves on being a great place to work, as evidenced by the many workplace awards we have received, which are listed in an attachment to this Statement.

Enhancing our work environment by broadening our benefits programs and celebrating the diversity of our workforce has not been a financial burden to Chubb. On the contrary, we believe that our approach actually strengthens our financial underpinnings, by enabling us to attract and retain a wide variety of talented employees at every level of the organization.

Businesses that drive away talented and capable employees are certain to lose their competitive edge, an outcome that we simply cannot afford to accept in today's competitive global marketplace. At Chubb, we are committed to providing equal employment opportunities to **all** employees and applicants based on job-related qualifications and ability to perform a job without regard to race, sex, color, religion, age, national origin, sexual orientation, gender identity or disability.

This commitment is reflected in the benefits plans we make available to our employees. In fact, many employees have, over the years, shared with me their observations of why they were attracted to Chubb over another employer. An oft-repeated theme in their comments is the quality and breadth of our benefits programs. Here are just a few such testimonials:

I'm a new hire with Chubb. One of the things that drew me to Chubb (besides the obvious advancement of my career and the chance to be a part of Chubb's position in the insurance industry) is Chubb's support for their gay and lesbian employees, through the employee group and domestic partner benefits.

I have had a successful and satisfying 12 year career with Chubb. [Even though I am leaving the organization,] I want to let you know how symbolically important it was for me--being in a branch--to know that DP benefits and an organization like GLEN exists at Chubb. Although I never utilized it, knowing it was there made me feel a great deal more welcome and secure, as I know it does for others in the branch world.

Addressing individual needs through domestic partner benefits, supporting a business ethic based on best business practice and a commitment to eliminate a discriminatory workplace, creates the strongest foundation of any company that I have worked for. Based on what I have heard from friends, family and colleagues, both within and external to the Insurance Industry, I have found nothing that compares. Chubb is truly the only company, during my employment experience that I can say I have been privileged to work for.

My partner works in another state and the choice of doctors in her plan is limited because of where we live. For us, choosing the Chubb-provided DPB will enable us to have more choices of health care providers that are local and familiar to us. I am proud of the stance Chubb has taken to provide DPB to all employees.

For most of the 12 years since Chubb began offering DPB, my partner (for the past 15 years) and I have not had the need to utilize them--but there have been two occasions which were exceptions. At one point, his employer was bought out by another company and he was one of many employees that were laid off in the aftermath of that occurrence, leaving him unemployed for several months. At another time in his career, the only *medical coverage plan his employer at the time offered was one which had a very high annual deduction ($3-5,000 as I recall). My partner has various health issues which require ongoing prescriptions that would cost thousands of dollars each month if he had no medical coverage, and so the security of being able to add him to my coverage for brief periods of time was critical to both our financial and emotional well being. It is not too much of leap to be able to see how important the availability of such benefits can be to an employee's overall productivity.*

In the years since its implementation, our culture of inclusion and celebration of diversity in the workplace has been embraced broadly throughout the organization, and we believe this acceptance has had a positive impact on our Corporation's bottom line: we employ the best-qualified insurance professionals in the financial services industry, bar none. Their collective work ethic has helped make Chubb the 180th largest corporation in the U.S. (according to **Fortune** magazine). And it has further reinforced, for ALL of our employees, that fairness and non-discrimination remain fundamental tenets in our workplace.

I thank the Committee for the opportunity to share our views with you, and I hope you will give serious consideration to adding DP benefits to the constellation of benefits to which Federal employees can avail themselves. I truly believe that you will be rewarded with a more loyal and long-term employee universe, which as one of the country's largest public employers, you will agree is critical in today's competitive workplace.

We would be pleased to provide any additional information about our DP benefits program in which you might be interested as you move forward with your exploration of this important issue.

Thank you.

TIAA CREF

FINANCIAL SERVICES FOR THE GREATER GOOD

Statement for the Record for the Hearing on
Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business
U.S. Senate Committee on Homeland Security and Governmental Affairs
September 24, 2008

Mr. Chairman, as your Committee holds a hearing on your legislation to provide benefits to the domestic partners of federal employees (The Domestic Partner Benefits and Obligations Act, S. 2521), TIAA-CREF wanted to submit this statement for the record about our own experience with domestic partner benefits.

TIAA-CREF is a national financial services organization that manages over $425 billion in assets for more than 3.4 million clients. We are the leading retirement system for academic, research, medical and cultural institutions. The issue of domestic partner benefits is an important one for us, but also for our client institutions and our plan participants.

TIAA-CREF began offering domestic partner benefits in January 2004. These benefits are offered to same-sex partners, and include all health benefits, such as medical, dental and vision coverage. We offer these benefits to compete effectively in the marketplace for talent and to retain valuable employees in our company. Since the majority of Fortune 500 companies now offer these benefits, those firms that do not are at a competitive disadvantage when hiring qualified candidates. We believe that employees deserve equitable treatment, and offering domestic partner benefits is in keeping with our commitment to provide benefits fairly across our employee population. The response from our workforce has been extremely positive and we have found that offering domestic partner benefits have enabled us to attract and retain a highly-qualified workforce.

Our experience with our domestic partner benefit program is that costs and administration do not diverge appreciably from that of our general population. We have seen no evidence that the claims experience differs within this group, nor do we see any suggestion that otherwise ineligible individuals are benefiting improperly from this program.

One challenge we encounter in administering our domestic partner benefits program is caused by the inequity in the federal tax treatment of such benefits. For those who do not qualify as spouses or dependents under the Internal Revenue Code, such as domestic partners, the value of these benefits is treated both as taxable income to the employee and as wages subject to payroll taxes. Yet, such benefits to spouses and dependents are excludible from income and payroll tax. This creates the need internally for additional systems to track the tax withholding for affected individuals. A greater challenge is communicating the inequity to employees and managing the outcome. We appreciate that you, with Senators Smith and Cantwell, have introduced legislation to provide equal tax treatment for health benefits offered to any eligible beneficiary under an employer health plan (S. 1556, The Tax Equity for Domestic Partner and Health Plan Beneficiaries Act). We would like to work with you to see S. 1556 enacted into law, so that all employees may benefit from equal treatment for domestic partner benefits under the tax code.

Domestic partner benefits are an integral part of our recruitment and retention strategy at TIAA-CREF. The costs and administration of our program are in line with commensurate benefits offered to employees with traditional family structures. Correcting the federal tax inequities would address the primary challenge for these benefit programs. Thank you for your significant legislative efforts to promote these benefits and for the opportunity to submit our views

Written Testimony of Orson Porter
Nike Government Affairs- Nike, Inc.
Statement for the Record before the Senate Committee on Homeland Security and Governmental Affairs for the hearing on Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business on September 24, 2008

Thank you for the opportunity to address this important and vital hearing. Mr. Chairman, in concurrence with the Committee's hearing on domestic partner benefits for the employees of federal workers (The Domestic Partner Benefits and Obligations Act, S. 2521), we at Nike, Inc. wanted to submit this statement for the record about our own experience with domestic partner benefits.

Nike began offering Permanent Partner Benefits as early as 1994 to both same and opposite sex permanent partners. We consider diversity a cornerstone of our ability to remain competitive and seek to be an employer of choice for the total workforce. This we believe fuels our ability to attract and retain the most innovative team members and to continue to drive positive change and new ideas. Please understand this in context of Nike as a global company and global employer. As we recruit employees and move valuable resources from around the world, we sometimes find that we are asking employees to relocate to a situation that is not as equitable from a taxation perspective as where they are currently. To that end, Nike has been a proud supporter of S. 1556 (The Tax Equity for Domestic Partner and Health Plan Beneficiaries Act), which aims to help ensure that Nike's GLBT employees do not incur undue federal tax penalties in order to provide essential medical coverage and benefits for their loved ones and family. We hope to work with you to see S. 1556 enacted into law at the earliest possible opportunity. Not only would this eliminate a significant financial burden for our employees but also for the federal employees who would be entitled to domestic partner benefits under the bill that is the subject of today's hearing.

Again, I would like to thank Senator Lieberman and the distinguished members for their leadership on this important issue of equality. At Nike one of our primary Maxims is "Do the Right Thing". Nike has made the policy and benefit changes within the context of the law to support our GLBT employees. The State of Oregon has recently passed state legislation that will provide additional protections to GLBT citizens and we are now asking the Federal government to follow suit and make positive changes to support its citizens and provide equitable tax treatment.

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Written Testimony Submitted by
Helga Ying, Director, Worldwide Government Affairs and Public Policy
Levi Strauss & Co.
Before the Senate Homeland Security and Government Affairs Committee

Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business

September 24, 2008

Thank you Mr. Chairman and members of the Committee for the opportunity to provide this written testimony today regarding Levi Strauss & Co.'s (LS&CO.) experience providing equal benefits for all of our employees and their eligible domestic partners. We encourage all employers to consider extending healthcare and other benefits to eligible domestic partners, and we urge the Federal Government to lead by example by extending benefits to the domestic partners of all federal employees.

Based in San Francisco, California, LS&CO. is a global corporation with roughly 11,000 employees, more than 3,000 of whom are employed in the United States. LS&CO. is one of the world's leading branded apparel companies. We design apparel and related accessories for men, women, and children under the Levi's®, Dockers®, and Signature by Levi Strauss & Co.™ brands, and we market our products in more than 100 countries.

Providing equal employee benefits for domestic partners is consistent with LS&CO.'s commitment to workplace diversity, our long-standing nondiscrimination policy and our strong corporate values. Our company values -- empathy, originality, integrity and courage -- play an important role in shaping LS&CO.'s business strategies, corporate policies and community-outreach activities.

Guided by our values, in 1992, we became the first Fortune 500 company to offer healthcare benefits to the unmarried partners of our employees -- a practice that is now common among the nation's top employers. We also implement policies that provide equal opportunities for all our employees without regard to race, color, gender, sexual orientation, religion, national origin, age, Vietnam era/disabled status, gender identity, disability, or other bases prohibited by law in the jurisdictions where we do business.

Adopting strict antidiscrimination policies and extending equal benefits to all of our employees and their domestic partners have had no adverse effect on our global business interests. To the contrary, we believe that our values and commitment to diversity have improved our company's ability to compete by attracting the "best and the brightest" job candidates and allowing all employees to participate freely and openly in their respective occupations.

We have found that our policies have earned LS&CO. tremendous positive returns on our resource investments -- returns that we believe would be of significant benefit to federal agencies as well. We, therefore, encourage members of the Committee to develop legislation that would extend benefits to the domestic partners of all U.S. federal employees that are identical or similar to those the Government currently extends to the partners of its legally married employees.

Thank you again for the opportunity to present this testimony.

STATEMENT OF

William H. Hendrix, III, Ph.D., Global Leader, Gays, Lesbians and Allies at Dow
THE DOW CHEMICAL COMPANY
Midland, Michigan

For the hearing on
Domestic Partner Benefits for Federal Employees

Before the
Senate Committee on Homeland Security and Governmental Affairs

On
October 15, 2009

Chairman Lieberman, Ranking Member Collins and members of the Committee for Homeland Security and Governmental Affairs, my name is Dr. Bill Hendrix, and I am the Biology Team Leader for Insect Traits and Seed Treatment within Dow AgroSciences LLC, a 100% wholly owned subsidiary of The Dow Chemical Company. I hold a Ph.D. in Entomology from Iowa State University and have worked for Dow for 20 years.

In addition to my role as a biology team leader within Dow, I also serve as the chair of the Company's Gays, Lesbians and Allies at Dow (GLAD) Network, an affinity group advocating for gay, lesbian, bisexual, transgender and ally employees within the company. GLAD is one of seven employee networks at Dow, all working toward promoting an increasingly diverse and inclusive workplace. Our seven global employee networks comprise 120 local chapters, engaging hundreds of employees around the world in promoting respect, tolerance and greater understanding among our diverse workforce. GLAD was first established in 2000.

First, I will provide some background on Dow. Dow was founded 112 years ago in Midland, Michigan, a small town of about 40,000 people just over 100 miles north of Detroit. Our small town Midwestern roots have encouraged us to establish our enduring Core Values of Integrity and Respect for People. It is these Values that form the very heart of our approach to Diversity and Inclusion.

Over the years, as we have grown and become a major player in the global economy, Diversity and Inclusion have truly become key elements of our corporate culture. Just consider our footprint: we serve customers in 160 countries, we have manufacturing sites in 35 different countries, and at last count, my 46,000 colleagues represent about 100 different nationalities—all working together to generate $57.5 billion in annual sales. On April 1, 2009, Dow completed its acquisition of Rohm and Haas, a $10 billion specialty chemicals company, expanding our growth potential and our reach into new markets and geographies.

Clearly, diversity underpins our workforce, our culture and, indeed, our business model. In a highly competitive world where innovation is the key to securing competitive advantage, we know that it is our "Human Element" that is key to our success. As a result, we know that creating a respectful, inclusive working environment is not only a matter of fairness and equality, but also one of critical economic and business importance. Likewise, we feel that S. 1102, the Domestic Partnership Benefits and Obligations Act of 2009, will similarly help the US government create a more respectful and inclusive work environment.

With a shrinking and ever more diverse talent pool – particularly in the sciences and engineering – it is essential for us to actively include everyone to ensure we attract, develop and advance the very best talent available in the marketplace. As an industrial, business-to-business supplier with virtually no consumer marketing, located largely in smaller rural areas, we must work even harder to have an identifiable employer brand to attract top talent. We see our proactive stance on diversity and inclusion as a key element of this brand.

Our open policy allows us to hire the best employees, with the greatest range of perspectives. When we discuss Domestic Partnership policies in the workplace, we do so knowing that this policy gives us an advantage. Because we don't have major offices or facilities in the metropolitan areas in the US, our employees who would like access to domestic partnership policies often have more protection and freedoms under Dow's policies than under the laws of their state or locality.

Specifically, our Lesbian, Gay, Bisexual and Transgender (LGBT) policies have been good for our workplace for two main reasons: a) retention of our employees has been enhanced, because they know that they can perform their jobs openly and with full support of their family situation without fear of repercussion and therefore have more reason to be committed to the company in return, and b) better recruitment of allies and younger workers, who often use employee benefits, such as support for domestic partnerships and flexible work hours, as a litmus test for prospective employers. We have been widely recognized in the past for our work on LGBT issues:

- a 100% ranking on Human Rights Campaign (HRC) Corporate Equality Index for the United States for the fifth straight year. Dow was the first chemical company to receive such an award.
- The International Gay and Lesbian Chamber of Commerce (IGLCC) awarded Dow Chemical Company a third place as a leading corporation in the first edition of the International Business Equality Index. The Index is a measurement of the performance of multinational corporations in relation to Diversity and Inclusion issues specifically focusing on LGBT communities in the countries where they operate.
- Selected by Human Rights Campaign as a 2010 Best Places to Work for LGBT Equality
- Dow Received the Lambda Legal Corporate Leadership Award. The award honors companies and/or organizations based on their internal policies, employee resource groups and external practices regarding sexual orientation and gender identity.

For Dow, like most companies, the offering of benefits to LGBT employees has been the result of a multi-stage journey. We first instituted sexual orientation in our employment nondiscrimination policies in 2000. We then added parity for domestic partnerships in 2002. We added protections based on gender identity in 2007. A copy of our policy is attached as exhibit A. Of special note, we have implemented this globally for all the 160 countries in which we have employees!

The offering of domestic partner benefits is certainly not out of the norm within the US top employers. According to the Human Right Campaign Foundation 2010 Corporate Equality Index "the majority of Fortune 500 companies provide them, and they remain an overall low-cost, high-return benefit for businesses". Currently 94% of the ranked companies in that survey offer domestic partner benefits to same-sex couples and 70% offer them to opposite sex couples.

Often domestic partners benefits are seen as just a benefit for same sex couples. But, domestic partner benefits do not only attract LGBT employees. Many companies report that the implementation of domestic partner benefits helps attract and retain critical talent from non-gay and lesbian talent. These particular candidates have reported that the existence of a domestic partner benefits policy shows that the company values and truly believes in a workplace that respects and protects all employees. It also shows our commitment to including diverse perspectives. This trend is especially prevalent among younger candidates of the workforce -- a segment crucial to the future demographics of any employer.

Within Dow, we have instituted policies to create parity between those who are traditionally married and those couples who would like to take advantage of our domestic partner benefits. Therefore, we offer benefits to both same-sex and opposite-sex couples, and those who qualify also have access to a wide arrange of benefits, which, on the whole, are very similar to the benefits outlined in S. 1102. Many of these benefits don't require the company to incur any additional costs. As examples, in addition to our US medical plan, prescription drug plan and dental plan, employees have access to family leave, insurance, pension, adoption assistance, and international relocation benefits. Where a benefit is offered to a traditional spouse, we try to offer the same benefit to a domestic partner. Therefore, partners may take advantage of company discounts, visits to the fitness center, access to the flu prevention program and ability to open accounts at the credit union.

Obviously, on an international scale, local law can impact our offerings within different countries and for international relocation. However, the global policy is to provide parity between domestic partners and those that are traditionally married within that country.

Our management is sensitive to critical issues relating to the cost that offering such benefits could add to our company's bottom line. After seven years of offering domestic partner benefits to both same and opposite sex couples, I can tell you that this program DOES NOT add significantly to the bottom line. Currently, Dow Chemical has 105,653 covered lives under our U.S. Medical Plan at a annual cost of $325 million. This number includes employees, retirees and dependents of both employees and retirees. We currently have 282 domestic partners who are covered under Dow's US health benefits. That represents 0.27% of the covered lives. Interestingly, the average net payments for domestic partners is approximately 0.24% of our total spending (or $770,000 total and $2,730 per domestic partner) on Dow U.S. medical plans or slightly less than the proportion of the population that they represent.

A second concern is how you create a registry of qualified domestic partnerships. This entails a balance between respecting the individual's need for privacy and discretion with the company's need to install guidelines, as there are no national or state registries, such as a marriage license, within most states. In exhibit B, we have attached our policy for determining the existence of a qualified domestic partner relationship. Once this form is completed by the employee, the couple is granted access to all of Dow's domestic partner benefits. To date, we have had no issue with fraudulent claims for benefits. In fact, according to Lambda Legal, time has shown that fraud has not been a problem in domestic partner benefits programs; it is probably less a risk than among employees claiming to be married, due to the tax penalty incurred with domestic partner benefits (http://www.lambdalegal.org/issues/same-sex-relationships/tips-for-negotiating-for.html)

Perhaps the final concern we faced in implementing our program is how to successfully implement domestic partner benefits throughout a diverse organization like Dow. For us, the key has been a strong combination of executive support creating the right tone at the top regarding inclusion, a well articulated business case rooted both in talent management and in our Company's values, and lastly a strong network of both LGBT and ally employees working together through the GLAD Network. Our Network actively engages allies to help bridge discussions on topics of inclusion with our larger population.

Public policy can also augment a company's diversity program. Accordingly, Dow continues to strongly support the Tax Equity for Domestic Partner and Health Plan Beneficiaries Act (S. 1556). Unfortunately, current law requires an employee, whose domestic partner receives health benefits, to pay taxes on their employer's contribution for health insurance benefits, and both the employee and employer must pay payroll taxes on this additional taxable income. The legislation would eliminate these taxes and allow those employees, who currently cannot afford the extra taxes, to offer health coverage for their loved ones. It would, by small extension, allow equal benefits between domestic partners and their married co-workers.

Overall, Dow has found it a relatively easy transition to offer domestic partner benefits. The cost has been minimal while the impact to daily culture has been immense. Every time an email goes out to the employees stating that "spouse/domestic partner" is included, we send a positive message for workplace inclusion and reinforce our "Human Element" advantage.

Dow appreciates the chance to share our views and applauds the committee's work to gather more information on domestic partner benefits within the workplace. We strongly support the addition of these policies to all workplace environments and stand ready to assist the federal government in the review of its own policies in this area. We welcome any further questions you may have.

Exhibit A

Our Global Policies for Inclusion -- Respect and Responsibility

(http://www.dow.com/diversity/beliefs/inclusion.htm)

We encourage a culture of mutual respect in which everyone understands and values the similarities and differences among our employee, customers, communities and other stakeholders. We work to provide an atmosphere that encourages positive interaction and creativity among all employees.

It is the policy of The Dow Chemical Company that employees be provided a work environment which is respectful and free from any form of inappropriate or unprofessional behavior, such as harassment including sexual harassment, pestering or bullying and any form of unlawful discrimination based on sex, gender, race, sexual orientation, gender identity, disability, age, ethnic origin, or other inherent personal characteristic protected by law.

Exhibit B

STATEMENT OF DOMESTIC PARTNER RELATIONSHIP

I. DECLARATION

In order to establish a domestic partner relationship to qualify for certain benefits that The Dow Chemical Company and certain of its subsidiaries ("Dow") determines to offer in their sole discretion to Domestic Partners from time to time, we,____________________________ and______________________________

participant Name / ID Number or Social Security Number (print) ("participant")	Domestic Partner Name (print) ("Domestic Partner")

certify that we are Domestic Partners in accordance with the criteria listed in Section II of this Statement and we certify further that we have read and understand all of the provisions of this Statement.

II. CRITERIA

We certify that we meet all of the following criteria:

A. We have lived together for at least twelve (12) consecutive months immediately preceding our signing of this Statement;

B. We are not married to other persons either now, or at any time during the twelve month period;

C. We are each other's sole domestic partner in a committed relationship similar to a legal marriage relationship and we intend to remain in the relationship indefinitely;

D. If we reside in a state or municipality which provides for registration of domestic partners, we have so registered and we have provided the Company with evidence of such registration;

E. We are both legally competent and able to contract;

F. We are not related to each other in a way which would prohibit legal marriage between opposite sex individuals;

G. We are not acting fraudulently or under duress; and

H. We are financially interdependent and have provided the Company with the following two items of proof evidencing our financial interdependence:
(check any two of the following)

____ proof of joint bank account
____ proof of joint lease/ownership of mutual residence
____ joint billing statements for residential utilities (gas, electric, telephone, etc.)
____ joint insurance documents (property, life, automobile)
____ joint credit card accounts
____ joint loan agreements
____ joint automobile ownership

Or

We certify that we are registered as domestic partners, or partners in a civil union in a state or municipality or country that legally recognizes such domestic partnerships or civil unions and we have provided the Company with evidence of such registration.

III. CHANGE IN DOMESTIC PARTNERSHIP

We agree to notify The Dow Chemical Company, or in the case of an employee benefit plan, the Plan Administrator (collectively referred to in this Statement as "the Company") if there is any change in our status as it relates to our Domestic Partner relationship. We further agree that such notification must be made within 30 days of a change in status by the participant submitting to the Company a completed Termination of Domestic Partner Relationship form.

We acknowledge that only the participant's signature is required on such form and that the Company is under no obligation to notify the Domestic Partner of the filing of the Termination of Domestic Partner Relationship form or termination of any applicable benefits.

We understand that, regardless of whether a Termination of Domestic Partner Relationship form is filed, a Domestic Partner relationship is no longer recognized by the Company if the participant and Domestic Partner no longer meet the criteria of a domestic partner relationship as set forth in Section II of this Statement, the effect of which shall be the same as if a Termination of Domestic Partner Relationship form has been filed. The Company, however, has no affirmative obligation to change the status until it has satisfactory notice of the change in status. With respect to relocation benefits, such benefits for the Domestic Partner shall automatically cease at the end of the month following the earliest of any of the following:

A. the termination of participant's employment with the Company

B. the death of participant

C. the death of Domestic Partner

D. the failure of participant and Domestic Partner to continue to meet the criteria for a domestic partner relationship as set forth in Section II of this Statement

E. the filing of a Termination of Domestic Partner Relationship form with the Company.

All other terms and conditions of the applicable benefit plan or policy or procedure apply.

Participant understands that another Statement of Domestic Partner Relationship for any new or former domestic partner cannot be filed with the Company until at least twelve (12) months after there has been a termination of Domestic Partner benefits for any reason.

IV. ACKNOWLEDGEMENTS

We further understand and agree as follows:

A. We certify that this Statement is submitted for the purpose of securing certain benefits for Domestic Partner and we affirm under penalties of perjury that the statements made in this Statement are true and accurate representations to the best of our knowledge.

B. We understand that if any of the representations contained in this Statement are false or fraudulent, any benefits provided to Domestic Partner will be void or voidable, retroactive to the date of this Statement.

C. We understand that we are jointly and severally responsible for the reimbursement of any expenses incurred as a result of any false or misleading statement contained in this Statement, or as a consequence of failing to notify the Company of a changed circumstance affecting the eligibility of our Domestic Partner Relationship. Such expenses may include legal fees and the cost of any benefits paid by the Company to Domestic Partner.

D. We understand that the purpose of this Statement is to establish a Domestic Partner Relationship only and, that by accepting this Statement the Company does not guarantee eligibility for coverage or benefits for Domestic Partner as eligibility for coverage and benefits is determined on the basis of all of the terms and conditions of the applicable Company benefits policies or plans, and state and federal law.

E. We acknowledge that we are advised to consult an attorney regarding the possibility that the filing of this Statement may have certain legal and tax consequences, including the fact that it may, in the event of a termination of the Domestic Partner Relationship, be regarded as a factor leading a court to treat the relationship as the equivalent of marriage for the purpose of establishing and dividing community property, or for ordering payment of support.

F. participant acknowledges that the making of any false or misleading statements in this Statement may lead to disciplinary action by the Company which may include dismissal.

V. DOW'S RIGHTS

A. Dow reserves the right to modify or amend, at any time and in any way whatsoever, the terms of any applicable benefits, including eligibility requirements or the terms and conditions for coverage of Domestic Partners or to terminate coverage completely.

B. Dow reserves the right to modify the criteria for establishing a Domestic Partner relationship and to request appropriate additional documentation in support of this Statement.

We declare, under penalty of perjury under governing state laws, that the statements set forth above are true and correct.

participant:

________________________________ Date: ____________________
Signature

Domestic Partner:

________________________________ Date: ____________________
Signature

Testimony of

Yvette C. Burton, Ph.D.

Global Business Development Executive

GLBT and Human Capital Management Segments

IBM

Homeland Security and Governmental Affairs Committee

U.S. Senate

Wednesday, September 24, 2008

Senator Lieberman, Senator Collins, and members of the Committee for Homeland Security and Governmental Affairs, my name is Yvette Burton and I am the Global Business Development Executive for Gay, Lesbian, Bisexual, Transgender (GLBT), and Human Capital Market Segments at IBM. I have submitted my testimony for the record.

In my testimony, I will share IBM's point of view as one of the growing number of Fortune 500 companies implementing domestic partner benefits. In addition, I will address IBM's job market perspective on the utilization of domestic partner benefits as a strategy for competitive talent management.

Senator Lieberman, Senator Collins, and other Committee Members, IBM has over 356,000 employees in 74 countries. IBM unites different cultures, languages, professions and perspectives in one globally integrated enterprise. This unique combination of viewpoints fuels IBM technologies, products, services and our commitment to client success.

As a leader on GLBT issues, IBM can be proud of the progress it has made in empowering GLBT people in the IBM workplace and around the world. For example:

- IBM maintains a 100% ranking on Human Rights Campaign (HRC) Corporate Equality Index for the United States.
- In 1999, IBM was named one of the best companies for gays and lesbians to work for by HRC.
- In 2002, IBM became the first “Gold Corporate Sponsor” of the Atlanta Executive Network (AEN), the largest GLBT professional networking organization in the U.S.
- “Advocate” magazine names IBM one of the “Top Companies to Work at Today.”

As a business-to-business company, corporations and institutions come to IBM for leadership and as a model to build and leverage a diverse workforce to drive client success. In essence, we provide the answer to the question - **“Why IBM Works?”** Undoubtedly, programs such as domestic partner benefits are a critical component to our success.

So, let's examine how domestic partner benefits actually benefit business.

IBM has become a globally integrated enterprise. As our economy becomes more globally integrated and competition for skilled employees becomes more intense, the ability to attract, retain, and develop world class talent is crucial.

For over a decade, IBM has used domestic partner benefits as a differentiating and competitive method to attract employees. Increased loyalty to the company and our history of non-discrimination practices are some of the immediate advantages of this program. But, domestic partner benefits do not only attract GLBT employees. Like IBM, many companies report that the implementation of domestic partner benefits helps attract and retain critical talent from non-gay and lesbian talent. These particular candidates have reported that the existence of a domestic partner benefits policy at IBM shows the company values and truly believes in a workplace that respects and protects all employees. It also shows IBM's commitment to including diverse perspectives. This trend is especially prevalent among younger candidates of the workforce -- a segment crucial to the future demographics of any sector.

Domestic partner benefits serve as a vital talent development opportunity at the leadership level. As organizations effectively integrate domestic partner benefits into practice, it provides a valuable framework for leaders to clarify the organization's commitment to eliminating attitudes and behaviors that may negatively impact business results. In a nutshell, it can improve low productivity and morale caused by inequitable workplace practices, thereby creating a positive work environment.

Unfortunately, many GLBT employees spend a good deal of their workdays concealing their orientation from co-workers for fear of backlash or adverse impact to career advancement. The absence of domestic partner benefits contributes to this problem by signaling to all employees that GLBT employees are not equally valued in the workplace. This disconnect in the commitment to equitable treatment of the workforce can become a breeding ground for inconsistent employment and human resource conditions for GLBT employees in general.

Providing domestic partner benefits can help an organization develop a stronger and industrious workforce. How? Strong development opportunities have been evident in the results of GLBT employees who take personal risks to discuss their families with their managers. In these examples, we see key business skills -- skills like strategic risk taking, decision making, and trust/responsibility. These leadership skills are key to achieving a company's business objectives. In the end, manager-employee conversations prove to be a valuable growth opportunity for employees and the organization.

Lastly, domestic partner benefits create a sense of loyalty to the company, a bond between the employee and the organization, as well as a balance of work and home. In competitive markets and difficult or uncertain times, the commitment by our employees has proved enduring.

A related issue I'd also like to address is IBM's support for the Tax Equity for Domestic Partner and Health Plan Beneficiaries Act (S. 1556). As many of you know, gay and lesbian employees who receive domestic partner benefits have to pay taxes on their employers' contribution for health insurance benefits and employers must pay payroll taxes on their employees' taxable income. This legislation would eliminate these taxes and allow those who cannot afford the extra taxes to offer health coverage for their loved ones.

In conclusion, IBM, much like the federal government, has a long history of establishing equilibrium in the workplace. And IBM, much like the federal government, has worked to eliminate the gap between the promise and the practice of workplace equality. These actions have proven to be very successful for IBM on many levels. Specifically, IBM's triumph in creating an open and welcoming environment – regardless of sexual orientation, gender identity and gender expression – has truly allowed us to attract and retain talent to advance our business.

Thank you.

EXHIBIT H

8/11/03 Bus. Ins. 3
2003 WLNR 16573136

Business Insurance

August 11, 2003

Volume 37; Issue 32

Section: News

More U.S. employers seen adding benefits for domestic partners

JUDY GREENWALD

Greater recognition of work force diversity, competitive pressures and basic concerns about fairness are all factors encouraging more employers to extend benefits to employees' same-sex domestic partners.

Many employers also are discovering that adding domestic partner benefits, which offer medical coverage and other benefits to unmarried domestic partners, can be done at little added cost, benefit experts say.

The recent U.S. Supreme Court decision that declared Texas' anti-sodomy law unconstitutional is expected to provide added encouragement to employers to introduce the benefit to same-sex couples.

``I believe that it has been good for Shell that we did this, for two reasons,'' said Ed Kahn, director of human resources strategy and integration at Houston-based Shell Oil Co., which offers domestic partner benefits to its employees.

``One is, it has expressed to all our employees that we have great respect and value their contribution to the company and that their private lives are essentially their private lives.

``Second of all, I think it makes Shell a more attractive employer. It's the kind of thing that says to people, `We value diversity; we value differences,''' Mr. Kahn said.

The Village Voice, the New York weekly, was the first employer in the United States to offer domestic partner benefits to its lesbian and gay employees in 1982, according to Washington-based Human Rights Campaign Foundation. Cambridge, Mass.-based Lotus Development Corp. became the first publicly traded company to introduce the benefit in 1992.

Today, more than 5,800 employers offer domestic partner health benefits, according to HRC. They include 198 of the Fortune 500 companies; 5,247 other private companies, nonprofits and unions; 187 colleges and universities; 162 local governments; and 10 state governments. Several cities, including San Francisco, require companies with which they have contracts to offer the same benefits to domestic partners as they do to married spouses.

Ilse de Veer, Norwalk, Conn.-based principal with Mercer Human Resource Consulting, said, ``The trend over the last 10 years has sort of been industry by industry, so that one company in a particular industry begins to offer it, and then others of their competitors decide to do it for competitive reasons."

Columbus, Ohio-based Nationwide Insurance Co., which introduced its domestic partner benefits program in 2000, ``recognized that the history of who's eligible for benefits coverage came from old insurance laws and regulations, and America's familiar households, if you will, have changed significantly from when most of those laws and regulations were passed," said Jack Towarnicky, associate vp of benefits planning.

``The major impetus was equal pay for equal work," said Stan Kimer, Research Triangle Park, N.C.-based program manager for gay, lesbian, bisexual and transgender initiatives at IBM Corp., which introduced its domestic partners program in 1997.

Because gay and lesbian couples were unable to get benefits, it meant they were receiving a lower compensation package than heterosexual couples, Mr. Kimer said. IBM's program also helps ``to attract and retain the best employees."

Virginia LaFrance, benefits manager at New York-based American Express Co., which introduced its program in 1997, said, ``We wanted to be able to attract and retain employees from all different parts of the population, all different, diverse groups, and we want to offer a competitive benefits package."

About two-thirds of employers offer domestic partner benefits to opposite-gender as well as same-gender couples, say observers. Some do it ``just because if you're going to set it up administratively, you might as well do it for both," said Dean Hatfield, regional practice leader for Buck Consultants in New York. ``But some employers feel it really should only apply to those of the same sex, because those of the opposite sex have the choice to get married."

Shell offers domestic partner benefits to both same-gender and opposite-gender couples. ``I think the impetus for introducing benefits to same-sex partners was based on a premise of wanting to show our respect to all of our employees, that they're all valued, and fundamental fairness, and so in that same spirit we decided it didn't make sense to offer it to some kinds of domestic partners and not to others," said Mr. Kahn.

IBM offers it only to same-gender couples because opposite-gender couples can get married, said Mr. Kimer. ``We've also stated that if there is a time when same-gender marriage is accepted in the U.S., then we would no longer offer the benefit because then same-gender couples and opposite-gender couples would be on an equal footing."

Observers say many employers with domestic partner benefit programs offer a full package of health benefits packages to their employees, including medical, dental and vision benefits as well as life insurance. The philosophy is, ``if you're going to do it, you might as well offer the entire package," said Mr. Hatfield. Some employers also permit domestic partners to receive survivor benefits from employees' pension plans and may offer other benefits as well, such as bereavement leave.

To qualify for domestic partner benefits, employees may be asked to sign a statement or submit an affidavit asserting they live with a domestic partner and are financially interdependent. ``Generally, it's going to be someone you have a live-in relationship with for at least 12 months, so that there's not a revolving door," said Karen Roberts, senior vp for Aon Consulting in San Francisco.

``We ask the people to execute a affidavit of domestic partner benefits, but we do not request that they send it in," IBM's Mr. Kimer said. ``We just say IBM has the right to ask for it at any time and for the employees to keep it for safekeeping."

Only about 1% to 2% of employees sign up for these benefits, say observers. This may be because many partners may have coverage through their own workplace. Furthermore, for many there are no tax advantages to obtaining the coverage. The Internal Revenue Service has held that domestic partners cannot be considered spouses for tax purposes, which means employees must pay federal income taxes on the value of the medical insurance that companies provide to cover their domestic partners.

Domestic partner benefits can be considered nontaxable only if the partner meets the IRS definition of a dependent, which is someone who lives in the employee's household and receives at least half of his or her support from the employee.

``Most partners are both employees, so unless one partner has very poor benefits from their current employer, they don't want to pay the extra tax, and so the only people who are choosing the domestic partner benefits are those who don't have the coverage'' and have no other option, said Mr. Hatfield.

This situation creates some added administrative cost for the employer, said Ms. Roberts. ``That is definitely a slight complication for now because payroll has to have this additional bucket'' for the additional tax involved, said Ms. Roberts.

``It's pretty administratively cumbersome,'' concurred Nationwide's Mr. Towarnicky. ``We'd like to be able to essentially administer it the same way'' as, for example, the company does for married couples.

Overall, though, domestic partner benefits add little to employers' cost, observers say.

``The total cost of the benefit programs enrollment in these programs remains low, typically less than 1%'' of total costs, said Ms. de Veer.

IBM's Mr. Kimer agreed. ``In terms of the overall expense to IBM, it is a fraction of a percent addition to our benefits cost,'' he said.

Despite some initial fears, AIDS is not a material factor in offering domestic partner benefits, say observers, who note that today other claims, including premature births, are considerably more expensive. ``This concern that there were people in need of health insurance waiting in the wings to enroll as domestic partners in employer health plans has never happened,'' said Andrew Sherman, senior vp with The Segal Co. in Boston.

``It's certainly a philosophical issue and not a financial issue,'' said Aon's Ms. Roberts. ``Any employer who has based their reason for not offering it on cost really has not done their homework.''

Many observers believe more employers will offer domestic partner benefits in the future, although perhaps at a slower rate than in the past because many of those most likely to introduce the benefit have already done so.

``The numbers show that every year there has been an increase in Fortune 500 companies offering domestic partner benefits, and I think that's going to continue to increase,'' Mr. Kimer said. ``Companies are going to get more and more competitive in terms of offering competitive packages to employees,'' and the number offering it will continue to grow, he said.

``I think that we are seeing an increasing number of smaller companies and companies (that are) not on one of the two coasts also including domestic partner benefits in their plans,'' Mr. Sherman said. ``A lot of smaller companies are able to do so now because there's insurance coverage available that there hadn't been in the past.'' Initially, only large, self-employed companies were able to introduce it, he said.

However, Randall Abbott, Philadelphia-based senior consultant with Watson Wyatt Worldwide, disagreed. Although about 40% of the Fortune 500 companies have already adopted domestic partner benefits, it may not be a benefit that smaller, closely held companies would feel comfortable adopting, he said.

Mr. Abbott said domestic partner benefits has been ``pretty much a dormant issue since the recession began."

``I don't feel that we're going to see a sea change in practices, because even though the cost of implementing domestic partner benefits is nominal, it's still an additional cost at a time when health care costs are rising," said Mr. Abbott.

Some observers believe that the U.S. Supreme Court's recent decision in Lawrence vs. Texas is spurring renewed interest in domestic partner benefits. The high court ruled that a Texas law prohibiting sexual conduct between same-sex persons violates the 14th Amendment's due process clause. Some employers who may have hesitated to offer domestic partner benefits before, because they feared that lent their imprimatur to an illegal act, may now introduce it, say some observers.

The Supreme Court decision, as well as approval of same-sex marriage in Canada and an expected ruling on the issue by Massachusetts' highest court, has created a greater awareness of domestic partner benefits in the last three or four months ``than there's been in at least a couple of years," said Mr. Sherman. ``Our sense is that this is certainly leading to more companies considering including domestic partner benefits."

However Daryl Herrschaft, deputy director for WorkNet, an HRC Foundation project, said, ``I think a lot of companies are going to be offering the benefit in the coming years, but I don't think that's a function of the sodomy ruling.

``I believe it is a realization that in order to remain competitive in the labor market, in order to be an employer of choice, in order to hang onto or, rather, retain valued employees, these benefits are increasingly becoming standard business practice."

---- INDEX REFERENCES ---

COMPANY: SHELL OIL CO; AMERICAN EXPRESS CO; AON CORP; BUCK CONSULTANTS INC; NATIONWIDE INSURANCE COS; INTERNATIONAL BUSINESS MACHINES CORP; LOTUS DEVELOPMENT CORP; ROYAL DUTCH PETROLEUM CO

NEWS SUBJECT: (HR & Labor Management (1HR87); Legal (1LE33); Social Issues (1SO05); Business Management (1BU42); Local Government (1LO75); Judicial (1JU36); Gay & Lesbian Issues (1GA65); Major Corporations (1MA93); Joint Ventures (1JO05); Benefits (1BE71); Government (1GO80); Employee Healthcare Benefits (1EM44); HR Trends, Policy & Analysis (1HR39); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

INDUSTRY: (Oil (1OI41); Insurance Regulatory (1IN40); Oil Regulatory (1OI92); Healthcare Regulatory (1HE04); Financial Services (1FI37); Financial Services Regulatory (1FI03); Oil & Gas Regulatory (1OI37); Health Insurance (1HE18); Group Insurance (1GR98); Oil & Gas (1OI76); Insurance Industry Legal Issues (1IN64); Insurance (1IN97); Health Insurance Regulatory (1HE77))

REGION: (Pennsylvania (1PE71); North America (1NO39); Texas (1TE14); New York (1NE72); Americas (1AM92); New England (1NE37); Massachusetts (1MA15); USA (1US73))

Language: EN

OTHER INDEXING: (AIDS; AMERICAN EXPRESS CO; AON; AON CONSULTING; BUCK CONSULTANTS; CAMPAIGN FOUNDATION; HOWEVER RANDALL ABBOTT; HRC; HRC FOUNDATION; IBM; IBM CORP; INTERNAL REVENUE SERVICE; IRS; LOTUS DEVELOPMENT CORP; MR ABBOTT; NATIONWIDE; NATIONWIDE INSURANCE CO; SEGAL CO; SHELL; SHELL OIL CO; SUPREME COURT; US SUPREME COURT; WORKNET) (Abbott; Andrew Sherman; Daryl Herrschaft; de; Dean Hatfield; Ed Kahn; Generally; Hatfield; Human Resource Consulting; Ilse de Veer; Jack Towarnicky; Kahn; Karen Roberts; Kimer; Roberts; Sherman; Stan Kimer; Texas; Towarnicky; Veer; Virginia LaFrance; Wyatt Worldwide)

KEYWORDS: (Labour); (Employers)

Word Count: 2275
8/11/03 BUSINS 3
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EXHIBIT I

State Employee Health Benefits

Updated: June 2011; material added January 25, 2012

All 50 states provide health insurance coverage for their state employees. Most have done so for decades. However, the amount of coverage, who is eligible to enroll, and the portions paid by the state employer and by the individual worker always have varied from state to state.

In the past five years these state benefit plans have attracted much more attention among legislators, governors and policymakers. Often, this is because:

1. Rapidly rising commercial premiums are impacting state budgets;
2. State fiscal pressures are leading to more proposals to increase employee share of costs;
3. Co-payments and deductibles are on the rise in many places, separate from the established premiums.

A few general facts about state employee health plans, based on two national surveys: [1]

- States provided coverage for about 3.4 million state government employees and retirees. When their covered dependents and family members are included, the total is about seven million people.
- State and local employee health plans cover about 10 percent of the total U.S. workforce and hold more than 20 percent of the nation's total pension assets.
(Center for Retirement Research at Boston College, 9/1/09 and 11/13/07.)
- Nearly all full-time state workers were eligible for coverage (97%), and take-up was high across most plans, averaging 91%.
- 74% of part-time state employees had the option of electing health benefits (compared to 48% nationally.)
- For 2009 the average cost of an individual policy is $502.43; with the state paying an average of $447.79 (89%) and the employee is responsible for the remainder, which is an average of $56.52. *(based on 48 states)*
- In 2009, 14 states paid for 100 percent of the monthly premium costs for a basic or "standard" health plan for some or all *individual* state employees (Alabama, Alaska, Delaware, Florida[1], Iowa, Kentucky, Maine, Minnesota, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota & Texas)
In 2009, seven states paid for 100 percent of the "defined standard" monthly premium costs for at least some *families* of state employees. (Alaska, Delaware, Iowa[2], North Carolina, North Dakota, Oklahoma and Oregon).
- In state employee plans, 37% of workers were in HMOs, 42% in PPOs, 16% in POS plans and 5% were in conventional indemnity coverage. However, Indemnity plans enrolled a majority of *retirees* in the Midwest, Northeast and South. [2]
- Elected state legislators naturally are state employees; however within state personnel definitions, some are considered part-time employees. The following states offer health insurance to legislators but describe it as "optional at legislator's expense" -- Nebraska, Nevada, New Hampshire, New Mexico, Vermont and West Virginia. In addition, South Dakota and Wyoming do not offer health benefits to legislators, but do cover legislative staff. [3]

At times states have used their employee benefit plans as a demonstration for a policy or idea - for example several states have a mental health coverage mandate specific to the state plan. At least half the states provide for selected non-state employees to be covered under the same, or parallel, health benefit plans. Most commonly, states include: city, town and/or county workers; public school teachers or employees, or public higher education employees. A few states have experimented with including segments of the general population in their state plan - see the examples from Connecticut and West Virginia, below. In the past three years there also are some trends or innovations listed and linked below, including:

LINKS TO RECENT BENEFIT PROGRAM TRENDS

Health Savings Accounts	**Self-funded state programs**	**Wellness Programs for Employees**
Retiree Benefit cutbacks	**Premium Surcharges for smoking**	**State Contractors to Provide Health Ins.**
State + local enrollees pooled	**Domestic Partner Benefits**	**State employees' children covered by CHIP**

This web-based report pulls together diverse resources on this growing area of health and personnel policy.

NCSL Charts & Other Documents

Charts of State Employee Health Premiums:

* **2011 State Employee Health Premiums: Family and Individual Coverage** - Provides state examples of the employer share, the employee share and total premium for 40+ states. Results published by NCSL and posted 12/2011. NEW

In The News...

The following reports and news articles are examples of the policy discussions in individual states. NCSL is not responsible for the content or opinions expressed in these outside linked articles.

- **Essential Health Benefits: Comparing Benefits in Small Group Products and State and Federal Employee Plans** - The new data allows states to use their state employee programs as a template for health exchanges starting in 2014. Published by HHS/ASPE, December 16, 2011. [7 pages, PDF]

[* 2009 State Employee Health Premiums: Family coverage](#) (includes comparison with 2006 premiums)
[* 2009 Individual Coverage](#) (includes comparison with 2006 premiums)

"2008 State Legislator Compensation- Health, Dental and Optical Benefits" - compiled and researched by NCSL Legislative Management Program. Request your copy by email 4/08

Historical Chart of State Employee Health Premiums - 1999-2006. compares cost of family coverage. Compiled by NCSL. Updated 2006. Request your copy by email

Trends in State Employee Health Benefits - Presentation by Richard Cauchi, NCSL staff, for use by the Michigan Legislature, September 2009.

Innovations in Health: State Employee Programs: Presentation by Richard Johnson, Segal Company at NCSL Legislative Summit, 7/21/09.

Health Reform News

The **Essential Health Benefits** HHS bulletin issued December 16, 2011 allow states to use "one of the three largest state employee health plans" as the coverage standard for all non-grandfathered health insurance plans offered in and out of exchanges. Details online. NEW

On April 4, 2011 CMS issued a letter and Q's and A's from Cindy Mann, Director, regarding **Children of state employees and the Affordable Care Act**. Under previous law, the children of state government employees were not authorized to participate in the Children's Health Insurance Program (CHIP). The ACA authorizes the inclusion of the children of state government employees under two conditions: (1) the state has maintained its contribution levels for coverage for employees with dependent coverage, looking back to 1997); OR (2) the state can demonstrate that the state employee's health benefit program's out-of-pocket costs pose a financial hardship for families (premiums and cost-sharing would exceed 5% of family income).

- **Actions and trends by state employee programs** for January 2011 plan years, by Milliman.
- **Wisconsin Just the Start in Public Union Fight -** FY2012 budget would bar collective bargaining for health benefits, increase employee shares. -NY Times February 19, 2011
- **Public Pension Plans: The Facts** - NCSL, along with other state and local governmental organizations, has released a fact sheet on state and local government pensions. February, 2011
- **2010 Study of State Employee Health Benefits** - Segal & Co. report, Winter 2011.
- **Challenges and Current Practices in State Employee Healthcare** - White paper presented by NASPE, July 2010
- **Value-Based Purchasing and Consumer Engagement Strategies in State Employee Health Plans: A Purchaser Guide** -published by Academy Health, April 22, 2010
- **At a Crossroads: The Financing and Future of Health Benefits for State and Local Government Retirees** published by Center for State and Local Government Excellence, July 2009 (PDF, 80 pages)
- "**What Public Employee Health Plans Can Do to Improve Health Care Quality: Examples from the States**" is a report designed to help state and public employee health plans and other large purchasers make strategic decisions about developing or coordinating quality improvement initiatives. NCSL provided advice to this survey published by The Commonwealth Fund. 2/4/08.
- **Retiree Health Plans: A National Assessment** Published by the Center for State and Local Government Excellence, 9/08. [32 pages PDF]

List of State Employee Health Plan Agencies with Links

Each of the states has evolved a distinct structure for administering state employee health benefits. Many states offer a relatively complex matrix of plans and premiums, varied by family size, type of plan (HMO, PPO, Indemnity). A majority of states have some type of employee unions or collective bargaining units that may play a substantial role in defining benefits and costs. The table below provides some examples from the agencies that run these state programs.

STATE	**Agency Administering State Employee Health** also see 50-state Personnel Departments (NASPE link)	**Examples of premiums & benefits** (state web links*)
Alabama	Alabama State Employees Insurance Board (37,527 employees, 7/08); Public Education Employees' Health Insurance Plan .	2011
Alaska	Alaska Benefits Section, Department of Administration	FY2011 | FY2012 NEW
Arizona	Arizona Benefit Options (AzBO), Dept. of Administration	2009-10 | 2011
Arkansas	Arkansas Employee Benefits Division [wellness program]	2008 I 2009 I 2010 I 2011
California	CalPERS - California Public Employees Retirement System	2003 - 2011
Colorado	Colorado Dept. of Personnel & Administration, Division of Human Resources	FY2011 | FY2012 NEW
Connecticut	CT Retirement and Benefits Services Division, State Controller	2008-09 | 2010-11
Delaware	Delaware Statewide Benefits Office, Office of Management and Budget	2011
Florida	Florida Div. of State Group Insurance	2011
Georgia	State Health Benefit Plan (SHBP) Division, Dept. of Community Health 690,440 people, 6/08)	2008 I 2009 I 2010 I 2011
Hawai'i	Hawaii Employer-Union Health Benefits Trust Fund (EUTF)	2010 | 2011
Idaho	Dept. of Administration: Employee Group Insurance Benefits (24,000 employees 12/10)	FY 2011
Illinois	Bureau of Benefits, Dept. of Central Management Services	FY 2008 I FY 2009 I FY 2010 I 2011
Indiana	State Personnel Dept.: Benefit Information	2009 | 2011

Iowa	Department of Administrative Services, Human Resources Enterprise	2011
Kansas	Kansas Department of Health and Environment	2011 | 2012
Kentucky	Dept. for Employee Insurance, Kentucky Personnel Cabinet (245,000 people covered 11/07)	2008 I 2009 I 2010 I 2011
Louisiana	Department of State Civil Service	2007-08 I 2008-09 I FY 2010 I 2011
Maine	Maine Div. of Employee Health and Benefits	2007-08 I FY 2009 I 2011
Maryland	Maryland Department of Budget & Management	FY 2011
Massachusetts	Massachusetts Executive Office for Administration and Finance	2011
Michigan	Michigan Employee Benefits Division	2008-09 (HMO) I 2010-11 (PPO) FY 2009 (HMO) I FY 2009-10 (PPO)
Minnesota	Dept. of Employee Relations, Benefits Division	2011
Missouri	MO Consolidated Health Care Plan	2011 I 2012 NEW
Mississippi	State Insurance Admin., Department of Finance and Administration	2008 I FY 2009-10 I 2011
Montana	Employee Benefits Bureau, Health Care and Benefits Division	2011
Nebraska	NE Administrative Services-Employee Benefits; Office of Risk Management	2011 - 2012 NEW
Nevada	Public Employees Benefit Program	FY 2010 | FY 2011 | FY 2012 NEW
New Hampshire	Human Resources, Department of Administrative Services | Health Benefits	2009 | 2011
New Jersey	Health Benefits Bureau, Div. of Pensions and Benefits	2011
New Mexico	General Services Division	FY 2011
New York	Employee Benefits Division, Dept. of Civil Service | Governor's Employee Rel.	2010 & 2011
North Carolina	NC State Health Plan (667,000 state & local employees and retirees)	2011-2012 NEW
North Dakota	North Dakota Public Employee Retirement System: Group Health Insurance Plan	2011
Ohio	Ohio Department of Administrative Services: Benefits *[updated 2/11]*	2010-11
Oklahoma	Oklahoma Employee Benefits Council	2011
Oregon	Public Employees Benefit Board (PEBB), Oregon Educator's Benefit Board (OEBB) (128,000 state individuals covered; Educators include 155,000 enrolled in 2010)	2009 | 2010 | 2011
Pennsylvania	PA Employees Benefit Trust Fund (PEBTF) (144,000 state employees, retirees, dependents)	unavailable
Rhode Island	Department of Administration	2010 | 2011
South Carolina	Employee Insurance Program, SC Budget and Control Board. (244,000 employees; 400,000 lives covered)	2011
South Dakota	Bureau of Personnel	2011 | 2012 NEW
Tennessee	Insurance Administration, Dept. of Finance & Administration	2011
Texas	Texas Employees Group Benefits Program (GBP), Employees Retirement System (ERS)	2012 NEW
Utah	Public Employees Health Program	
Vermont	Department of Human Resources, State Employee Center	2010 | 2011
Virginia	Benefits, Department of Human Resource Management	2009-10 | 2010-11 | 2011-12 NEW
Washington	Public Employees Benefit Board (PEBB) (229,000 active employees, 335,309 covered members in 2009)	2008 I 2009 | 2010 | 2011
West Virginia	West Virginia PEIA *[link update 1/10]* (73,000 public employee policyholders; 175,000 covered members in 2008; plus 34,000 retirees in Retiree Health Benefit Trust (RHBT)	2010 I 2011 | 2012 NEW
Wisconsin	Division of Insurance, Dept. of Employee Trust Funds	2008 | 2009 I 2010 | 2011
Wyoming	Department of Administration and Information, Human Resources Division	2011 | 2012 NEW
State	**Agency Administering State Employee Health**	

Notes: Plan benefits vary widely from state to state. Numerous states offer a range of plans from basic HMO, to comprehensive HMO, plus PPO and an Indemnity plan. Some have regional pricing as well. Family size almost always affects premiums. For example Louisiana has scaled prices for 1) Single, 2) Single with spouse, 3) Single with children, and 4) Family. Retirees often have separate premiums and benefits. Premium rate links (above) connect to state agencies' pages that may change or be deleted without notice.

Health Care Reimbursement Accounts (HRA) - The pre-tax flexible spending accounts that many employees use to cover expenses not covered by insurance, as allowed by IRS Section 125.
Voluntary Employee Beneficiary Association (VEBA) - The federal government allows entities to receive favorable tax treatment on contributions to a trust set up under section 501(c)(9), IRC. Contributions to this trust may be made on a pre-tax basis, assets in the trust may be invested and earnings are tax-exempt, and certain qualified benefits may be paid out on a tax-exempt basis. States also may allow favorable tax treatment for a VEBA trust. See Montana's example and explanation: http://www.montanaveba.org/

States That Self-Insure and Self-fund Their State Employee Health Program

Forty-six (92%) of the fifty states now self-insure and/or self-fund at least one of their employee health care plans. At least 20 states (40%) self-fund all of their health plan offerings, indicated below as [♦]. A self-funded plan means that insurance is not purchased, but rather, the state and employee out-of-pocket insurance contributions are pooled and used to pay claims; a commercial health plan (insurer) or plans often administer the services and benefits for the state program. See Utah's example, "Benefits of self-funding."

As of 2010 the self-funding states are:

Alabama ♦
Alaska ♦
Arizona a
Arkansas ♦
California
Colorado b
Connecticut c
Delaware ♦
Florida
Georgia
Hawaii d
Idaho ♦
Illinois

Indiana
Kansas
Kentucky ♦
Louisiana
Maryland
Massachusetts
Michigan
Minnesota ♦
Mississippi ♦
Missouri
Montana ♦
Nebraska

Nevada
New Hampshire ♦
New Jersey
New Mexico ♦
North Carolina ♦
Ohio
Oklahoma ♦
Oregon (2010)
Pennsylvania ♦ g
Rhode Island ♦
South Carolina
South Dakota ♦

Tennessee ♦
Texas
Utah
Vermont ♦
Virginia
Washington
West Virginia ♦
Wisconsin
Wyoming♦

a -AZ self-funds PPO and EPO policies as of 2004, also has fully insured HMOs.
b -CO self-funds 3 PPOs, 1 HSA, also fully insures 2 HMOs.
c -CT passed
d -HI self-funds PPOs and HDHP as of 2007, also has fully insured HMO.
e -NE was added to list in 2010. In a 2007 commercial survey they were reported as "considering implementing a self-funded program in the future."
f - Oregon "will switch in 2010"
g - Pennsylvania offers an indemnity plan to the legislative branch.

All states with self-funded plans contract with outside vendors to provide some type of administrative service. Services include claims payment, utilization review, disease management and pharmacy benefit management. The state of Louisiana was the first state reporting that claims administration and payment is handled in-house. Pennsylvania pays a limited number of claims internally for their supplemental medical plan.

Examples of 2003-2010 Plan Features and Changes

PREMIUM SURCHARGE FOR SMOKERS.

At least nine states now charge or authorize lower premiums to non-smoker state employees and higher premiums to smokers.

- **West Virginia** first included such a feature in part several years ago.
- **Kentucky** in late 2004, (in H1a) created a smoker surcharge of $15/month for individuals and $30/month for family coverage. [2008 article]
- **Alabama** in December 2004 (in HB 2) authorized smoker rates during special legislative sessions. For 2010 the smoker surcharge increased from $25 to $30 per month. In August 2008, Alabama added a premium for obesity [see description below]
- **Georgia** initiated a smoker surcharge. Beginning July 2005, more than 54,000 people covered by the insurance plan for state employees are paying an extra $40 per month because they smoke or use tobacco.
- **Indiana** added a non-smoker rate incentive in 2006. For 2007, enrollees save up to $500 /year on annual deductibles when the Tobacco Incentive is applied.
- **Kansas** has a smoker surcharge authorized in 2008.
- **Missouri** law generally provides that public and private employers may provide health insurance at a reduced premium rate and reduced deductible level for employees who do not smoke or use tobacco products.
- **North Carolina** has taken a parallel approach. Beginning July 1, 2010, state employees will be defaulted into the state's PPO Basic plan. Those who don't smoke have the option of enrolling in the Standard plan—which has an 80/20 enrollee payment split compared with 70/30 enrollee payment split under the Basic plan—by attesting that they and their dependents do not use tobacco products.
- **South Carolina's** Budget and Control Board voted in August 2008 to impose a $25 monthly surcharge for state public employees and their family members who smoke or chew tobacco, effective 2010. According to the *Augusta Chronicle*, an estimated 58,600 people, or roughly 20 percent of the state's more than 400,000 insurance participants, will pay the surcharge.
- **South Dakota** has a smoker surcharge authorized in 2008.

SMOKING CESSATION PROGRAMS -

A growing number of states, totaling 39 as of March 2010, have launched tobacco cessation programs and policies, primarily using positive incentives, high visibility marketing and some assessment requirements to meet reduced tobacco use goals. The following are just a few examples.

- Tobacco Cessation: State and Federal Efforts to Help - NCSL report features 50-state map, laws and program information.
- Alabama's Tobacco Cessation Program is now provided by the SEIB for its covered members; for 2009 the state will reimburse each member 80% of the cost of the program, with no deductible. There is a lifetime maximum benefit of $150. Tobacco cessation seminars and all forms of nicotine replacement are covered services. Prescription medications for tobacco cessation are covered and are not subject to the $150 lifetime maximum benefit. [2/09]
- Idaho's Wellness Program: First Phase -Tobacco Cessation. For 2008 there will be a $10 co-payment for every thirty-day supply of quit aids. Pharmacists will require a state Blue Cross of Idaho identification card to dispense the quit aids.
- North Carolina, "37 percent of all preventable deaths are attributed to tobacco. Each smoker represents approximately $1, 623 in excess medical expenditures. By making nicotine replacement therapy patches free with counseling, the State Health Plan anticipates improved member health and significant long-term savings for the plan and for taxpayers".
- North Dakota's Public Employees Retirement System recently received a grant to help state employees and their dependents age 18 and older quit smoking or chewing tobacco. The grant will help pay for participating in one of more than 20 approved smoking cessation programs. Most of these programs are available through public health departments across the state of North Dakota. This project is administered by Blue Cross Blue Shield of North Dakota. The program will pay 100 percent of your out-of-pocket expenses for your office visit and prescription and over-the-counter medication up to $500, for a total benefit of $700. The program will end April 30, 2009. Program description.

WELLNESS PROGRAMS for state employees becoming more widespread.

U.S. Dept. of Labor ISSUES CHECKLIST FOR WELLNESS PROGRAMS. Wellness programs must be carefully reviewed to assure that they fit within a variety of legal boundaries. Particularly important for 2008 and beyond are the nondiscrimination rules under HIPAA. The Department of Labor (DOL) has issued helpful guidance in Field Assistance Bulletin 2008-02 (FAB 2008-02), including a useful checklist. This guidance can be reviewed by any policymaker or plan sponsor implementing a wellness program or considering one. "CheckUp" by Sibson, 3/10/08

- **List of state statutes for Public Employee Wellness**, 2006-2010 *(updated 7/31/2010)*
  (Includes **Illinois, Kentucky, Maine, Mississippi, North Carolina, Oklahoma, Texas** and **Washington)**
- **Alabama** is the first state to seek to charge overweight state workers who don't work on slimming down. The State Employees' Insurance Board in August 2008 approved a plan to charge state workers starting in January 2010 if they don't have free health screenings. If the screenings turn up serious problems with blood pressure, cholesterol, glucose or obesity, employees will have a year to see a doctor at no cost, enroll in a wellness program, or take steps on their own to improve their health. If they show progress in a follow-up screening, they won't be charged. But if they don't, they must pay starting in January 2011. The State Employees' Insurance Board implementation plan also includes a discount for participation in Wellness Screenings, with a $30 per month wellness premium discount off the single coverage provided the employee has submitted baseline readings for the following health risk factors: Blood pressure, Cholesterol, Glucose and Body mass index.
- **Arkansas** Incentives for Wellness. Arkansas provides health care benefits through plans offered to state and public school employees and their families, covering approximately 120,000 people. In this role, the state has a financial interest in improving the health status of this population. In 2004, it began a long-term strategy to avoid preventable diseases and encourage healthy behaviors. It introduced Health Risk Assessments (HRA) to gauge member behaviors in five areas: smoking, alcohol consumption, seat belt usage, body mass index, and weekly physical activity. The state's strategy relies heavily on incentives for positive behaviors. Members who complete an HRA receive a $10 monthly discount to their health insurance premium; those who are found to be at low risk receive an additional $10 discount. In 2005, more than half of members completed the HRA. Arkansas has introduced enhanced tobacco cessation and obesity management (including nutrition counseling) benefits, and has proposed a further expansion of coverage for clinically directed weight-loss programs and surgical obesity interventions. State employees who assist in management of their health risks are also eligible for three days of vacation, known as "health days." This is complementary to the state's effort, through the Healthy Arkansas initiative, to advance the idea of "worksite wellness." This effort promotes the notion that because adults spend most of their waking lives at work, work environments should promote healthy

choices and healthy behaviors. Arkansas also has an expanded Healthy Lifestyle program, whereby state employees can earn up to three days per year for participating in a voluntary program that focuses on increasing physical activity, increasing consumption of fruits and vegetables and decreasing or eliminating the use of tobacco products. See savings examples in the 2009 premium rate chart.
Arkansas Wellness Benefits (updated Sept 2009)
Sources: Arkansas Governor's Office SHAPES survey response, presentation by Rhonda Jaster, https://arbenefits.org/ebd_pages/forms/presentationEBDStateHRABackground.pdf, presentation by Joseph Thompson, http://www.nga.org/Files/pdf/0512HEALTHYThompsonJoe.PDF, and Healthy Arkansas Web site, http://www.arkansas.gov/ha/worksite_wellness/index.html.

- **Delaware** officially launched DelaWELL on April 1, 2007, as a comprehensive wellness program for state employees. This statewide initiative is available free to all full-time State employees, school district, charter school and higher education employees and pre-65 retirees currently enrolled in group health insurance programs. The program assesses employee health risks and provide confidential, personalized feedback, and coaching interventional strategies that target lifestyle topics such as back care, blood pressure management, exercise, nutrition, and stress management through various modes of communication and health-related events.
  > Starting October 1, 2010, eligible members earn **Wellness Credits for participating in program activities; credits can translate into Dela*WELL* Rewards of $100-$200.** click here
- **Kansas,** in September 2007, launched a program so that state workers will be able to volunteer for personal health-risk assessments.
- **Minnesota** highlights various health improvement services offered through the Minnesota Advantage Health Plan for insurance-eligible state employees and their covered family members. An online wellness chart provides details for 2010. [6/10]
- **Mississippi**: 2010 "*Healthy You!*" Health/Wellness Initiative, administered by BC/BS of Mississippi.
- **Missouri** has incentive rates for employees, saving up to $25 /mo, who take the PHA and participate in Lifestyle Ladder or Smart Steps® to be eligible for the incentive rate.
- **Montana** announced Wellness Programs including, new for 2007, all State employees and their adult dependents have access to free health coaching, intended to "help individuals make permanent changes in their lives." The wellness program also offers options such as health screenings, spring fitness, and lunch and learn programs, which are designed to maintain and promote healthy lifestyles for members. New features for 2010.
- **New Hampshire's** wellness program includes a risk assessment, run by Anthem. (2008)
- **North Dakota** wellness services are included in the state BC/BS managed plan.
- **Ohio**: The Healthy Ohioans initiative, which includes wellness activities and resources, is sponsored by the State Employee Health and Fitness Taskforce. The taskforce was charged with: (1) developing guidelines for state agency health and fitness programs; (2) identifying tools to annually measure the effectiveness of such programs; (3) identifying models for on-site wellness programs; and (4) identifying community partnerships or resources that might be utilized to further wellness programming for state employees. For 2010 Ohio's "Take Charge! Live Well!" program can earn employees a $25-$200 incentive payment.
- **Oklahoma** in 2006 launched "OK Health wellness program," providing "All active state employees the opportunity to participate in the state's wellness mentoring program offered by the Employees Benefits Council State Wellness Program. The goal of OK Health is to give you the right tools to help you feel better and improve your health." Enrollment in the OK Health Program, involves completing an online health risk assessment (HRA). An OK Health representative will call and arrange an initial visit with your Primary Care Physician for some basic measurements and labs. They say, "As a program participant, the initial cost to visit your physician and receive lab work (specific to OK Health) will be waived by your health care provider. Following your initial PCP visit, you will receive your first orientation call from a professional health mentor."
- **South Dakota:** For 2010, members who attend a free Health Screening will receive a $50 non-tax Health Screening incentive.
- **Utah** Public Employee Health Plan Wellness Works is an interactive PEHP Wellness Works website for diet, nutrition, and fitness support exclusively for PEHP members. For 2011, it offers an array of customizable tools and wellness information. PEHP Waist Aweigh is for PEHP members with a BMI of 30 or higher. It provides support, education, and financial incentives. Healthy Utah is a free program for eligible PEHP members and their spouses. It offers a variety of programs, services, and resources to help you get and stay well. Among its many tools and services is a rebate program that offers cash rewards for good health and health improvements. Enrolled employees may submit results to Healthy Utah and receive rebates for making the health improvements in the following areas: BMI Improvement ($50 each drop of 5 BMI points); Blood Pressure Improvement ($50); Diabetes Management ($300); Lipid Improvement ($50); Tobacco Cessation Program ($100).
- **Virginia**: (2007-08): Routine wellness care is covered for children through age 6 and for children and adults age 7 and over. There is no deductible, copayment or coinsurance for the member to pay before the plan pays for routine wellness coverage. Routine well child care through age 6 covers at no cost office visits at specified intervals, immunizations, routine lab tests and x-rays at facilities and doctors' offices. Routine well adult care age 7 and older includes a routine annual wellness check-up at no cost, as well as routine lab tests, immunizations and x-rays at facilities and doctors' offices. Preventive care benefits include for specified ages at no cost an annual gynecological exam or prostate exam, and the following services once per calendar year: a Pap test, mammography screening, prostate specific antigen (PSA) test and colorectal cancer screening.
- **Washington:** Washington Wellness, 4 Steps to Better Health, 2010
  Wellness Initiative Online Toolkit, 2010 - Physical Activity Toolkit
  - Wellness Initiative, 2006: King County, which comprises the greater Seattle area and is the 12th largest county in the nation, is projecting a reduction in rising healthcare costs by as much as $40 million over the 2007-2009 period due to wellness initiatives. (10/17/06; link update 6/10)
- **West Virginia** created the Pathways to Wellness program by law (W. Va. Code § 5-16-8). It requires the Public Employee Insurance Plan to provide wellness programs and activities which include benefit plan incentives to discourage tobacco, alcohol and chemical abuse and an educational program to encourage proper diet and exercise.

HEALTH SAVINGS ACCOUNTS: Early examples of states offering HSA's to their state employees:

- **Arkansas**: (2004) For teachers, open enrollment in 2004 results were reported as "disappointing."
- **Florida**: (2005) The state will contribute $500 for an individual, $1,000 for a family account and pair that with a $1,250 (individual) $2,500 (family) deductible plan.
- **Georgia** offers a health reimbursement account (HRA) plan and a high deductible health plan (HDHP) that are very similar in design to the PPO with higher employee costs through deductibles, co-pays, and co-insurance. Public employees hired after January 1, 2009 in Georgia are **only** given the option of enrolling in the HRA/HDHP plans.
- **Indiana**: (2007) The state offers two HDHP/HSA choices. Plan 1 has a $2,000 individual/$5,000 family deductible; the state's annual contribution includes up to $1,375 for single or $2,750 annually for family to the HSA for active employees; the out-of-pocket annual maximum is $8,000. Plan 2 has a $3,400 family deductible.
- **Kansas**: (2006) is adding an HSA/HDHP choice with a $1,500/$3,000 deductible if network providers are used and a $2,000/$4,000 deductible if non network providers are used. [KS HSA plan]
- **Nebraska**: (2007) offers a PPO Consumer Driven Health Plan. The CDHP has a $1,000 per calendar year deductible for in-network expenses with a $2,000 per calendar year maximum out of pocket. In addition, the new CDHP implements a four-tier formulary prescription plan with higher co-pays and/or co-insurance.
- **Pennsylvania**: (2009) Offers a UnitedHealthCare CDHP option as of 2006. In 2009 it features 100 percent coverage for preventive care services (PEBTF members have up to $500 maximum for single members/$1,000 for family per year).
- **South Carolina**: (2004) The plan conducts state employee open enrollment at the end of October.
- **South Dakota** offers a $2000 deductible HSA-compatible plan for 2007; employees selecting this options receive $300 per plan year in Flex Credits in a Medical Expense Spending Account. An offered $1000 deductible plan is not HSA compatible.
- **Utah**: (2006) HB 76 requires a High Deductible Health Plan and HSA option for Public Employees Benefit and Insurance Program (PEHP).
- **Virginia**: For benefit years 2007-10, the state pays 100 percent of the premium cost for a high-deductible health plan (individual or family), with other plans requiring modest employee contribution (HDHP is $40/mo less expensive than the full HMO option for an inividual, as of 7/09.)
- **Wyoming**: (2006) implemented a federally-qualified high deductible health plan. Employees may select a state HSA vendor or their own. HSA contributions are 100% from employees.

Federal health law offers new benefits for children of state workers NEW

The Affordable Care Act (ACA) of 2010 lifted a ban on state employees enrolling their children in the federally subsidized Children's Health Insurance Plan (CHIP). This little discussed provision can provide relief from the federal 13-year long restriction considered unfair by many low-income teachers, university staff and other members of the state workforce. As of November 2011, only six states had completed the process to take advantage of this provision.

CMS Guidance and Q & A's,"**CHIP Coverage of Children of Public Employees**," issued April 4, 2011. The new federal guidance states the following:

> 'In response to States' repeated requests for Federal support in this area, Congress added the new option for States in the Affordable Care Act. Specifically, section 10203(b)(2)(D) of the Affordable Care Act amends the definition of a targeted low-income child in section 2110(b)(2)(B) of the Act by permitting States to extend CHIP eligibility to children of State employees who are otherwise eligible under the State child health plan to the extent that one of two conditions is met. These conditions are described in a new section 2110(b)(6) (added by the Affordable Care Act and amended by Public Law 111-309) of the Act and will be referred to as the maintenance of agency contribution condition and the hardship condition. States now have the opportunity to receive Federal funding to provide CHIP coverage to children of State employees when either of these conditions is met.'
>
> In January 2012, CMS officials clarified that the effective date for coverage, which state agencies are included, and even which employeee familiies qualify generally are state decisions, normally reported within a CHIP state plan amendment. For example a state's existing eligibility process may mean that adding the CHIP option would become a "qualifying event" because it can result in a premium change, meaning that adding or shifting dependents can be effectve immediately rather than waiting for an annual enrollment window. NEW

Alabama, Georgia, Kentucky, Montana, Pennsylvania and **Texas** (as of 1/25/2012) have cleared the federal regulatory requirements, usually a state plan amendment, needed to make the federal benefit available to state government workers and their families. All states that applied have been approved so far. According to an analysis by Stateline, (December, 2011) the number of states using this feature seems low "despite the fact that the provision has the potential to save states millions in employee benefits, lower the number of uninsured children, and improve the household income of thousands of low-wage state workers."

PROMISING PRACTICES

- **Oregon's Experience With Value-Based Insurance Design**: In 2010 two Oregon public employee benefit boards adopted a value-based insurance design system that is showing results, writes Joan Kapowich, who administers Oregon's Public Employees' Benefit Board and Educators Benefit Board. This article presents lessons learned from offering value-based tier benefit plans for 128,000 state and university employees and dependents and 155,000 public education employees and dependents. The plans increased copayments for overused or preference-sensitive services of low relative value and they covered preventive and high-value services at low or no cost. Kapowich says one lesson is that many purchasers will choose the path of least resistance and increase traditional cost sharing, rather than add copay disincentives to their value-based benefit programs, to avoid employee pushback. Source: Health Affairs November 2010.

- The idea of "value driven purchasing" through pooled negotiation, common contracts and purchases is often discussed but less commonly implemented. Four states have initiated or joined such efforts, and now have handy reports written and published through the Commonwealth Fund in 2006 and 2007.
  - In **California, CalPERS** offers lower health premiums in 2009 if members enroll in one of the "newer plan options – Blue Shield of California NetValue (HMO) and PERS Select (PPO). These "high performance network" plans provide the same level of benefi ts and quality of care as Blue Shield Access+ HMO and PERS Choice, respectively. The difference is that enrollees pay a lower premium in exchange for choosing from a smaller panel of physicians. A CA example" "To illustrate the value of a high performance network plan, let's use the example of a State member who currently has health coverage for herself and her family (husband, 4-year old child, and a baby on the way) through Blue Shield. If this member transfers from the standard Blue Shield Access+ HMO family plan to Blue Shield NetValue, she would save more than $1,800 in premiums in 2009. She could use this savings to pay for additional health care services for her family, such as co-payments for 20 office visits for non-preventive care, 20 retail generic drug prescriptions, 20 retail brand prescriptions, 4 mail-order brand prescriptions, 4 mail-order nonformulary prescriptions, 12 urgent care visits, and 4 emergency room visits (without being admitted) – and still keep an extra $348 in her pocket.
  - The **Massachusetts Group Insurance Commission (GIC),** a state entity that provides and administers health insurance and other benefits to the commonwealth's employees, retirees, and their dependents and survivors, is trying to improve provider performance through "tiering." GIC assigns its health plan members to a particular tier, based on quality and efficiency, and requires these plans to offer their members different levels of cost sharing, depending on which tier their chosen hospital or provider is designated. 8/07.
  - The **Minnesota Smart Buy Alliance** is a group of public and private health care purchasers, including the state agencies overseeing Medicaid and public employee health benefits, along with coalitions of businesses and labor unions. The alliance is developing common value-driven principles, and its members are sharing VBP strategies. 8/07
  - **Washington State's Puget Sound Health Alliance**, a broad group of public and private health care purchasers, providers, payers (health plans), and consumers, is working to develop public performance reports on health care providers and evidence-based clinical guidelines.
  - The **Wisconsin Department of Employee Trust Funds (ETF),** the state agency that administers health benefits for state and local government employees, is pursuing value through a variety of purchasing strategies. EFT is also becoming involved in public-private collaboratives such as a statewide health data repository. ETF is the largest employer purchaser in the state, covering more than 250,000 active state and local employees and 115,000 retirees and their dependents.** The state also has a "high performance tiered" network structure - see description under Wisconsin, below.

STATE EMPLOYEES POOLED WITH SCHOOL AND LOCAL GOVERNMENT

More than half the states allow, and in a few cases require, state employee health plans to combine with other government employee participants. These include:

- **Cities, towns and counties.** Permitted in **AL, CA, HI, IL, LA, ME, MD, MA, MO, NJ, ND, NM, NY, OK, SC, TN, UT, VA, WA, WV, WI**.
  * California's CalPERS agency provides the largest combined health program, serving 1.6 million members; as of June 2009, 30% of their enrollees were state employees, 38% were school employees and 32% were local public agency employees. [CA report.]
  * Massachusetts in 2008 expanded eligibility to all cities and towns.
  * New Jersey includes 31% publlic school employees, 18% cities and towns and 15% universities and colleges.
  * In North Carolina, the program has 58% public school employees and 11% universities and colleges.
  * Washington enrollment includes 40% universities and colleges, 2% public schools and 3% cities and towns.
- **Universities and colleges**. Permitted in **CA, HI, IL, LA, MA, NV, NJ, NC, ND, OK, OR TX, WV, MO, UT and WA**. 13 other states classify state college employees as state employees and do not list them seprarately.
- **Public Schools**. Permitted to be included in about 19 states including **AR, FL, GA, HI, KY, LA, MS, MO, NV, NJ, NY, NC, OK, SC, TN, UT, VA, WA, WV**. Actual practices vary considerably since no state directly runs its public schools.
- Other districts or units.

DOMESTIC PARTNER BENEFITS AND TREATMENT

At least 22 states (plus D.C.) have "a law, policy, court decision or union contract that provide state employees with domestic partner benefits." Normally health care is covered within the term "benefits." As of December, 2010 the states are:

Alaska,
Arizona,
California (domestic partnerships, 1999, expanded in 2005),
Colorado (designated beneficiaries, 2009),
Connecticut ,
District of Columbia (also same-sex marriages, 2009),
Hawaii (2004),
Illinois (civil unions, 2011) **,**
Iowa (also same sex marriages, 2009),
Maine,
Massachusetts (also same sex marriages, 2004),
Montana,
Nevada (domestic partnerships, 2009),
New Hampshire (same-sex marriages, 2010),
New Jersey, (civil unions, 2007) **,**
New Mexico,
New York,
Oregon (domestic partnerships, 2008),
Pennsylvania (effective July 2009),
Rhode Island,
Vermont (also same-sex marriages, 2009)**,**
Washington (domestic partnerships, 2007, 2009; same sex marriages, 2010),
Wisconsin (domestic partnerships,2009).

- There are several additional states that **prohibit discrimination** against public employees based on sexual orientation/gender identity. These states do not necessarily cover health care costs for a same-sex partner. The states are: **Indiana, Louisiana, Michigan** and **Virginia**. Some states with domestic partner benefits also prohibit discrimination, for example, Alaska, Arizona, Colorado and Pennsylvania.

  - **State Retiree benefit programs** now extend retirement benefits to domestic partners in about a dozen states, with descriptions of policies and debates in other states. See Domestic Partner Retirement Benefits: NCSL Survey of legislative staff (03/06)

  - **Expedited Partner Therapy (EPT)** - State Information - Legal status and barriers by state to providing medications to persons infected with certain STDs to be administered to their sexual partners. 26 states permit EPT; 16 states are classified as "potentially allowable" and eight states prohibit EPT. The information applies generally, not just to public employees. (compiled by CDC, updated July 2010)

STATE CONTRACTORS REQUIRED TO PROVIDE HEALTH BENEFITS

A few states require their private contractors to compensate their personnel using prevailing wage and benefit standards similar to public employees.

- **Illinois** - Contractor employees must be paid prevailing wages and benefits and work under "conditions prevalent in the location where the work is to be performed." This applies to contracting in the areas of public works, printing, janitorial services, window washing and security guard services. 44 Ill. Adm. Code 1.2560.
- **Massachusetts** - Contractors are required to provide their employees wages and benefits comparable to those paid to state employees performing similar services. The wages and benefits must be included in the bid and must be reported to the contracting agency on a quarterly basis. M.G.L.A. Ch. 7 Sec. 54.
- **California, Rhode Island** and **Washington** require prevailing rates or wages for state contractors, but do not specify health coverage in statute. The District of Columbia, Maryland and San Francisco, CA require paying a living wage.

RETIREE & PENSION PROGRAMS: Cutbacks - Some Examples, 2007-2011

The retirement of baby boomers — 79 million born from 1946 to 1964 — will make it hard for state and local governments to keep up with the cost of medical benefits for retirees. What governments are doing now:

- **2011 Pension Legislation** - Pension plans have a major impact on state budget planning and lawmakers continue to address pension fund shortfalls. Read the details in our most recent summary of 2011 proposed legislation. Also check out this NCSL report that summarizes selected state pension and retirement legislation enacted from January to April 30 this year. NEW
- **Results of the Segal Medicare Part D Survey of Public Sector Plans**. A summer 2006 survey shows that 79% of public employee plans that responded took the federal 28% subsidy, but that more would reevaluate for 2007.

STATE BY STATE ACTIONS, LEGISLATION AND DISCUSSIONS

Alabama: Alabama will be the first state to charge overweight state workers who don't work on slimming down, while a handful of other states reward employees who adopt healthy behaviors. The State Employees' Insurance Board in August 2008 approved a plan to charge state workers starting in January 2010 if they don't have free health screenings. If the screenings turn up serious problems with blood pressure, cholesterol, glucose or obesity, employees will have a year to see a doctor at no cost, enroll in a wellness program, or take steps on their own to improve their health. If they show progress in a follow-up screening, they won't be charged. But if they don't, they must pay starting in January 2011.

- AL: Bill would increase health insurance cost for many Alabama teachers, public employees - Many teachers and other public employees in Alabama would pay more for health insurance under a bill filed by a state lawmaker, though their premiums still would be less than national averages. State agency employees who don't smoke now pay nothing in premiums for single coverage and $180 per month for family coverage. Those monthly premiums would rise to $25 for single coverage and remain at $180 per month for family coverage starting Oct. 1, 2009.
- Alabama's 2005 plan, adopted in a special session in House Bill 2 in November 2004, provides for: "Section 36-29-19.3. Surcharge on smokers; changes in contributions. A surcharge on smokers and users of tobacco products shall be added to the employee and retiree contribution by the Board to be effective October 1, 2005."
- Alabama: For 2009, plans require a $50 annual per member prescription drug deductible. The plan also requires a 3-tier prescription co-payment of $10 for Generic Drugs, $20-$35 for "Preferred Brand Name Drugs", and $35-$100 for "Non-Preferred" Drugs.

Alaska: A 2005 law (SB 141) signed in July 2005 reforms public employees' retirement systems, creating defined contribution and health reimbursement plans for members who are first hired after July 1, 2006. Employees may select among four medical plans, three dental and three vision plans, life insurance, disability and flex spending accounts.

Arkansas: Beginning in 2007, Gov. Mike Beebe announced that the state will extend a pilot program offering time off for lifestyle changes to all state employees. Since its 2004 inception, 2,500 people have registered for the program and almost 950 have earned days off for making lifestyle changes that improve their health.

California: CalPERS offers lower health premiums in 2009 if members enroll in one of the "newer plan options – Blue Shield of California NetValue (HMO) and PERS Select (PPO). These "high performance network" plans provide the same level of benefi ts and quality of care as Blue Shield Access+ HMO and PERS Choice, respectively. The difference is that enrollees pay a lower premium in exchange for choosing from a smaller panel of physicians. A CA example" "To illustrate the value of a high performance network plan, let's use the example of a State member who currently has health coverage for herself and her family (husband, 4-year old child, and a baby on the way) through Blue Shield. If this member transfers from the standard Blue Shield Access+ HMO family plan to Blue Shield NetValue, she would save more than $1,800 in premiums in 2009. She could use this savings to pay for additional health care services for her family, such as co-payments for 20 office visits for non-preventive care, 20 retail generic drug prescriptions, 20 retail brand prescriptions, 4 mail-order brand prescriptions, 4 mail-order nonformulary prescriptions, 12 urgent care visits, and 4 emergency room visits (without being admitted) – and still keep an extra $348 in her pocket.

- Benefits in the Balance: The Uncertain Future of Public Retiree Health Coverage - released by CA Health Care Foundation, 9/06.

Colorado

- Colorado has a separate agency, PERA, that administers health benefits for all retirees, including state and loacl jurisdictions.

Connecticut:

- With the FY 2012 budget deep in the red the governor sought concessions from the 15 employee unions represented by the group called SEBAC. SEBAC negotiated a deal that creates a system with "Value Based Health Care." It keeps the increase in costs for employees to 5% for this year- starting July 1st, 2011. The answer was to save money by keeping employees healthier, a concept known as Value Based Health Care. It is based on employees signing a commitment form each year promising to get scheduled yearly physicals, age appropriate diagnostics (such as a colonoscopy), and two free dental cleanings per years. In addition, employees with one or more of the 5 listed diseases (Diabetes, COPD or ASTHMA, Hypertension, Hyperlipidemia (high cholesterol), and Heart Failure) which respond particularly well to disease management programs and which are a large part of total healthcare costs ––must enroll and comply with the disease management programs. [Summary of the Plan - Connecticut 5/2011]
- The new Connecticut Health Partnership (sHB 5536) allows municipalities, certain municipal service contractors, nonprofit organizations, and small businesses to provide coverage for their employees and retirees by joining the state employee health insurance plan. All new employees will be pooled with state employees in the state insurance plan if the State Employees' Bargaining Agent Coalition consents. The act requires the comptroller to provide insurance for employers that seek to cover all their employees or all their retirees. The law was effective September 1, 2008, except the definitions, the provision creating the advisory committees, and the SEBAC approval are effective upon passage, and the report and the authority for municipalities jointly to purchase health insurance are effective January 1, 2009.
- Public Act 03-149 of 2003 - Authorizes the agency "To allow small employers and all nonprofit corporations to obtain coverage under the state employee health plan and to provide that such coverage be exempt from the state insurance premium tax." S 353 was signed into law June 2003.
- Connecticut (effective 2008) provides for a reduced monthly employee contribution when both spouses are employed by the state. For example, for family coverage a regular employee pays $122.85 per month, while a two-state employee household pays $50.57, a reduction of $72 for their household.

Delaware: NCSL presentation on welness initiatives, by Kimberly Wells [PowerPoint download,] Deputy Principal Assistant, Office of the Director, Office of Management and Budget, Delaware.

- DE: The State Employee Benefits Committee (SEBC) has awarded Blue Cross Blue Shield of Delaware and Aetna the contracts to administer the state group health insurance program, while dropping Coventry Health, effective July 1, 2007.

Florida: "Florida taxpayers foot bill for Gov. Crist, top lawmakers' health care subsidy." reports the Miami Herald, only six other states offer free insurance premiums to some employees and their families, according to the National Conference of State Legislatures. Even members of Congress pay monthly fees for health benefits. [Miami Herald, 11/30/09]

- To state workers: get fit or lose your job? "The state's new secretary of Corrections, Mr. McDonough has proposed mandatory fitness levels for 19,000 of his employees – some of whom have desk jobs. It's meeting resistance from a union representing prison and probation officers and making experts wonder whether requiring workers to become physically fit, or risk losing their jobs, is the best way to tackle the country's growing obesity crisis. - news article, 1/31/07.
- Florida: In May 2004 Governor Bush signed HB 1837, which established the state employees' prescription drug program. The new program "shall create a preferred drug list" and shall be subject to new copayments (effective 1/1/04) as follows: For generic drug with card....$10. For preferred brand name drug with card....$25. For nonpreferred brand name drug with card....$40. For generic mail order drug....$20. For preferred brand name mail order drug....$50. For nonpreferred brand name drug....$80.

Georgia: The State Health Benefit Plan covered 664,703 people as of January 1, 2007. Teachers and school personnel represent almost 77% of the covered lives.

- The state requires a $50 monthly "Spousal Surcharge" be applied to members whose spouse is eligible for coverage through his/her (non-state) employer but elects not to take the coverage. (2008, revised 2011)
- A $40 Tobacco Surcharge applies to any member and/or one of his/her dependents who use(s) tobacco products. This surcharge is designed to encourage tobacco users to a healthier lifestyle. Smoking cessation classes are offered to members and dependents who want to stop using tobacco products. (2008)
- Pharmacy Preferred Drug List (2010)
- Tobacco Surcharge (2010)

Hawai'i:

- A 2001 law, Chapter 87A of the Hawaii Revised Statutes, established the Hawaii Employer-Union Health Benefits Trust Fund. The Trust Fund "is to provide eligible state and county employees, retirees, and their dependents with health and other benefit plans at a cost affordable to both the public employers and the public employees beginning July 1, 2003." The new office was created because the cost of employer contributions was projected to grow to $949 million in 2013 compared to $266 million in 1998. As of July 2003 the state eliminated the option of having the employer contribution forwarded to an employee's union and enrolling in union plans.

Idaho:

- 2012 Premium Rates: Each of the state's group medical and dental plans have been renewed with Blue Cross of Idaho with no premium rate changes for FY2012. NEW
- Idaho in 2006 enacted a mental health benefit specifically for state employees and their families. The link to the statute (ID Stat.: §67-5761A) [updated 6/10]
- Idaho has a separate School District Council (http://www.idsdc.org/index.php?id=3) that contracts with Blue Cross to make available to each of Idaho's 152 school districts and charter schools a custom tailored health insurance plan. While Blue Cross is the a single

provider, each district still has an individual plan and there is no pooling of employees. 124 districts participate. None of the districts participate in the state of Idaho employee group insurance plan that has over 24,000 employees.

Iowa: As of July 1, 2009, 84 percent of the 28,522 state employees enrolled in health insurance through their jobs participated in plans for which they paid no premiums, according to the Iowa Department of Management. That number includes employees in all branches of state government. Iowa offers employees a variety of insurance plans. Generally, the 16 percent of state employees who pay part of their premium costs have chosen more comprehensive insurance, which covers more medical conditions, such as chronic illnesses, or pays a greater percentage of total claims. [article 11/29/09]

- 2010 Employee Benefits Handbook

Kansas: 2008 legislation (HB 2172) establishing a pilot project allowing certain small businesses to join the state employee health plan died in committee.

- Health assessment program focuses on state employees. All state workers will be able to volunteer for personal health-risk assessments. There will be a variety of assistance offered to those wanting to lose weight, stop smoking and find services for dealing with chronic disease or other problems. (9/07).

Kentucky: In September 2004, Governor Fletcher's plan for substantial increases in state employee contributions led to disagreements and alternative proposals. The result was a call for "an extraordinary legislative session in October 2004.

- KY Presentation on 05/24/2005 Regarding Cost Drivers (PDF - 625 KB) KY Presentation Regarding Cost Analysis (7/8/05 PDF - 126 KB)
- Kentucky: Gov. Ernie Fletcher signed a bill into law Oct. 19 that makes health insurance more affordable for public employees and will stave off a teacher strike planned for later this month. Under the new plan, employees will pay lower premiums, deductibles, out-of-pocket expenses and receive enhanced benefits. The plan is a product of an 11-day special session where leaders in both the House and Senate spent multiple hours working with insurance companies on how to improve upon existing contracts already signed by the state. -Cincinnati Post (10/21/04)
- News article on tobacco surchange. [2008 article]

Maine: A 2007 law (HP 1093, signed 6/21/07) directs the State Employee Health Commission to evaluate the feasibility of the Legislature being an employer group in the Dirigo Health Program and to evaluate any effect on retirees who are Legislators.

Maryland: In April 2008, the state released "Measuring the Quality of Maryland HMOs and POS Plans, 2009" [2/10] which provides "validated results that compare the performance of the Maryland plans offered to State employees on measures important for ensuring high-quality care and services."

- Maryland has authorized a new drug program to allow local government and businesses to buy in a pool with state employees. As of early 2007, price negotiations await a contract ruling and have delayed the drug program.

Massachusetts:

- Mass. Lawmakers Divided On Health Insurance Proposals - The House Speaker favors a plan to combine all cities and towns with state workers; unions and 50 legislators favor a version that would require cities and towns to continue to get union approval for changes in co-pays and deductibles. 4/21/11.
- FY 2010 rates increase only 3.2%. In the face of escalating health care costs and contracting state revenues, the Group Insurance Commission (GIC) initially was able to hold the line in its health plan rate increases for Fiscal Year 2010. At yesterday's Commission meeting, the Commission approved 3.19% average rate increases across its fifteen employee and Medicare health plans for the upcoming fiscal year, which begins July 1. The GIC has consistently had more modest increases than other employers. For FY09, the GIC average rate increase was 6.37% and for FY08 it was 3.75%. [3/9/09 release]
- For FY 2010, because of the state's fiscal crisis, the legislature changed the premium contribution split. This was then signed into law by the Governor as part of the FY10 Appropriation Act, and the new contribution percentage split went into effect August 1, 2009. State employees who paid 20% of the basic life and health insurance premium (if they were hired after June 30, 2003) now pay 25%; those who paid 15% (if they were hired on or before June 30, 2003) now pay 20%.
- A state budget analysis published March 2008 provided a 10-year history of state employee health spending. It included the following figures, in 2007 state spending dollars (in millions): FY1987 = $464M; FY2006 = $1,012M; 10 year increase = $548M or 118%. The average annual change = +4.2%. "Point of Reckoning," 3/08.
- In July 2007 the Legislature approved a plan, Chapter 67, the Municipal Partnership Act, to allow city and town employees to join in with the state employee program. 7/13/07.
- MA: Cities, towns urged to join health plan; Statewide pool may save $100m. Massachusetts cities and towns could save $100 million on the rapidly spiraling cost of health insurance in the fiscal year 2009 alone if they took advantage of a new law allowing them to join the state's health insurance program. According to the report, healthcare costs for municipal employees jumped 63 percent between fiscal year 2001 and 2005, while municipal budgets increased 15 percent. (Boston Globe, 8/20/07).
- Municipal Health Reform: Seizing the Moment - Report by Massachusetts Taxpayers Foundation, 8/07. [10 pages]
- Massachusetts: With "Select & Save GIC Plan" enrollees are rewarded with lower co-pays or deductibles for choosing providers that "offer the best quality and who use their resources most efficiently"; it was begun in 2004,
- "Pension Pinching" Relatively speaking, Massachusetts is not the public pension "paradise" it's often made out to be. In fiscal 2005, MA ranked 15th in the nation in the total amount of benefits paid per beneficiary. (10/07)

Michigan: In July 2009 the House Speaker Dillon initiated a proposal to pool all state employees with city, town, county, district and K-12 school public employees.

- In November 2007 a contract was rejected by a state workers' union. The new contract would have required members to pay more for health care costs. "It was pretty much the straw that broke the camel's back," MSEA President Roberto Mosqueda said. [Lansing State Journal, 11/27/07]
- MI: Center for Excellence to Fund Analysis of Michigan State Retiree Health Care Reforms. 11/14/07

Minnesota Governor Tim Pawlenty vetoed HF 1875 in 2008, which would have created a board to design a statewide health insurance pool for local school employees. The initiative was designed, in part, to assist municipalities that do not currently provide coverage. (6/08)

- Minnesota Moves to E-Prescriptions for All State Employees One of the first initiatives under a new single pharmacy benefit manager system will be to adopt electronic prescriptions. The move will allow employees to better manage their prescription drugs and provide the information in a more portable, interoperable format. *Government Technology*. (6/6/07).
- Minnesota: State Launches Phase Two of Rx Drug Importation: In May 2004 Governor Tim Pawlenty instituted a program allowing state employees and their dependents to purchase prescription medicines from Canada. The state-sponsored website is the second of a two-phase initiative that began earlier this year to help Minnesota citizens purchase safe and less expensive prescription medicines from Canadian pharmacies. State employees who use the website would be able to obtain their medicines with no out-of-pocket expense.
- Minnesota: "New state health plan has handle on costs" While most health plans are seeing hefty annual cost increases, one state employee health plan in Minnesota is projecting an increase for the coming year of zero, using tiers for most copays and deductibles. (8/12/05)

Mississippi: 2010 "*Healthy You!*" Health/Wellness Initiative, administered by BC/BS of Mississippi.

Montana: For 2011 Montana's state contribution, $733 per month in 2011, covers the cost of "core" medical, dental, and basic life insurance. Additional coverage is available for enrollees and eligible dependents.

Nevada: "The most significant bills impacting Public Employee Benefit Program from the 2009 Legislative Session."

New Hampshire, with some of the highest rates in the nation, for 2009 has a family HMO plan that costs $1710 per month; of that the employee is expected to pay $30 per month.

New Jersey: A 2003 statute (P.L.2003, chapter 172 or N.J.S.A. 52:14-17.33a) allows part-time State employees to purchase coverage in the State Health Benefits Program at their own cost (before only full-time employees were in SHBP and usually at the employer's expense). A separate proposal was A-3780 / S-2639, which passed the Legislature but vetoed by the governor on 12/11/03. That bill would have allowed certain employees of unions that are majority representatives of public employees to be in SHBP at the unions' expense.

- New Jersey: Health care drives state costs. "New Jersey, like many employers, pays a large portion of the costs of health insurance for its employees. There are several state health plans, but the most popular one is entirely free to state workers and their families...." - news article, 3/13/05
- New Jersey: State aims to cut public employees' medical plan. Thousands of teachers, government workers and their families would face higher costs for prescription drugs and medical services under a state cost-cutting plan unveiled yesterday, the same day lawmakers began to debate ways to rein in public employee benefits. The Star-Ledger (Newark) 8/9/06.
- New Jersey: Officials seek bargaining power on state health benefits. Local officials, school boards and county colleges are urging Gov. Jon Corzine to help them gain the power to negotiate health benefits with their 215,000 active and retired employees, an action they say would save $34 million the first year. Currently, 55 percent of municipal and county governments, 18 of the 19 county colleges and a large number of school districts participate in the State Health Benefits Plan. The Star-Ledger (Newark) 1/3/07.
- New Jersey covered 100% of family coverage until 2007. Starting that July State employees contribute 1.5 percent of annual base salary regardless of the medical plan or level of coverage that is selected. If an employee makes $50,000 per year, this translates into an employee share of about $63.00 per month. [NJ Benefits -07-08]

North Carolina: State Health Plan members now have access to two online tools that empower users to monitor and compare average costs for physician office visits, diagnostic procedures and screenings, disease treatments, and prescription drugs. The updated tools are: Blue Cross Blue Shield of North Carolina's (BCBSNC) Health Cost Estimator and Medco's "My Rx Choices®," listing prescriptions from a Preferred Drug List.

North Dakota has a member Rx rebate program, in which a portion of manufacturer rebates will be passed directly to the member to offset their prescription drug out-of-pocket expense. Effective July 2005, member's out-of-pocket expense will automatically be reduced by the amount available in their MRA at the time of purchase at the pharmacy. Members will not receive rebate checks in the mail. [Updated 2008]

- North Dakota BC/BS has 90 percent of the state employee market; it has negotiated a 5.2% administrative fee for 2008.

Ohio: For 2010-11, full-time state employees pay a 15% share of the total costs of health coverage.

Oklahoma:

- OK: Health care costs for public employees — the next big issue? For decades, the troubling issue of rising public pension liabilities was perhaps the state's worst-kept financial secret. Editorial by The Oklahoman (Oklahoma City, 8/12/2011) NEW
- The Oklahoma employee and teacher retirement system has become a federally qualified PDP (Medicare Prescription Drug Plan) in order to coordinate Rx services to its members while obtaining federal reimbursement for virtually all transactions.
- In 2006 launched "OK Health wellness program," providing "All active state employees the opportunity to participate in the state's wellness mentoring program offered by the Employees Benefits Council State Wellness Program. The goal of OK Health is to give you the right tools to help you feel better and improve your health." Enrollment in the OK Health Program, involves completing an online health risk assessment (HRA). An OK Health representative will call and arrange an initial visit with your Primary Care Physician for some basic measurements and labs. They say, "As a program participant, the initial cost to visit your physician and receive lab work (specific to OK Health) will be waived by your health care provider. Following your initial PCP visit, you will receive your first Orientation call from a professional health mentor."

Oregon: For 2010 the entire Oregon plan will become self-insured. More than 95 percent of all providers used by PEBB members are already in the network. [Bulletin -August 2009 | Self-Insured decision]

- For 2009-2010 Oregon members in designated rural counties will get a "rural subsidy" and be responsible only for in-network coinsurance rates when they see providers who are not in the network. Several special categories of residents are eligibile for state membership in PEBB, including Blind Business Enterprise agents, State-certified foster parents, Oregon Liquor Control Commission agentsand Oregon State University and University of Oregon post doctorates and J1 Visa recipients.

Pennsylvania: As of July 1, 2009, all enrollees and covered spouses that complete the 2009 Health Assessment will save ½ of the employee contribution or one percent of the gross base salary contribution. Based on an average salary of $46,000, an employee would see savings of $460 a year.

- Pennsylvania added Adult Dependent Coverage for state employee families, effective January 1, 2010
- For Pennsylvania, Senate members contribute 1 percent of salary toward health premiums; House members receive 100 percent coverage by the state.
- Pennsylvania proposal seeks health insurance savings. Hoping to save money for his state on health-care costs—and to hold down local property-tax rates used to pay for benefits—Pennsylvania Gov. Edward G. Rendell is proposing to bring all school employees under one insurance plan. Education Week 9/27/07. article.
- Pennsylvania: has posted a detailed pharmaceutical Preferred Drug List for 2007 for all active state employees. The system has been administered by ExpressScripts since 2004. The program maintains a separate Prior Authorization list that allows use of some non-preferred drugs.
- Pennsylvania in 2007 announced plans for the Pennsylvania Employees Benefit Trust Fund (PEBTF) to withhold payment for “never events”. The PETBF, anticipates that this action will stimulate performance improvements that can reduce the number of unnecessary infections and other complications

Rhode Island:

- A 2008 bill (H. 8330) proposed to provide a standard $7,000 per year stipend to elected state legislators, to cover purchase of health insurance. The legislator would have been permitted to keep any amount not needed or used for health insurance, or it may be "banked" in an HSA account if eligible. The plan was rejected in the 2008 session; it received some criticism from think-tanks, which noted that costs of individual coverage was "around $5,500."
- RI: "More members of General Assembly paying part of health cost -- voluntarily" - The public spotlight placed on their free health-care benefits has prompted several more state lawmakers to offer to pay 10 percent of the cost of the premiums costing up to $16,233 a year for family coverage. The number of $13,508-a-year lawmakers paying a portion of their health insurance premiums now stands at 26 of 113. Others either get it for free, or they get a $2,002 waiver payment for giving it up. (Providence Journal, 5/5/08.)
- RI: Judge's ruling stymies Carcieri plan on health costs - A Superior Court judge has thrown a proverbial monkey wrench in the Carcieri administration’s mid-contract attempt to raise by as much as seven-fold the copays that members of the largest state employees union pay for certain medical expenses, such as emergency room visits from $25 to $150, for urgent care visits from $10 to $75, for visits to specialists from $10 to $25 and for prescription drugs from the current $5/$12/$30 range to $7/$25/$40. (ProJo news, 11/6/07)
- Rhode Island: The state spent about $4 million in 2004 on health-care benefits for 372 part-time state employees, an analysis of state payroll data shows.

South Carolina: Smokers face monthly surcharge; Tobacco users would start paying $25 in 2010. Roughly 400,000 people are covered by the state plans, including 244,000 employees and their family members. The plans are available to teachers, state workers and local government employees, among others.

South Dakota: The state has a carved-out Prescription Drug Plan, emphasizing mail order and administered by Prescription Solutions. A mandatory generics policy took effect on July 1, 2004. If enrollees choose a name brand drug, and could use a generic, they will pay the generic copayment plus the difference in cost between the generic drug and the cost of the name brand drug.

Texas: Texas law passed in 2005 allows for a Health Insurance Opt-Out Credit, which enables employees and retirees in the Texas Employees Group Benefits Program (GBP) to get money toward optional coverage if they give up their state-provided health insurance.

Utah: the Public Employee Health Plans (PEHP) has published a price transparency online Treatment Cost Estimator

- PEHP Children's Health, CHIP Master Policy - 2010
- The Public Employees Health Program launched a "Utah Timely Topics" program, which promotes information on topics like Avian Flu, Prostate Cancer and Influenza. They also publish a separate "Provider Bulletin."

Virginia: VA has a high deductible health plan for which the state pays the entire premium for the employee (all categories: individual, individual + one family member, & individual + two or more family members).

Washington: Washington State Health Care Authority administers a Medicaition Therapy Management (MTM) program for eligible enrollees of the Uniform Medical Plan (UMP) and the Aetna Public Employees Plan of Washington, paying pharmacists to find errors and dangerous interactions.

- Washington Wellness, 4 Steps to Better Health, 2010
- Wellness Initiative Online Toolkit, 2010 - Physical Activity Toolkit

West Virginia: In 2004, West Virginia passed legislation (SB 143) intended to help uninsured small businesses provide coverage for their employees. The new law creates a private/public partnership between the West Virginia Public Employees Insurance Agency (PEIA) and insurance companies that choose to offer the plan. West Virginia's plan will allow carriers to access PEIA's reimbursement rates and drug purchasing plan, enabling the new small business coverage cost to be 20-25 percent below the usual market rate. This has expanded the pool of insured working West Virginia residents.

- WV Public Employees Preferred Drug List, Approved as of 07/01/10.
- WV Comprehensive Financial Report, FY 2009
- West Virginia: also created the Pathways to Wellness program by law (W. Va. Code § 5-16-8). It requires the Public Employee Insurance Plan to provide wellness programs and activities which include benefit plan incentives to discourage tobacco, alcohol and chemical abuse and an educational program to encourage proper diet and exercise. The cost of the exercise program shall be paid by county boards of education, the public employees insurance agency, or participating employees, their spouses or dependents. All exercise programs shall be made available to all employees, their spouses or dependents and shall not be limited to employees of county boards of education.
- West Virginia: Surgery abroad an option for 2007? West Virginia, Republican legislator Ray Canterbury has proposed allowing state employees to go overseas for health care if they want, as long as the cost, including travel and accommodations, is less than the

expense in the United States. The bill is in a special study committee that will take it up next year. Mr. Canterbury hopes that the state legislature will at least approve a pilot program testing overseas care. (Post-Gazette, 9/10/06)

- In December 2009 PEIA "due to escalating health care costs", approved changes for FY 2010-11 including a 4 percent premium increase for all active and retired employees. Additionally, changes affecting the benefit structure were approved, including expanded lifetime maximum benefit from $1 million to $1.5 million per member and an increase to the family out-of-pocket maximum to one and half times the single maximum. They also added a wellness program incentive that ensures members are aware of their modifiable risk factors, including blood pressure and cholesterol. For retired employees, the new plan includes an increase of $25 in their medical deductible and the implementation of the Express Scripts High Performance Formulary.

Wisconsin : The state agency covers 550,000 people, including state and local government employees. For 2010, The core are 72,103 active employees (98.1% in HMOs) and 22,286 retirees (67.3% enrolled in HMOs).

- For Wisconsin Governor, Battle over Benefits was Long Coming- NY Times - 2/20/2011
- Average wages for public and private employees in Wisconsin [published 2/20/2011]
- For 2010 most state employees (Tier 1) paid a share of $34.00/month for individual coverage and $85.00/month for family coverage. The state makes no direct empoyer payments for retiirees. [WI Fact sheet, 8-year comparison of coverage and costs] added Feb, 2011.
- The 2009 Wisconsin budget (Act 28) contain a number of new health insurance coverage requirements that affected the 2010 State Group Health Insurance Program including: Available coverage for domestic partners, expanded coverage for: Dependents less than 27 years of age, Autism, Mental Health, Cochlear implants and hearing aids for children under age 18. [Updated 7/09]
- The WI Department of Employee Trust Funds (DETF) uses the 3-Tiered approach to health insurance purchasing. The 3-Tier model was designed in 2004 to address cost escalation problems "while maintaining high-quality, low-cost health care coverage. While still maintaining a uniform medical insurance benefits package, each plan has now been assigned to one of three tiers based on the relative efficiency with which a plan is able to provide the benefits and the quality of care required by the Board. Plans were given extra credit in the tier assignment process if they scored well on measures of quality, such as clinical measures and member experience. This approach has created significant incentives for health plans to hold down the costs they charge the state while guaranteeing that all employees in the state have access to a Tier 1 plan in their area. In addition, monthly premium contributions for the Standard Plan have been capped." For January 2009 through December 2009, the least expensive, Tier 1 (with 21 plan choices among geographic areas) individuals contribute $31.00/month; families contribute $78.00. Tier 2 (with one plan choice, BCBC Northwest) individuals contribute $69.00; families contribute $173.00. Tier 3 (with one plan, "Standard Plan") individuals contribute $164.00; families contribute $412.00. [2009 Benefits description]
- In 2004, Wisconsin announced that required employee contribution rates for health coverage will increase for all employee groups beginning January 2005. Rates for both the general/teacher (from 9.8% to 10.2%) and executive/elected (from 10.8% to 11.2%)categories of employees increased by .4%. Wisconsin also authorized the Department of Employee Trust Funds (DETF) to contract with a Pharmacy Benefits Manager (PBM) to provide pharmacy benefits services to all State of Wisconsin group health insurance participants. Effective January 1, 2004, all participants receive their pharmacy benefits from the PBM, Navitus Health Solutions.

Additional Professional Resources

- NCSL Legislative Summit 2009, Philadelphia Pa. Panel on "Innovations in Health Insurance: State Employee Programs" Presenters: Mary Habel, Director - Office of Health Benefits VA Dept. of Human Resource Management; Richard Johnson, Senior Vice President, Public Sector Health Practice Leader, Segal, Washington D.C.
- State Employee Health In the News: 2009 Proposals; Changes - New NCSL Report with links to state articles. Sept. 2009.
- Retiree Health Care: News and Reports The CA Legislative Analyst's Office (LAO) has a new Web site, designed to be an information resource addressing issues concerning public sector retiree health benefits and the associated unfunded liabilities.
- The Connecticut Healthcare Partnership (HB 6582), sponsored by Speaker Christopher Donovan, aims to self-insure the state employee health insurance pool and open it up to small businesses, non-profits and municipalities; it passed the House and Senate in May and was vetoed by Gov. Rell; the House overrode the veto but the sustained it on July 20, 2009.
- "The Other Benefits Mess" - A new regulation forces government retirement plans to reveal the cost of their health-benefit promises for the first time. (Kiplinger Benefits Magazine, 9/07)
- High Noon In The Accounting Department: States Confront GASB 45- NCSL State Health Notes, 9/17/07
- Public Employee Health Benefits Have Survived Threats - So Far - Health Affairs web exclusive 4/18/06
- "America's Second Civil War: The Public Employment Complex vs. Taxpayers," - Lewis M. Andrews, Yankee Institute, 4/06 [24 pages]
- National Association of State Personnel Executives (NASPE), a non-profit organization, was established in 1977 to enhance communication and the exchange of information among personnel executives. NASPE is an affiliate organization of The Council of State Governments.
- National Association of State Retirement Administrators (NASRA) - online resources.
- Health Care Purchasing Among State Employers by National Health Care Purchasing Institute. In this report, James Maxwell at JSI Research Inc. chronicles major challenges for state employers, such as premium, drug, and retiree costs, and describe strategies for keeping down costs.
- "State Government Retiree Health Benefits: Current Status and Potential Impact of New Accounting Standards" - AARP Public Policy Institute reports state and local governments will have to follow new accounting standards for their retiree health benefits. Compiled by Workplace Economics, 07/04. [29 pages]

  Appendix: 50-state charts 2003 plan data [42 pages]
- NASRA White Paper: Myths and Misperceptions of Defined Benefit and Defined Contribution Plans -
- Defined Benefit / Defined Contribution Fact Sheet, an overview of pension plan types and their use among public employees. NASRA
- Plan Design: A Review of Current Public Pension Issues, report by the Kansas Public Employees Retirement System

- * 2000-2001 State Health Care Expenditure Report: State Employees' Health Benefits - Co-Published by the Milbank Memorial Fund, the National Assoc. of State Budget Officers (NASBO) , and the Reforming States Group, 04/03.
- Footnotes and Sources
- 1- Kaiser/HRET Survey: 2002 State Employee Health Plans - Kaiser Family Foundation, July 2003. State employee health plans provided coverage for 3.4 million state government employees in 2002. The Survey finds that premiums for state employee health plans increased 12.8% in 2002, similar to national averages. It also finds that state employee plan premiums are slightly more expensive than the national average and that state workers? contributions are less expensive than the average U.S. firm. The Survey is a supplement to the larger Kaiser/HRET Employer Health Benefits Survey. [PDF 12 pages].
- 2010 Segal State Health Benefits Survey -supplements (published Jan. 2011)
- 2009 Study of State Employee Health Benefits, SEGAL. - up-to-date comparison of state health insurance plans.
  - 2009 and 2010 Rx Coverage Copayments
  - Regional Data on Cost Sharing
- 2003 Segal State Health Benefits Survey - a comprehensive look at premiums, enrollment and related structure, updated in 2003.
- 3- Workplace Economics "2006 State Employee Benefits Survey" published 4/24/06. This comprehensive annual survey of state features and premiums provides an excellent statistical baseline for 14 categories of benefits including health, dental and vision, life, travel and retirement. [WorkPlace Economics no longer lists items for sale; their web site is no longer operational as of 3/08].
- 4 - "Table 8A: Health, Dental and Optical Insurance Benefits for State Legislators, 2005", a survey of the 50 states.
- States struggle to cover retirees - USA Today, 12/18/2006

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Report compiled by Richard Cauchi. NCSL Health Program, Denver. Updates by Tyler Marsh, June 2010. -

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EXHIBIT J

American Association of State Colleges and Universities

A Higher Education Policy Brief • October 2007

Domestic Partnership Benefits: Equity, Fairness, and Competitive Advantage

By **Alene Russell**
State Policy Scholar, AASCU

As the American public becomes increasingly supportive of equity and fairness in the workplace, employers are discovering that domestic partner benefits programs make good business sense. Evolving social and economic pressures in support of these programs are contributing to their increased use as a competitive lever to attract a diverse, top-caliber workforce.

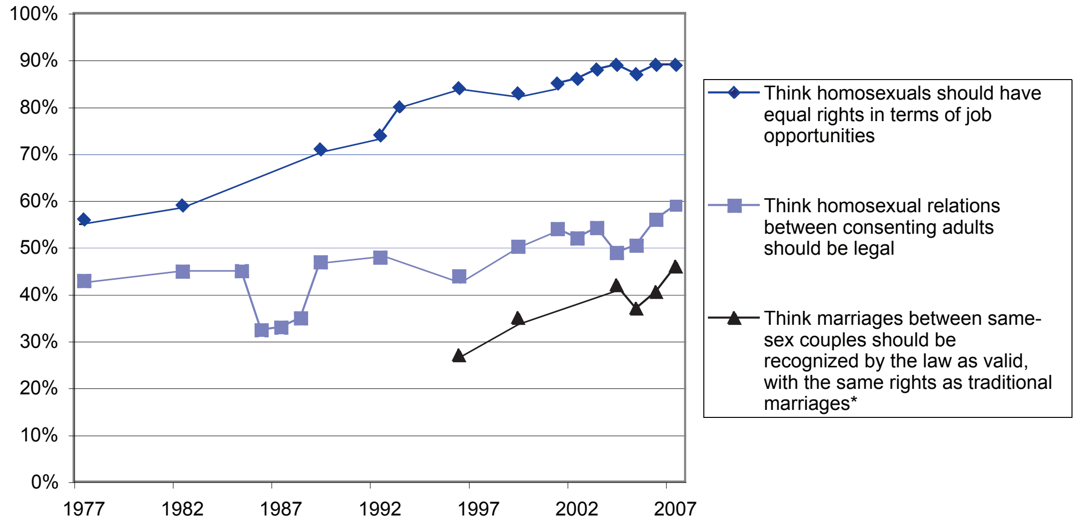
Context

When the *Village Voice* newspaper in New York City first offered benefits to non-married domestic partners of its employees in 1982, this represented a radical departure from tradition. Twenty-five years later, some 9,300 employers in the United States, including many of the nation's largest and most successful companies, have extended their benefits programs to the domestic partners of employees and their dependents. Though such benefits are far from universally available, it is clear that a shift has taken place in American society, moving domestic partner benefits programs from the margins to the mainstream.

This development is consistent with growing public opposition to discrimination on the basis of sexual orientation. It represents a new middle ground in society's culture wars. At one extreme, there are those who wish to preserve the traditional definition of marriage as between one man and one woman and to deny recognition of any legal status for same-sex couples. At the other extreme, there are those fighting for full marriage equality for same-sex couples. Between them, there is a very large group of individuals who support legal recognition through civil unions or domestic partnerships, but who oppose same-sex marriage. While both sides have intensified their efforts to achieve victories in statehouses, courts, ballot boxes, and Congress, domestic partner benefit programs have grown in popularity as a compromise solution that is acceptable to a large proportion of the American public. The term "domestic partner" itself is still in flux, but in general, it refers to an unmarried couple (same- or opposite-sex) who live together and who are committed to each other, certifying through some formal means that they are financially and legally interdependent.

American businesses have taken the lead in developing domestic partner benefit programs for their employees, believing that it makes good business sense. Employers see this as an inexpensive

Figure 1. Trends in Public Acceptance of Equal Rights for Gays



Source: Gallup Poll News Service.

*Surveys between 1996 and 2005 asked about "marriage between homosexuals." The 2006 survey asked half of the respondents about "marriage between same-sex couples" and half about "marriage between homosexuals." The former wording resulted in 3 percent greater support.

way to attract and retain talent and to gain an advantage over the competition. Many of the nation's most competitive colleges and universities are doing the same, as are a number of states and municipalities. But while private-sector employers cannot be legally prohibited from offering these benefits, the rules governing public entities are much less clear. With the recent passage of many state statutes and constitutional amendments defining marriage, confusion reigns over the extent to which such language affects other legal relationships. New legal ground is continually being charted, and it is likely that the situation will remain volatile for many years to come.

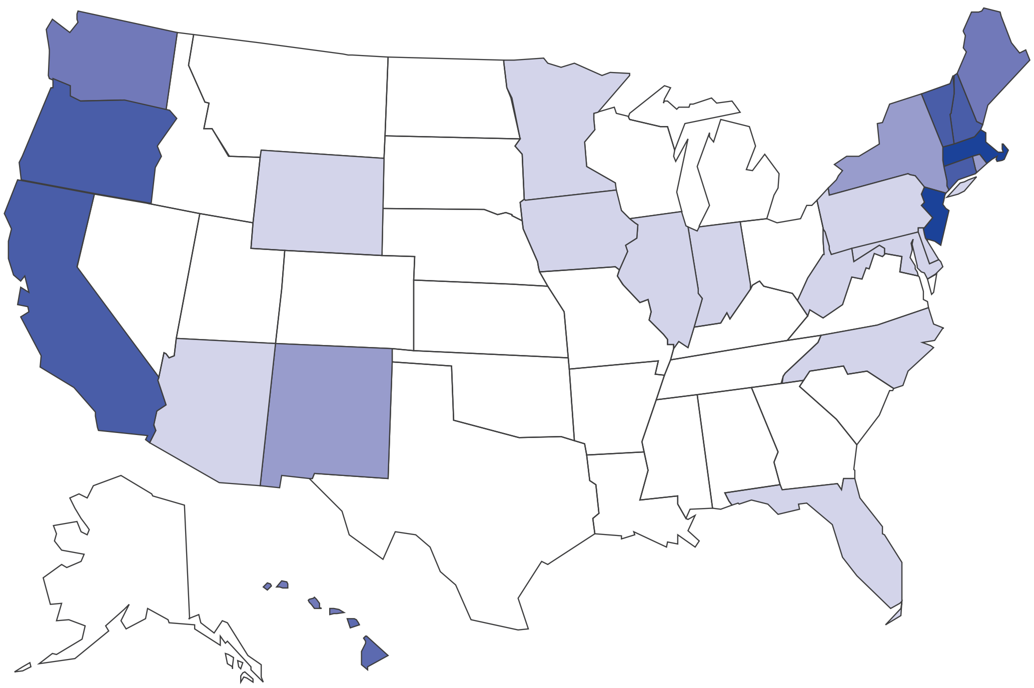
In this context, higher education leaders and state policymakers will benefit from a greater familiarity with the issues surrounding domestic partner benefits programs to better inform policy decisions. This paper describes the key issues and addresses what is at stake for public colleges and universities.

Observations

Over the past three decades, there has been growing public tolerance for gay rights in the country, and growing opposition to discrimination on the basis of sexual orientation. Though the nation remains deeply divided over certain gay-rights issues, there is overwhelming public support for equality in the workplace. Recent Gallup Poll data indicate that 89 percent of Americans believe "homosexuals should have equal rights in terms of job opportunities," compared to 56 percent in 1977. There is less, but still growing, tolerance for gay rights in other areas of life (see Figure 1). In the same Gallup Poll, a majority of Americans (53 percent) adhere to the belief that "marriages between same-sex couples should not be recognized by the law as valid, with the same rights as traditional marriages," but nearly half (46 percent) believe such marriages should be valid. Other polls have reported support for same-sex marriage to be a bit lower, but all are documenting significant change over the past decade.

Evidence suggests some ambivalence on the topic of same-sex relationships. Many people want to be fair-minded, but they are uncomfortable about changing the traditional concept of marriage. Public opinion polls that provide three options—recognition of same-sex marriage, recognition of civil unions but not full marriage rights, or recognition of neither—illustrate this point. Polls taken in 2007 by both the CNN/Opinion Research Corporation and *Newsweek* indicate that one half of all Americans think that either same-sex marriages or civil unions should be recognized as legally valid, with support equally split between those favoring civil unions and those favoring marriage. Fewer Americans (about 44 percent) think that there

Figure 2. State Policies Recognizing Same-Sex Relationships and Restricting Marriage to One Man and One Woman



- ☐ state constitutional amendment restricts marriage to one man and one woman; no recognition of same-sex couples
- ☐ state law restricts marriage to one man and one woman; no recognition of same-sex couples
- ☐ does not recognize same-sex relationships; does not restrict marriage
- ☐ recognizes limited spousal rights for same-sex couples, but restricts marriage to one man and one woman
- ☐ recognizes civil union or domestic partnership for same-sex couples, but restricts marriage to one man and one woman
- ☐ recognizes civil union, domestic partnership, or marriage for same-sex couples and does not restrict marriage to one man and one woman

should be no legal recognition of arrangements between same-sex couples.

Finally, support for gay rights is greatest among younger Americans and decreases as people age. This suggests that the trend toward greater acceptance of differences will continue.

There has been widespread state activity over the past decade prohibiting same-sex marriage, with the majority of states (44) crafting statutes or constitutional language defining marriage as between a man and a woman. A critical question is whether the language in these measures is broad enough to limit other legal rights for same-sex couples, including domestic partner benefits. In 1996, Congress passed the Defense of Marriage Act (DOMA) defining marriage for federal purposes as "only a legal union between one man and one woman" and allowing states to refuse to recognize same-sex marriages performed in other states. This stimulated a flurry of activity at the state level in an area where little legislation had existed before.

The vast majority of states have now enacted laws or constitutional amendments opposed to same-sex marriage (see Figure 2).

- Forty-one states have statutes similar to DOMA that restrict marriage to one man and one woman.

- Twenty-six states have added marriage amendments to their state constitutions to declare marriages between same-sex couples void or invalid. These are seen as stronger measures than state statutes because they prevent courts from ruling that same-sex marriage bans are unconstitutional, and they forbid recognition of same-sex marriages performed in other states. Proposed constitutional amendments are pending in 11 additional states.

- Only six states (Connecticut, Massachusetts, New Jersey, New Mexico, New York, and Rhode Island) and the District of Columbia have no provision against same-sex marriage.

In examining the language of these marriage amendments, the Human Rights Campaign (HRC), an advocacy group working for gay equality, has identified 17 states with broadly written constitutional amendments that might have consequences for other legal relationships such as domestic partnerships. These are now at the heart of controversies in many states as supporters of domestic partner benefits argue that voters were misled; they argue that many citizens voted in support of state constitutional amendments, having been convinced by proponents that the referenda applied only to same-sex marriage. After passage of the amendments, these same proponents have called for a broader interpretation of the new constitutional language.

While some states are restricting recognition of same-sex relationships, a small but growing number have begun to recognize civil unions and domestic partnerships. Seven states offer a full range of spousal rights, and four jurisdictions offer more limited spousal rights to same-sex couples. Just this year, legislatures in three states took action to recognize same-sex relationships, more states to have done so in a single legislative season than ever before. When these laws go into effect in 2008, 20 percent of the U.S. population will be living in states that offer broad-based rights and responsibilities to same-sex couples. Prior to 2000, no states offered such recognition. But unlike traditional marriages, these relationships do not carry the federal protections of marriage (such as Social Security benefits, family medical leave, and so on), and they generally are not recognized outside of a state's jurisdiction.

Currently, Massachusetts is the only state in the nation in which same-sex couples may marry. This is the result of a 2003 Massachusetts Supreme Judicial Court decision that determined that the denial of protections, benefits, and obligations of marriage to same-sex couples violated the due-process and equal-protection clauses of the state's constitution.

Six states provide same-sex couples all or nearly all the rights and responsibilities of married couples through parallel arrangements. Four of these states offer civil unions: Connecticut, New Hampshire (effective 2008), New Jersey, and Vermont. Two offer domestic partnerships: California and Oregon (effective 2008). Four additional jurisdictions offer more limited spousal rights to same-sex couples: the District of Columbia, Hawaii, Maine, and Washington. In several cases, these states prohibit same-sex marriage, but have created a parallel legal structure to grant benefits, protections, and responsibilities.

Motivated by a desire to attract and retain high-quality workers, private businesses have taken the lead in offering domestic partnership benefits to their employees, with public entities following suit. Emerging research is documenting this as a cost-effective strategy for fully harnessing workforce potential. Benefits such as health and dental insurance are a significant component of the total compensation package offered by employers, and research has documented that benefit packages affect employee decisions and job satisfaction. Though benefits have traditionally been extended to the spouse and children of an employee, this has not been an option for same-sex couples, effectively resulting in lesser compensation. Employers have begun to recognize that extending benefits to domestic partners and their children can be a cost-effective way to recruit and retain talent, as well as a way to promote workplace equality. Many organizations have a policy against discrimination on the basis of sexual orientation, and in many jurisdictions, such discrimination is illegal. Offering partner benefits equalizes the compensation package and demonstrates commitment to non-discrimination.

Domestic partner benefits are not limited to same-sex couples. Hewitt Associates, a global human-resources consulting company, has found that 58 percent of organizations that offer domestic partner benefits offer them to both same-sex and opposite-sex couples.

To determine eligibility, employers require documentation of domestic partnership status in one of two ways. Some employers define their own requirements and develop a domestic partnership affidavit. The partners are typically required to certify that they are at least 18 years of age, unmarried, not related to each other, sharing a committed relationship that is exclusive, living together, and financially and legally responsible for each other. More employers are taking a second approach, which is to accept documentation from local or state domestic partner registries, state-level civil unions, or marriages (in Massachusetts). As the number of registries grows, the latter approach is gaining in popularity because it reduces the burden on employers.

Significantly, the largest and most successful companies are the most likely to offer domestic partner benefits, recognizing that they provide a competitive edge in the search for talent. Currently 269 of the Fortune 500 companies provide domestic partner benefits. Of the nation's 100 top-grossing law firms, 88 provide health benefits to same-sex partners of employees.

Thirteen states offer at least some domestic partner benefits to state employees, and at least 145 city and county governments around the country offer them. This is occurring across the nation, even in states that prohibit same-sex marriage.

For both private and public entities, the cost of providing benefits has been a primary concern, at least at the outset, but a growing number of studies are documenting that costs are far less than anticipated. Research suggests that the actual number of people using these benefits has been modest, and the fiscal risks (i.e., costs) associated with these individuals are no greater than those of spouses. In Minnesota, for example, the total cost of providing state employee health benefits increased just 0.05 percent when domestic partner health benefits were added, equivalent to four cents per year per state employee. Studies by the Society for Human Resource Management, KPMG Peat Marwick, and the Employee Benefit Research Institute have similarly concluded that adding health-care benefits for domestic partners generally has a minimal financial impact on overall benefits costs, raising them at most by one to two percent. When looking at cost issues pertaining to statewide employee-benefits programs, studies have actually projected cost savings. This is due to the fact that when same-sex couples assume fiscal responsibility for one another in legally recognized arrangements, they save taxpayers money by reducing dependence on public-assistance programs.

Colleges and universities, led by private institutions, are increasingly extending benefits to domestic partners, but these institutions remain in the minority. Public institutions are proceeding at a slower pace and with greater caution, mindful of the appropriations power wielded by policymakers who may not agree with the policy. The Human Rights Campaign has identified 304 higher education institutions in the United States that offer domestic partner benefits. Mirroring corporate America, the more competitive institutions are at the forefront of efforts to utilize these benefits as a tool in attracting and retaining top faculty and staff. HRC indicates that 60 percent of *U.S. News & World Report's* top 125 colleges and universities offer partner benefits, a proportion higher than that of Fortune 500 companies (54 percent). Of *U.S. News'* top 10 colleges and universities, all offer domestic partner benefits; the same is true for all Ivy League universities. The University of Wisconsin is the only Big Ten conference school that does not offer partner benefits.

Provision of domestic partnership benefits is an issue for all of higher education, not just elite institutions. Approximately 141 public colleges and universities offer domestic partner benefits, and 25 states have at least one public institution that offers these benefits. Sixty-five members of the American Association of State Colleges and Universities (AASCU) do so, representing 15 percent of AASCU institutions. Comprehensive universities, in particular, have much to gain by offering competitive benefits packages since they have less money to offer in salaries. This could make a real difference in attracting talented faculty and staff and improving campus morale and workplace productivity.

In a 1995 resolution, the American Association of University Professors (AAUP) stated its opposition "to discrimination based upon an individual's sexual orientation in the selection of faculty, the granting of promotion or tenure, and the providing of other conditions and benefits of academic life." Faculty on campuses across the nation have taken up this cause, and even those who would not directly benefit from domestic partner benefits are calling for equal benefits on their campuses as a symbol of a non-discriminatory and inclusive community.

As to cost, domestic partnership benefits at public universities have not been a drain on state budgets. Data from the College and University Professional Association for Human Resources (CUPA) indicate that only 8 percent of institutions pay all health insurance costs for family coverage; it is far more common for employees to pay for some or all of the costs associated with covering additional family members. Also, in some instances, the employer portion of domestic partner benefits costs is paid for out of private donations so that no state money is used.

Political battles continue to be fought across the nation, and there are a growing number of legal challenges to public colleges' right to offer benefits to domestic partners. While Attorneys General and the courts in several states have concluded that domestic partner benefits do not violate state bans on same-sex marriage, others are reaching the opposite conclusion. The following state examples illustrate the volatility of the situation, the political and legal struggles being fought in the states, and the uncertainty university leaders are facing.

Wisconsin—Concerned about being at a relative disadvantage in the competition for faculty talent, Governor Jim Doyle proposed a measure to the state legislature in 2005 to provide funding for health insurance for domestic partners of employees. State legislators rejected this proposal.

In 2006, voters passed a constitutional amendment to prohibit same-sex marriage. Many groups, including the Board of Regents of the University of Wisconsin System, expressed concern that it might restrict domestic benefit programs, and the city of Madison, which has had a domestic benefit program since 1990, asked for clarification from the state's Attorney General. The AG declared that the marriage amendment does not prohibit public or private employers from extending domestic partner benefits to non-married partners of employees, and that "neither the Legislature nor the people intended to invalidate domestic partnerships when they adopted this provision." UW still does not offer domestic benefits.

"The absence of domestic partner benefits is really a serious recruiting issue for us. We know of instances where we have lost outstanding candidates because of it."
—University of Wisconsin at Madison's provost, 2005

Michigan—When Michigan voters approved a state constitutional amendment in 2004 that banned recognition of marriage for same-sex couples or other "similar union for any purpose," confusion about the legality of domestic partner benefits arose. In a dispute pertaining to the city of Kalamazoo, the University of Michigan, Wayne State University, and the American Association of University Professors filed briefs with the court urging that the marriage amendment did not prohibit domestic partner benefits and arguing that such benefits were "vital to the universities' ability to recruit and retain the best and the brightest faculty and staff." In a 2005 decision, the judge backed the universities' position, arguing that health-care benefits are not a legal part of marriage, but rather part of an employment relationship and that awarding these benefits does not violate the "similar union" language of the constitutional amendment. However, in early 2007, an appeals court reversed that decision, ruling that the marriage amendment "prohibits public employees from recognizing same-sex unions for any purpose." Though the American Civil Liberties Union (ACLU) will appeal the decision to the Michigan Supreme Court, Michigan State University and the University of Michigan have meanwhile broadened their domestic benefits plans to avoid the language of domestic partnerships. MSU's pilot program offers benefits to "Other Eligible Individuals," defined by neutral criteria that do not require documentation of a committed relationship. Similarly, the University of Michigan's program allows for benefit coverage for "Other Qualified Adults."

"Given the economic crisis our state is in, discouraging an educated workforce from staying in Michigan . . . seems like a step backward instead of forward."
—Eastern Michigan University staff member, 2007

Kentucky—In July 2006, the University of Louisville became the first university in the state of Kentucky to offer domestic partner benefits, and the University of Kentucky followed in April 2007. Members of the state legislature who were opposed to this development asked the state Attorney General to issue an opinion. In June 2007, the AG asserted that these two programs violated the state's marriage amendment that bars recognition of any same-sex status "substantially similar" to marriage. However, he opened the door to other types of benefits approaches, suggesting a solution similar to what was done in Michigan—broadening the definition of eligible individuals to others who live in the household under circumstances that do not resemble marriage. UK responded by creating a Sponsored Dependent Coverage plan based on sharing a residence for at least a year, but not classifying the dependent as a domestic partner. U of L has developed a similar plan that would provide coverage for one "qualifying adult." The matter is not settled, however. Governor Ernie Fletcher is pushing for legislation that would ban benefits to domestic partners of state university employees.

"We are not endorsing any lifestyle. We are simply recognizing that people are people. We are recognizing the world we live in."
—University of Louisville trustee, 2006

Ohio—In 2005, a state representative from Cincinnati filed a lawsuit against Miami University, contending that its domestic partner benefits policy violates the state marriage amendment. That measure prohibits state agencies from creating or recognizing relationships that "approximate the design, qualities, significance or effect of marriage." His lawsuit stated that he had grounds to sue the institution as both a taxpayer and a tuition-paying parent. A judge dismissed the case in 2006, ruling that the legislator did not have standing

Miami University officials "have thumbed their noses at the Constitution."
—Ohio lawmaker, 2005

to sue because he was not significantly affected by the university policy, but he added that others might have standing to file such a lawsuit. A 2007 appeals-court decision upheld the lower court's ruling that the legislator did not have standing to sue on either ground: first, taxpayers do not have a general right to challenge any decision by a public entity, and second, tuition funds are not used to pay for the benefits. The legislator could appeal to the state Supreme Court, or other lawsuits could follow.

Conclusion

With public opinion increasingly supporting equity and fair compensation in the workplace, and with full marriage equality for same-sex couples unlikely in the foreseeable future, legal recognition of same-sex couples in the form of domestic partnerships seems here to stay and likely to grow. Leaders of public higher education and state policymakers need to understand what the competition already recognizes: that offering domestic partner benefit programs is a cost-effective strategy to attract and retain faculty, staff, and administrators from a greater pool of talent. And of equal importance, offering these programs is essential if the nation's public institutions are to demonstrate their commitment to social and economic justice, diversity, and inclusiveness.

For many public institutions, adopting policy that allows for the offering of domestic partner benefits may well be a significant public-relations challenge, but, as the experience of 25 states demonstrates, it is not insurmountable. The process can be particularly difficult in states where lawmakers hold conservative views about marriage and have fears about a negative impact on state budgets. It is incumbent upon both higher education leaders and policymakers to learn the facts as they relate to public policy and economic competitiveness, and to make informed decisions.

Resources

American Association of University Professors (AAUP). *Domestic Partner Benefits on Campus* (2005) describes AAUP's position and reviews recent domestic partnership litigation involving faculty.
aaup.org/AAUP/protect/legal/topics/partners.htm

American Civil Liberties Union (ACLU). ACLU's Lesbian Gay Bisexual Transgender (LGBT) Project fights LGBT discrimination and engages in legal and public-education efforts to recognize same-sex relationships. It produces an annual report providing a state-by-state update of political activity and litigation pertaining to LGBT issues.
aclu.org/lgbt

Domawatch.org. Domawatch.org is a project of the Alliance Defense Fund, a conservative Christian organization that supports the preservation of marriage as a union of one man and one woman. It tracks lawsuits related to the issue of same-sex marriage and provides detailed information on state and federal circuit-court cases.
domawatch.org/

Gallup Poll News Service. Gallup's annual Values and Beliefs Survey has collected data for over 30 years on trends in public tolerance for gay rights.
galluppoll.com/content/?ci=27694&pg=1

Human Rights Campaign (HRC). HRC is an advocacy group that works to achieve gay equality. Its resources include a database of employers that offer domestic partnership benefits, analysis of marriage- and relationship-related bills and ballot initiatives, and an annual update on workplace issues for gay Americans.
hrc.org

National Conference of State Legislatures (NCSL). NCSL tracks state legislative activity pertaining to same-sex marriage, civil unions, and domestic partnerships, including results of the 2006 elections and a timeline of same-sex-marriage political and legal activity since 2003.
ncsl.org/programs/cyf/samesex.htm

Stateline.org. *Same-Sex Marriage Ripe for Decision in 2 Courts* provides excellent background on this issue, including a timeline of key events and a summary of state policies.
stateline.org/live/digitalAssets/9339_Same-sex_marriage.pdf

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EXHIBIT K

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Originally Published: December 18, 2011 8:00 PM **Modified: December 20, 2011 2:38 PM**

Universities: Veto bill banning partner benefits

Perk called important to schools' recruitment

By Dustin Walsh

Like 50

Michigan universities face uncertainty over the right to offer what for some is a valuable recruitment tool: domestic partner benefits.

The Michigan House and Senate are at odds over a bill banning domestic partner benefits for state employees. At issue is whether the bill applies to the state's 14 public universities and whether the state constitution protects them from the bill.

House Bill 4770, sponsored by Rep. Dave Agema, R-Grandville, passed the Senate this month with amended language that may exempt university employees from the ban. However, several House Republicans told reporters the bill will apply to university employees.

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The holiday edition features the top 25 picks from your clicks; 10 images from a year in business news; _Crain's_ reporters look back and look forward, blog style.

Access the digital edition here.

Sara Wurfel, Gov. Rick Snyder's press secretary, said the governor's legal team is assessing the bill's language to determine whether universities are in fact exempt but would not speculate on whether the governor would sign the bill. Snyder has until Dec. 27 to sign or veto the bill.

The uncertainty has university officials urging Snyder to veto it.

"The language is ambiguous and about as clear as mud," said Mike Boulus, executive director of Lansing-based **Presidents Council, State Universities of Michigan**. "At this point, we don't know whether the bill includes us, so we're urging the governor to veto."

University officials believe the ban will damage efforts to compete with private schools that offer domestic partner benefits as they seek to attract and retain faculty.

"The **University of Michigan** must be able to offer an excellent benefit package to our employees and to those we hope to recruit to UM for their unique talents, skills and expertise," UM President Mary Sue Coleman wrote in a letter to Senate Majority Leader Randy Richardville, R-Monroe, last month. "The loss of our ability to offer such benefits would put the university, and our state, at a serious disadvantage compared to peers."

Lawyers in Snyder's administration likely will decide what happens next. But if Snyder signs the bill as is, it may end in costly litigation.

Len Niehoff, chairman of the higher education practice at **Honigman Miller Schwartz and Cohn LP** in Ann Arbor and professor at the UM law school, said university autonomy, protected in the state constitution, will be used to fight the ban.

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Constitutional autonomy provides all of Michigan's four-year institutions the ability to vest management and maintain financial control in the governing board, not in the Legislature, Niehoff said.

"Autonomy was created to insulate state universities from the whims of politics," he said. "There's historical reason for this, as universities didn't fare well under legislative control."

UM
was granted constitutional autonomy in 1850 by creating a governing board, making it the first institution in the country to achieve that status. UM was granted autonomy "after many years of political interference in the operation of the university, including legislative and gubernatorial involvement in the selection and removal of the faculty," according to a study by the **California Higher Education Policy Center**.

Universities are, under the constitution, allowed to spend funds in any way the institutions see fit, including domestic partner benefits.

The **Michigan Supreme Court** also has a history of upholding autonomy granted by the constitution.

In a 1911 case, *Board of Regents of the University of Michigan v. Auditor General*, the Supreme Court ruled that universities have "the highest form of juristic person known to the law, a constitutional corporation of independent authority, which, within the scope of its functions, is coordinate with and equal to that of the legislature."

"Universities have decided that this (using funds to offer domestic partner benefits) is a good investment because it helps with recruiting and puts these universities on even footing with private institutions," Niehoff said. "It's exactly this kind of decision the principal of autonomy is designed to protect."

Ed Begale, assistant vice chancellor for governmental relations at the **University of Michigan-Dearborn**, said the state's universities would likely take the issue to court, saying Agema and other legislators are willing to damage recruitment for ideology.

"Cutting us 15 percent in our operating budget is one thing, but then telling us we have to socially engineer who we have to recruit and offer benefits is outrageous," he said.

But Agema said universities are operating against a 2004 amendment banning same-sex marriage.

"They basically have hidden behind the clause that they have autonomy," he said. "We (the state) appropriate money, and they say we can't tell them what to do with it. If they think they are above the law, they aren't."

Boulus said the outcry by the Legislature is also over a relatively minor fringe benefit, from a budgeting perspective. As of July, only 93 people, including dependents, are enrolled in the domestic partner benefits at **Michigan State University**, to the tune of $370,000, according to the *Lansing State Journal*.

A university official who wanted to remain anonymous said, "The vast majority of operating budgets don't come from the state," the source said. "The few dollars spent on these benefits are coming from tuition fees or housing, but they (government) can't say that it comes from state appropriations."

Wurfel said Snyder will have a decision made by the Dec. 27 deadline.

Domestic partner benefits are "most certainly a recruitment tool," said Daniel Hurley, director of state relations and policy analysis for the Washington, D.C.-based **American Association of State Colleges and Universities.**

"World-renowned institutions like the UM and MSU ... are competing on an international playing field," he said.

Lots of top professors, administrators and researchers have options on where to go with their skills and abilities, within public or private higher education, Hurley said.

The cost associated with offering domestic partner benefits is extremely minimal, he said, since on many public college and university campuses the number of employees electing the benefits is often in the single digits.

"I have not seen any legislation in any of the states in recent years going in (this) direction," said Hurley, a Michigan native. "This would stand out in the country as a backwards, anti-progressive policy move that I think would shine a pretty negative light on Michigan."

A 2011 survey by the **College and University Professional Association for Human Resources** found the percentage of responding institutions offering health care benefits for same sex and opposite sex partners increased for the fifth straight year, rising to 56 percent and 43 percent respectively.

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Sherri Welch contributed to this story.

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Like 50

Fair Is Fair wrote:
So let's see if I get this straight (no pun intended).

The reason the Governor should veto these bills is strictly because of the uncertainty with regard to their impact on university constitutional autonomy (i.e., if it were proven with certainty that they DO maintain university constitutional autonomy, the Governor should sign them). Is that right?

Does anyone else see the elephant in the room here?

So... domestic partner benefits are so important as a tool in recruiting much needed university talent (i.e., they can not attract necessary talent without being able to offer them), but there is no similar benefit, or need for talent, in any other aspect of government operations (or government sector) of the state? Really?

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EXHIBIT L

Mayor Fischer Newsroom

City To Offer Domestic Partner Benefits

Friday July 15, 2011

Mayor Fischer signs order, effective July 1, 2012

Saying it's the right and fair thing to do, Mayor Greg Fischer today signed an order extending domestic partner benefits to city employees starting July 1, 2012.

"Louisville is a thriving, diverse 21st Century city," Fischer said. "We must value all employees, and all families, equally."

Fischer noted that many Fortune 500 companies offer domestic partner benefits and many local companies and organizations do also, from Humana to Brown-Forman to the University of Louisville.

"If Metro Government is to attract the best and brightest talent, it must offer benefits that are competitive with the private sector," Fischer said.

The mayor said many people within and outside city government had been working for years to extend domestic partner benefits, but he especially thanked Metro Councilwoman Tina Ward-Pugh for her leadership on the issue.

"We are here today in part because Tina made this a priority since 1999, when she was first elected to the former Board of Alderman," Fischer said.

The domestic partner benefit applies to medical, dental, and vision insurance coverage for qualified adults, defined as someone over 18 years of age and not eligible for Medicare.

The partner must be residing in the employee's household for least nine months. Couples also must be financially interdependent for nine months or longer and must provide evidence, such as joint checking accounts, joint mortgage, joint utility billing statement, and/or joint apartment lease.

EXHIBIT M

Capital News Service

Bleak economy, gloomy winters drive young graduates away

Posted on **December 2, 2011** by **Nick McWherter**

BY NICK MCWHERTER

Capital News Service

LANSING- Her mind is made up. Convinced there is greater opportunities elsewhere, Samantha Parent, a Central Michigan University senior, plans to leave Michigan for Texas to look for a job following graduation.

Jobs are scarce, prospects are thin and Parent is just one of many college graduates fleeing the state for warmer climates and stronger economies.

Michigan residents are bolting the state for southern states such as Texas and Florida, according to recent information from the Census Bureau. This continues the state's trend of losing residents in recent years.

More people left Michigan in 2010 than moved here from other states or countries, putting the state at a net loss of 16,700 residents. Michigan was the only state to have lost population in the last decade and has lost 350,000 people during those years, said Kurt Metzger, director of Data Driven Detroit, a southeast Michigan organization that analyzes community data.

"I am sure some of this movement, especially to the warmer climates, is some people looking to retire," said Larry Rosen, senior project manager at Public Policy Associates, an organization that analyzes state demographics and other issues. "But other people are leaving looking for jobs presumably."

But it's the fleeing of youth that worries Metzger.

The population migration has come down to an issue of whom we are losing and whom we are keeping in Michigan, Metzger said.

Michigan should be more concerned with college students leaving after graduation than with elders leaving for retirement, he said. A big concern is that Michigan is not attracting young graduates from other parts of the country.

The only age demographic in Michigan that is growing is that of 50 years or older, every other group is getting smaller, Metzger said. This makes Michigan less vibrant, hurting the state's chances to attract young people.

"It's all about perception and Michigan is not viewed by young people as a very inviting place to be," Metzger said.

Parent is one of many young students that plan to leave the state. She is prepping to move to Houston following graduation in December because of Michigan's economy and winters.

"I know a lot of my friends are going out of state; even if it is not to Texas, just because they can't really find anything here," Parent said. "Or they get a job offer here to relocate out of state, which is basically the same thing as looking (elsewhere) anyways.

"For every four jobs I have applied for in Michigan, I have probably applied for eight in Texas, there is just so much more going on there," Parent said.

However, family and familiarity keep some graduates in Michigan, regardless of the economy.

Carly Kropf, a Michigan State junior, adamantly wants to stay in Michigan after she graduates.

She is a Grand Rapids native and said that she would like to stay there after college because of the seasons and the family atmosphere.

"The Michigan job market isn't great but I think it is not great everywhere," she said. "I really don't think that leaving Michigan is going to be that much more beneficial.

"The Grand Rapids area… it is family oriented and that's where my family is. It is a big city but it is not overwhelming like Chicago or New York. I like the small town feel of it."

But other graduates are looking for a change or a lively community that isn't offered in Michigan.

Some young people are leaving for a place that offers many things that Michigan doesn't, Metzger said.

Students are moving to where there is a vibrant scene, where there is an idea of density, diversity, public transit and kind of a much more liberal way of looking at things, he said. “We don’t have cool cities.”

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This entry was posted in **Business**, **Dec. 2, 2011**, **Education** and tagged **capital news service**, **cns**, **college**, **college graduates**, **Education**, **employment**, **jobs** by **Nick McWherter**. Bookmark the **permalink [http://news.jrn.msu.edu/capitalnewsservice/2011/12/02/bleak-economy-gloomy-winters-drive-young-graduates-away/]** .

ONE THOUGHT ON “BLEAK ECONOMY, GLOOMY WINTERS DRIVE YOUNG GRADUATES AWAY”

kevin@kevinmartyn.com
on **December 4, 2011 at 3:03 pm** said:

Hi Nick,

The solution is simple! You have to find positive reasons why students should stay, the benefits to them. Living in a warm climate is fine when you’re not working, but 35C everyday can become monotonous when you have to go to work.

There is a lot to be said for a climate that has four seasons to start selling those benefits to students to get them to stay.

Kind regards

Kevin

EXHIBIT N

STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

RICK SNYDER
GOVERNOR

BRIAN CALLEY
LT. GOVERNOR

December 1, 2011

A Special Message from Governor Rick Snyder:
Developing and Connecting Michigan's Talent

To Michiganders and the Michigan Legislature:

I. Introduction

At the core of Michigan's reinvention must be a commitment to ensuring that future generations have career opportunities in our state. In order for our children to stay and thrive in Michigan, we have to provide great educational opportunities, a quality of life that is second to none, and meaningful career options.

Planning for the future does not, however, mean that we ignore the present. Times have been tough in Michigan. We have failed to think strategically about the relationship between economic development and talent. Job creators are finding it challenging to grow and develop without the right talent and job seekers are struggling to connect with the right opportunities that leverage their skills.

We must commit to addressing these challenges.

Working with the Legislature we have begun this process by creating a stable environment where businesses can grow and create jobs. By delivering a balanced budget, on-time, we have created the stable environment that businesses need to move forward with confidence. By rescinding tax credits for targeted industries and by opening up the 21st Century Jobs Fund to additional sectors, we are demonstrating our commitment to let the market decide where the best ideas and innovations will drive Michigan's future. By eliminating the Michigan Business Tax, we have shown our dedication to a fair and equitable tax plan that will allow employers to grow and invest in our state. And in February, I issued Executive Order 2011-5 creating the Office of Regulatory Reinvention to help Michigan construct a regulatory process that promotes economic growth.

Economic indicators show we are making progress. In the past year our unemployment figures have improved by 1%, we have added 49,000 jobs to Michigan's payrolls and - just last month - Bloomberg reported that Michigan is experiencing the 2nd strongest economic health in the country. As a state, we are in a better place today to invest in talent and create jobs than we were a year ago.

We have spent the past year strengthening opportunities for our students to take ownership of their education. We have begun to take the steps necessary to fully integrate Michigan's public education and create a P-20 system that prepares our students to compete for the best jobs available today and tomorrow.

We are continuing the process of creating better infrastructure, more efficient local governments and a healthier Michigan. Top companies around the world continue to report that quality of life issues, such as these, are critical to talent attraction and economic growth.

In the 20th century, the most valuable assets to job creators were financial and material capital. In a changing global economy, that is no longer the case. Today, talent has surpassed other resources as the driver of economic growth.

Today, too few workers have the skills needed to meet the demands of employers in the new economy. Despite an unemployment rate of 10.6%, thousands of jobs remain unfilled in Michigan.

Michigan companies report feeling the effects of a talent disconnect. The widespread retirement of baby boomers is leading to a loss of talent in the workplace and an increasingly technology-driven economy requires advanced skills that many of our workers do not have. A recent report by the World Economic Forum and the Boston Consulting Group notes that the United States will need to add more than 25 million workers to its talent base by 2030 to sustain economic growth.

Not only do Michigan employers have difficulty filling jobs today, but if we do not act, they will tomorrow as well. As an example, within 10 years, nearly 30% of upper level managers in agriculture are expected to retire. We are not currently developing the talent needed to fill these positions. Developing the next generation of agricultural talent is critical to our agricultural industry's ability to compete.

Agriculture is not alone in this problem. Engineers, nurses, welders, and a number of trades face significant staffing challenges. We must address these head-on.

To grow our economy businesses will need the right talent. To build a bright future for our young people, we must arm them with the right skill sets to succeed today and tomorrow.

Through bold actions and strong collaboration with our state Legislature, executive departments, local communities, and individual citizens, we will create a Michigan where our young people can live, work, play, and prosper and our talented workforce can succeed.

II. Pure Michigan Talent Connect

Addressing the current talent mismatch demands new tools that ensure Michigan's economic development and talent enhancement are occurring in tandem. This requires a comprehensive strategy that brings all stakeholders to the table and enables us to compete.

Today, I am unveiling a new tool that will better connect and develop Michigan talent. I have charged the Michigan Economic Development Corporation (MEDC) and the Department of Technology, Management and Budget (DTMB) with creating a new web-based talent marketplace, Pure Michigan Talent Connect.

Today in Michigan, multiple websites exist to help citizens connect with opportunities and employers connect with talent. However, many of these websites are duplicative or incomplete. Our new site will create a central hub linking private and public stakeholders. It will help connect Michigan's talent with opportunities for education, training, and employment. And it will allow employers to discover and retain Michigan talent that can help their company grow and flourish.

Pure Michigan Talent Connect will feature tools that job creators and job seekers need to make better informed decisions. Market analysis and input from economists has been used to identify labor trends and high-demand career paths for dislocated workers, college students, high school students and those entering the workforce after a long separation. Upon completion, users will be able to assess their skills, evaluate the return on investment for an education or training program, browse careers, and connect with mentors. Pure Michigan Talent Connect is at MiTalent.org.

Pure Michigan Talent Connect will be launched in a series of phases to be completed by June 2012. Today, we begin the first phase by introducing two exciting new tools: the "Career Matchmaker" and the "Career Investment Calculator." The "Career Matchmaker" will help individuals determine the industries and locations where their skills are in high demand today and are projected to be tomorrow. And for those pursuing training or retraining, the "Career Investment Calculator" will help them make informed decisions that lead to a job rather than a mountain of debt.

Today, job seekers must think strategically about career paths. Pure Michigan Talent Connect, once completed, will allow Michiganders to create an electronic talent portfolio early in their educational career, driving everything from curriculum choices to career paths. I have asked the Michigan Department of Education, the MEDC and the Workforce Development Agency to work together to encourage students, parents and educators to use MiTalent.org. For those who do not have web access at home, MiTalent.org will be accessible at local libraries and Michigan Works! offices.

Developing a comprehensive tool that coordinates Michigan's economic and talent development will require broad collaboration. I am grateful to businesses and organizations, including Kelley Services and the International Union of Operating Engineers (Local 324) who have already agreed to be full partners in this vision by pledging their support for Pure Michigan Talent Connect. Equally important are the education and training providers who have partnered with us, including Michigan's colleges and universities. I encourage others to follow their lead by joining this initiative and pledging their support at MiTalent.org.

III. Aligning Talent

Enhancing the quantity and quality of our talent is critical. We are not leveraging our resources efficiently to create a talent supply that meets the demands of Michigan's 21st century economy.

While the struggle to connect talent with employers is multifaceted, the primary reason employers are struggling to fill jobs is a mismatch between skill attainment and skill demand.

A recent study by the Georgetown University Center on Education and the Workforce projects that by 2018, 62% of Michigan jobs will require a post-secondary credential. Today only 35% of Michigan's adults hold one. We have a lot of work to do to develop a talent pool that will satisfy the needs of the new economy. Job growth projections can only be realized if Michigan has the talent to support job providers. While traditional college attainment remains a vital part of our reinvention plan, we must recognize that associate degrees, advanced degrees and vocational credentials play equally important roles.

As a state, we must reject the thought that manufacturing is only in Michigan's history. It is also a critical part of our future. We will continue to develop some of the best skilled-trade talent in the country right here in Michigan. I am committed to partnering with our trade associations, including the International Union of Operating Engineers (Local 324) and the Michigan Regional Council of Carpenters, to increase attainment in the critical skills necessary to maintain our status as a leader in vocational talent.

Today's young employee will have multiple careers in his or her lifetime. This makes it more crucial than ever that the skills they attain in their post-secondary education are both marketable and transferable. Maintaining a skill set that is transferable among industries will help talent better prepare for Michigan's changing economy and more quickly connect with employment.

I am committed to partnering with Michigan's public colleges and universities to provide a post-secondary education that is marketable and transferable. A recent report by the Center for Michigan concluded that Michigan graduated 20% too few computer and math professionals, 14% too few health care professionals, and 3% too few engineers in 2009 – 10. Among our shortage, there is a common message. Addressing these deficits will require Michigan to invest in the development of science, technology, engineering, and math (STEM) and health industry talent. Otherwise, these shortfalls hold the potential to stunt Michigan's projected economic growth.

Just as talent must think strategically about a career path, the state must think strategically about its investment in our talent pipeline. State support of post-secondary education should be concentrated in areas that enhance our economic development strategy and provide our students an opportunity to stay and thrive in Michigan. We need to stop overproducing in areas where there is little or no occupational demand and encourage students and educational institutions to invest in programs where the market is demanding a greater investment in talent. The current imbalance creates a population of young talent that cannot find work in Michigan, is saddled with debt and is ultimately forced to leave the state. This is an outcome we cannot afford.

Moving forward, we will work with the universities and community colleges to create a system that efficiently integrates the goals of talent and economic development. We will do this by emphasizing the importance of transferable skills and high-demand degrees. A liberal arts education will continue to be important as the market identifies careers with increasing occupational demand. We know that a liberal arts education is valuable and can complement our hard science skills. As an example, excelling in music can increase a student's aptitude in mathematics. We will create a model that recognizes the inherent value of both the hard sciences and liberal arts.

IV. Harnessing Talent

Developing young talent is a critical part of addressing the needs of our new economy. However, it would be misguided to forget about the large pool of well-developed talent we already have in our state. Our returning veterans, displaced workers and immigrant talent are all valuable. Leveraging their skills will be imperative to providing businesses the talent they need to be successful and grow. Through strong public-private partnerships, we will help them find a place for their talent in the new economy.

Veterans

Veterans bring a unique set of skills to Michigan, which benefit our communities and our economy. They have real-world work experience and transferrable technical expertise. Veterans possess leadership skills and a work ethic that have been tested at an early age under extreme circumstances. In addition, many veterans can prepare for a new career by attending college or vocational training at little or no cost under the Post 9-11 GI Bill.

Following WWII, our country's economy was transformed by returning servicemen using their GI Bill. The GI Bill helped 7.8 million veterans access an education that leveraged their talent and built the middle class. The GI Bill made possible the education of 14 future Nobel laureates, two dozen Pulitzer Prize winners, three Supreme Court justices, and three presidents of the United States, including Michigan's own Gerald R. Ford.

We are not properly connecting Michigan's returning veterans with opportunities. Nearly 45,000 Michiganders have served in Afghanistan and Iraq. Unfortunately, they have returned to a challenging business climate and to a world that does not fully understand how their military training can benefit today's employers. A failure to connect Michigan's returning Afghanistan and Iraq veterans with opportunity led to an unemployment rate of 29.4% among that population in 2010. During the same period, the national average was 11.5%.

Today, I am directing the Veterans' Services Division of the Workforce Development Agency to partner with Department of Military and Veterans Affairs to create a seamless delivery system for veteran benefits and employment services. This initiative will include co-locating veteran employment representatives and veteran service officers who help veterans access VA benefits including the Post 9-11 GI Bill. We will better coordinate with federal and local partners to connect veterans with education and employment opportunities.

Today, I challenge businesses that have not previously thought about reaching out to veterans to do so. I also ask employers of veterans to commit to helping those they employ more fully access their benefits. While our skilled trades are already doing a great job through programs like Helmets to Hardhats, we can do more.

I have asked the Detroit Regional Chamber to partner with the state to promote the benefits of hiring veterans. I am pleased to announce it has committed to include this important topic at the Chamber's Mackinac Policy Conference in 2012. Our veterans would be an asset to any employer. We must not squander their talent but develop it and retain it in Michigan.

Shifting Gears

For decades, our talent has excelled in managing and meeting the needs of manufacturers and large firms. With the downsizing of Michigan's largest businesses, some of our talent has found it difficult to transition into a new position, a smaller firm or a different industry.

Small-business growth will drive the new economy. In 2009, 98% of Michigan's employers were small businesses. These employers accounted for more than 1.8 million Michigan jobs. To fuel our economic reinvention we must provide small businesses the talent needed to grow.

Earlier this year, I asked MEDC to create Michigan Shifting Gears, a career-transition program for professionals who want to leverage their experience to pursue exciting small-business opportunities. Michigan Shifting Gears is a three month career-transition program that involves an executive education, mentorship and internship. It gives individuals the tools, networks, and training to repurpose their skills and rapidly re-enter the new economy. It has had great success, with approximately 50% of participants gaining employment within three months.

With experienced leadership in the small business pipeline we are building a solid base for job creation. Today, I am asking MEDC to apply this model to address the critical need for computer programming talent by creating Shifting Code.

Currently, Michigan's shortage of programmers stifles the growth of high-tech companies and our ability to expand our portfolio of high-tech job creators. To address this problem, Shifting Code will create a supply of high-demand programmers while simultaneously giving small businesses the technology assistance they need. This innovative new program will launch in January 2012 with pilots in Kalamazoo, Ann Arbor, and Detroit.

<u>MichAGAIN</u>
We must view talent now residing outside our state that used to live, work, or go to school in Michigan as a network of support for our reinvention. One only has to look at the value of alumni to universities to imagine the impact that the State of Michigan's "alumni" could have on accelerating our state's growth.

MEDC has embarked on an innovative new recruiting campaign, MichAGAIN, reaching out to university alumni and business professionals in talent dense cities. MichAGAIN gives Michigan natives, who have left home, access to employers who are hiring and an invitation to return to be a part of our reinvention. It has already been successful in attracting highly educated talent back to the state for companies including AutoCam, Arbor Networks, and General Electric.

We must engage all of Michigan's talent and resources that are able and willing to help reinvent the state.

In October, Business Leaders for Michigan took the first step toward organizing the state's alumni by hosting nearly 20 business executives at a forum in Detroit. I was able to witness the success of that event first hand. The participants identified significant business investment leads, opportunities to attract venture capital and a willingness to spread the word about Michigan's turnaround.

Based on the success of that event, I have asked Business Leaders for Michigan to broaden its initiative and form a Michigan Ambassadors Program. The program will connect and engage State of Michigan alumni holding significant positions around the globe to identify opportunities to attract jobs, increase investment and promote the progress we are making to reinvent our state. I applaud this effort and look forward to its continued success.

<u>International Investment and Talent</u>
Highly educated and skilled immigrants are a key component to filling skill gaps and helping our businesses flourish. Many Michigan businesses are growing, but finding the right talent can be an obstacle. Retaining and attracting the best possible talent from around the world will fuel faster growth and help secure and create jobs for Michigan residents.

The Global Michigan Initiative is a collaborative statewide effort – spearheaded by the MEDC and the Michigan Department of Civil Rights – to retain and attract international, advanced degree and entrepreneurial talent to our state. One-third of high-tech businesses created in Michigan over the past decade were started by immigrants. Major Michigan-based companies like Dow Chemical, Meijer and Masco were founded by immigrants, and have an established track record of job creation.

While the Global Michigan Initiative can help our state recapture the entrepreneurial power of immigrants, aspects of the nation's immigration laws pose needless barriers to this success. Federal solutions are needed.

Immigration laws are established at the federal level, so it is important that Michigan partner with the federal government to better attract highly educated foreign talent. Immigration can be a divisive issue but common ground already exists around the need for investment and job growth as it pertains to immigrant talent.

Inflexible immigration laws delay foreign investment and impair job growth. We need to remove those barriers and we need help from the federal government to do so. Specifically, the EB-5 foreign investor program provides international investors the chance to live here by investing in Michigan's economy and creating jobs. However, the program is set to expire in September 2012. I will be petitioning the Secretary of the Department of Homeland Security to renew and make permanent the EB-5 Immigrant Investor Regional Center program. I will also recommend modifying the requirements so that an investor may qualify by creating at least five jobs in Michigan and investing $500,000. We should not deter attracting eligible, willing investors to our state.

In addition to investment, foreign talent contributes to Michigan's economy by meeting employer demand in career fields where we currently lack critical skills. According to the National Science Foundation and the Congressional Research Service, the foreign student population earned approximately 36.2% of U.S. doctorate degrees in the sciences and approximately 63.6% of the doctorate degrees in engineering in the U.S. in 2006. Much of this talent is cultivated right here in Michigan at our universities.

Michigan excels at attracting and educating global talent for high-demand careers, and international students make a significant contribution to our state's economy. In 2010, Michigan ranked 9th highest among states hosting foreign students at public universities. Moreover, the net contribution to the state's economy by foreign students during 2010-2011 was more than $705 million, according to the Institute of International Education. We cannot afford to lose these valuable members of our talent base to overseas competitors after years of development.

While foreign talent can readily obtain a student visa, remaining a member of the Michigan community is made extremely difficult for those desiring to do so under current immigration laws. The difficulty also significantly disrupts businesses that rely on these skilled and talented individuals. The federal government sets a cap of 65,000 on new H1-B temporary work visas, and there are only an additional 20,000 new H1-B visas available to individuals with U.S. advanced degrees. These caps are arbitrary and fail to recognize the harm done to local economies when states are forced to send away talent they have spent years developing.

Today, I am asking our congressional delegation to work with me to permanently raise the cap on immigrant professionals, and eliminate the cap for those holding a master's degree or higher from U.S. universities. I also encourage Congress to focus directly on addressing our critical skills gap, and pass proposed legislation to create a STEM education "green card." Creating an avenue for permanent residency status, through green cards, for foreign-born students who have earned graduate degrees in science, technology, engineering and mathematics (STEM) fields will allow us to retain the best and brightest foreign students. In doing this we can slow the practice of STEM professionals being educated in our schools and going back to their home countries to compete against U.S. firms. It is time to enact this legislation and allow these valuable members of our higher-education communities to become permanent, contributing members of our Michigan companies and communities.

As we become a more global Michigan, we can do more at home to grow our immigrant talent base. As parents, we can encourage our students to immerse themselves in new languages, cultures and ideas through study abroad experiences. As communities we can be more welcoming to global talent as well. Today, I am charging the MEDC and Michigan Department of Civil Rights with creating an innovative Cultural Ambassadors program that leverages Michigan's natural, technological and human resources to integrate new talent into our communities. By providing information that helps immigrant talent thrive, we will establish Michigan as a leading destination for the world's highly educated and skilled talent.

Aspiring Talent

Because of a nationwide shortage of talent, companies and regions worldwide are competing for the same employees. Those being sought are often educated and trained in Michigan. However, this generation is more educated and mobile than those past. Today, too many Michigan college graduates are leaving the state to seek employment elsewhere. We must reverse this trend.

To turn Michigan's economy around we must retain our talented young professionals. Building relationships between young talent and local organizations, businesses and communities will help us develop and retain the next generation of talent. We must provide meaningful opportunities to build those relationships through mentoring and internships.

The state Community Service Commission's Mentor Michigan program is a great resource for businesses and communities looking to engage in mentorship. Mentor Michigan partners with trusted community programs like Big Brothers and Big Sisters that guide Michigan's youth. I applaud their work, and am pleased with their commitment to expand efforts to make mentoring a lifelong activity.

Today, I am pleased to announce that Mentor Michigan and the Michigan Jaycees have committed to work together to leverage the talent of our young professionals to advance mentoring programs in Michigan. We are lucky to have a density of vibrant young professionals, who are enthusiastic about an opportunity to give back. The Michigan Jaycees continue to be a leader in peer mentorship, which is why I have asked them to lead a statewide effort to expand mentorship among professionals and their organizations. I encourage business and community leaders to join Mentor Michigan and the Jaycees in this effort.

We know that internships are a critical part of retaining talent. Studies show that it takes college graduates nine months to find their first job. During this time, graduates can get discouraged with the job market and leave the state to establish their careers elsewhere. More than 70% of college students who participate in a meaningful internship stay with the company and 83% of all college interns remain within the same community.

Securing positive outcomes and meaningful internships will require employers to incorporate a mentoring component in internship programs. Intern in Michigan is leading the way in connecting potential interns with businesses across the state. By better matching interns' skills with employers' needs, this free technology streamlines the hiring process in seconds.

Intern in Michigan has pledged its support for Pure Michigan Talent Connect. I encourage employers and prospective interns to seek out its assistance in creating meaningful, mentor-based, internship experiences.

Together, we can become mentors for a lifetime and retain our young talent.

V. Improving Systems

For far too long, both government and business perpetuated short-term solutions for long-term problems. Unemployment is not only detrimental to the economy but it demoralizes hard-working Michiganders. To reinvent Michigan, we must address barriers to re-employment and modernize our assistance programs. I am committed to ensuring that our programs help citizens transition to a new career rather than prolong under or unemployment.

<u>Structurally Unemployed and Underemployed</u>
Traditional assistance programs have often been a quick but temporary fix. They have not addressed the barriers to employment or provided individuals an avenue by which to gain the critical skills needed for today's economy. We can do better and we will do better. Moving forward, we will ensure that our programs are focused on moving people out of poverty and growing our middle class.

While more individuals are in need of assistance, state resources are strained to provide it. In order to assist those who are most challenged by the recession, we need innovative solutions that address the factors that contribute to structural unemployment. Structural unemployment is often affected by:

1) Lack of skills,
2) Illiteracy,
3) Scarce access to childcare, and
4) Insufficient modes of transportation.

These barriers make finding meaningful work difficult, prolong the need for public assistance, and stunt the growth of our middle class.

We are committed to addressing these barriers and helping Michiganders move from welfare to work. Low-income families in Michigan receive temporary cash assistance through a program that is supported, in part, by the federal Temporary Assistance for Needy Families (TANF) block grant. As a condition of receiving TANF funds, all states administer a work participation program to assist low-income residents in obtaining employment. Michigan administers its work participation services through the Jobs, Education, and Training (JET) program. In recent years, Michigan has failed to meet prescribed federal work participation rates. The "work participation rate" is a measure of the percentage of TANF recipients regularly engaged in employment- or employment-related activities intended to help them secure employment.

To increase Michigan's work participation rates, I have asked the Department of Human Services (DHS), to work in conjunction with the Department of Licensing and Regulatory Affairs (LARA), the Department of Technology Management and Budget (DTMB), and the Workforce Development Agency, to overhaul and redesign Michigan's JET program. The goals of the JET redesign are:

(1) To meet or exceed federal work participation rates, and
(2) Connect needy families to ongoing and sustainable work and help them find a path to economic security.

The JET redesign will do this by tying workforce development funds to meaningful performance measures. Through the redesign, partners are building a data-sharing system that will reliably measure the impact of the JET program, identifying and replicating innovations that successfully assist recipients in gaining employment.

While government is equipped to do many things well, public-private partnerships are also a part of the solution. As an example, Goodwill Industries of Greater Detroit (GIGD) has been implementing creative solutions to structural unemployment for 90 years. Using a social entrepreneurship business model and public resources, such as Michigan Works! and TANF, Goodwill has put people with employment challenges to work. Using profitable business models, such as Goodwill's Green Works recycling center, it has created a business enterprise that ably addresses employment barriers.

I have asked MEDC and the Workforce Development Agency to partner with GIGD to expand its model. Leveraging GIGD's expertise, we will create a program that is focused on talent development and rooted in social entrepreneurship.

Workforce Programs
Michigan Works! Agencies are the backbone of the state's re-employment system. Funded by federal dollars from the Workforce Investment Act (WIA) and staffed by locally contracted employees, talent relies on this system to access re-employment training and career opportunities. In the past, our Workforce Development Boards (WDB) have not been aligned with our economic development regions, creating an inefficient service model across the state. That is changing.

In February, I issued Executive Order 2011-4, effectively aligning our state's talent and economic development activities through Michigan Works!, the MEDC and our regional economic development agencies. This alliance, spearheaded by the Collaborative Development Council, is succeeding in strengthening regional economic relationships, leveraging Michigan's assets and improving the flow of communication and project management between the MEDC, Michigan Works! and local partners. This new approach allows us to streamline our efforts, reduce administrative costs, and leverage our resources to provide better employment services.

In the past, the Workforce Development Agency and Michigan Works! operated as though the job seeker was their only customer. In fact, these agencies exist not only to supply meaningful jobs to displaced workers but also to meet the demands of job providers for talent. Job providers should rely on Michigan Works! to provide them access to the talent they need.

I have asked the Workforce Development Agency, local Workforce Development Boards, and Michigan Works! to shift their efforts to a demand-driven employment strategy. Today, they are reorganizing around our major industries, including manufacturing, energy, healthcare, information technology and agriculture, to better collaborate with businesses, our colleges and universities and our public school system.

Some regions have already enacted a collaborative, demand-driven strategy.

In Lansing, the Capitol Area Workforce Board has determined that the regional demand for technology talent will be 10% greater by 2018. Meanwhile, the area has a measurable technology skill gap. To address this mismatch, it sought and received a federal grant for $4 million to provide training to job seekers and close that skill gap. This strategy will help employers obtain the talent they are seeking and citizens obtain the skills they need to gain employment in a high-demand technology career.

And in West Michigan, Talent 2025 exemplifies the type of regional collaboration that must occur if we are to be successful at addressing our talent needs. Business and community leaders, driven by data, are working with the West Michigan Strategic Alliance and the local Workforce Development Board to create a skilled workforce that meets the needs of job providers. It is partnering with local community colleges, non-profits, and business leaders to address talent development from early childhood through post-secondary education with an ultimate goal of having 60% or more citizens credentialed by 2025. Their work is exciting and instructional.

While significant progress has been made throughout the Michigan Works! system there is much work yet to be done. Today, I am challenging Michigan Works! to modernize its operations, eliminate redundancies, implement best practices and drive more dollars to direct services for our citizens.

Currently, geographic location can act as a barrier to our citizens getting the best possible employment assistance available. Let me be clear: every Michigan Works! door must be open to every eligible Michigander seeking assistance. The ability to utilize the best services at the most innovative agencies will drive better outcomes for our job seekers and our state.

In addition to state and local action, federal action is needed to allow for innovation and regional growth. Congressional leaders are currently considering sweeping cuts to WIA. Scarce resources require leaner budgets, but to accomplish more with less the federal government must give us greater flexibility.

The reauthorization of WIA is an opportunity to be bold and better meet regional needs. WIA is antiquated, was designed for a supply driven economy, and prevents states from using innovative methods to drive job creation. Currently, there are two schools of thought regarding WIA funding. One proposes a prescriptive funding model tied to programmatic requirements and the other proposes a block grant that many feel lacks accountability measures. As is often the case, there is a better solution that would allow for compromise.

I will be asking Congress to reauthorize WIA through a portfolio funding model. Under this new model, the Congress, the Department of Labor, and states would work together to determine a portfolio of outcomes (rather than an assortment of programs) that states would be accountable for achieving through WIA funding. Once the outcomes are determined, states would be free to use WIA funding to achieve agreed upon outcomes.

This model would allow states the flexibility needed to be successful in a changing economy while also providing the federal government the assurance it needs that resources are being used efficiently to achieve outcomes. I look forward to working with Congress and the Administration to advance this compromise, increase our return on investment, and put more of our talent back to work.

To guide our strategy and better coordinate local, state and federal activities, today I am issuing Executive Order 2011-13. This Executive Order creates the Governor's Talent Investment Board and will be vital in bringing citizen engagement and oversight to the state's talent enhancement effort. This new board will recommend policies to the executive and state departments to guide workforce investment and training. I am grateful to the many business and community leaders who have agreed to share their time and expertise to develop and retain Michigan's talent.

Reinventing Government, Retaining Talent

The original intent of unemployment insurance was not only to assist struggling families but also to allow employers the ability to retain critical talent. The current system is not achieving this goal because it does not recognize the challenges of mobile talent or the value of entrepreneurial activity.

Today's unemployment compensation system is not adequate or agile enough to retain our best talent. Much of our young and highly skilled talent is mobile, making it easy to seek work elsewhere after a layoff. In the past, a less mobile talent pool was likely to remain nearby to seek work and be available to return to their employer once business improved.

Through the recession, employers laid off some of the best and brightest talent, often engineers and high level managers. Undoubtedly, many of these individuals would have remained in Michigan if they had the option. However, other employment opportunities were available and this talent has left the state. Now employers are struggling to rebuild their labor forces with the highly skilled talent they once enjoyed. Today I am asking the Legislature to support work sharing so that our state can retain more of our highly skilled talent, especially in times of economic uncertainty.

Work sharing is an innovative program that allows employers experiencing a temporary reduction in demand for their services to reduce the hours of employees and supplement their pay with partial unemployment benefits. This allows the employers to retain their talent and ensures that a business can begin growing again immediately once demand returns to normal levels. It benefits employees because they retain employment and fringe benefits.

It is time that Michigan modernize our unemployment insurance system and begin to offer this innovative solution to our talented labor force. This program enjoys nationwide bipartisan support and is currently used in 22 other states. I call upon the Legislature to adopt legislation that enables Michigan to implement a work sharing program.

Currently, the unemployment insurance system also fails to recognize the value of talented entrepreneurs. Individuals are required to actively search for work but are never given the option to create work. An innovative program called Self-Employment Assistance allows the Unemployment Insurance Agency the option to grant a job search waiver to individuals who are least likely to find a job while receiving benefits and who opt to pursue entrepreneurial activity.

Not only is Michigan's history rooted in entrepreneurship but its future is tied to it. We cannot continue to insist that the only option for the unemployed is to seek work somewhere else. We know this is not a viable option for those who have lost their job in a field that is simply not going to be returning.

Because I so strongly believe in this, I am asking the Legislature to support legislation that will give the Unemployment Insurance Agency the ability to allow displaced Michiganders facing the most serious challenges in returning to the labor force the option to pursue entrepreneurship through self-employment assistance. I have charged MEDC with facilitating training in conjunction with regional Small Business Technology Development Centers.

Oregon, a leader in the implementation of self-employment assistance has already seen great success. Survey data from 2004 – 2009 showed that 77% of self-employment assistance participants who started a business remained in business. This innovative program is another tool to spur innovation and support Michigan's reinvention. I strongly encourage its adoption by the Michigan Legislature.

VI. Enhancing Quality of Place

In the past, many failed to recognize the symbiotic relationship between economic development and talent. Some believe that economic development is the key to creating the jobs that allow employers to invest in and attract talent. Still others believe that by amassing a population of highly skilled talent, a region can spur economic growth by enticing employers to locate or expand their business. The truth is that one cannot occur without the other. In Michigan, we are working to advance both simultaneously.

We must not only have meaningful job options but also create and expand places where workers, entrepreneurs and businesses want to locate, invest and expand. As job creators provide increased employment opportunities, quality of place initiatives can supplement job growth and encourage talent attraction and retention.

Much like our overall economic strategy we are supporting what is working locally. Public-private partnerships like the 15 x 15 Initiative are leveraging the expertise of foundations and the resources of the business community to revitalize our cities. This program is growing Detroit's urban core, rejuvenating Midtown, and giving young professionals a place to thrive. In fact, Forbes recently rated Detroit the 6th best city in the country for young professionals, even outpacing neighboring Chicago.

Increasingly, quality of place means not having to choose between a meaningful career and place amenities. That requires an investment in technology so that employees can telecommute, employers can maintain satellite offices in lakeshore communities, and rural economies can better compete in the marketplace. To do so, Connect Michigan and the Michigan Public Service Commission are working to ensure that all communities have access to broadband service.

We are all fortunate to live in Michigan. It is not just up to government or businesses to invest in our quality of place, it is up to each of us to see the beauty that Michigan already holds, embrace it and leave it better for the next generation. As I travel the state, I am inspired by young talent in our core cities doing just that; young Jewish leaders in Detroit, Art Prize contestants in Grand Rapids, the Detroit Young Professionals Organization and in Kalamazoo, beneficiaries of the Promise program.

Their optimism and energy are creating a quality of place that is uniquely Michigan.

VII. Conclusion

The simple truth is that tomorrow's opportunities cannot be realized with yesterday's skills.

Michigan's greatest assets are the adaptability, ingenuity and intellect of its people. These qualities, coupled with our abundant natural resources, industrial might and technological leadership, will make Michigan a formidable force in this century's global economy.

The challenge we face is to align the aptitudes and career passions of job seekers with the current and evolving needs of employers. The solution is to reinvent the way in which we prepare our children for successful, fulfilling careers; reshape the manner in which Michiganders look for work; and redesign the way in which employers obtain the skills they need.

Our state is at the national forefront in many areas. And, yet, we are behind the curve in terms of helping the next generation of Michigan talent to make sound educational and job-training decisions. That inconsistency needs to end.

Attacking this challenge demands the unyielding commitment of stakeholders across the board. Businesses, communities, nonprofits, schools, parents and universities must embrace the shared responsibility of helping young people build connections to the world that let them – and our state – flourish. Based on their history of selfless contributions to the betterment of our state, there is no doubt that they will step up to the plate.

Through insightful guidance and meaningful mentorship, we will meld our talent with exciting opportunities that await them today and beyond.

EXHIBIT O

Discrimination Threatens Michigan's Future Economic Growth

Peter J. Hammer, J.D., Ph.D.
Professor of Law and Director of the
Damon J. Keith Center for Civil Rights
Wayne State University Law School

Written Testimony in Support of House Bill No. 4192:
Legislation to amend the Elliott-Larsen Civil Rights Act to Include
Sexual Orientation and Gender Identity

Thank you for inviting me to testify on this important civil rights issue. My name is Peter Hammer. I have a J.D. in law and a Ph.D. in economics from the University of Michigan. I am a Professor of Law and Director of the Damon J. Keith Center for Civil Rights at Wayne State University Law School. I teach courses in Contracts, Health Law and Health Economics, and will be introducing a new course this year in Community Economic Development.

My testimony is straightforward. Discrimination is bad for business and bad for economic growth. The Michigan economy is in dire straits. Everyone understands that Michigan faces stiff economic competition from other states in terms of tax policy and business incentives. To lure business, Michigan must match or beat the offers that companies get from states like Ohio, Illinois, Tennessee or South Carolina. If the incentives are more attractive in other states, then business will locate there instead of here. No one thinks twice about the logic or dynamics of this competitive process.

What is less appreciated, but no less true, is that the economic climate also includes the social, political and cultural environment of a State, not just its tax incentives and subsidies. (Out & Equal Workplace Advocates and Levi Strauss & Co. 2007). State law, in turn, plays an important role in shaping the social and cultural environment. Law has both a prescriptive voice and an expressive voice. The expressive voice speaks to the norms values and expectations of the community. Prohibitions against discrimination, protections of rights and laws that create an environment fostering tolerance, diversity and respect all create an environment that is more conducive to attracting the type of businesses that will be vital to Michigan's future economic growth – bio tech, life sciences, advanced automotive engineering and green energy.

We live in a globalized economy. The hallmark of globalization is increased mobility in capital markets and high-end labor markets. Businesses have fluid choices about where they locate. Individuals, particularly those with substantial human capital, can choose where they want to work and live. In this competitive process, social-political environments that are perceived as hostile or intolerant are avoided, while social-political environments that are perceived as tolerant and accepting are pursued. This is true for individuals, it is true for businesses and it is true for entire states. Massachusetts, Vermont, New York and Iowa benefit from this competitive process and their progressive policies. Other states with less progressive policies and less tolerant environments lose out in the struggle to lure new businesses and high tech employees.

Michigan faces twin deficits. It faces a mounting economic deficit. It also faces a mounting political and cultural deficit, where the state is increasingly perceived as a hostile and intolerant environment, and where values of openness and diversity are not cultivated. The economic woes are well known. Michigan has the highest unemployment rate in the country. The State is losing its traditional manufacturing base. These problems are structural and will not be solved quickly or easily. It will take sustained and coordinated efforts on many fronts. One of these fronts will be creating a more open social and cultural environment for businesses and individuals.

Michigan's political and cultural deficit presents a serious challenge to the state. In recent years, Michigan has developed a reputation for being increasingly intolerant. (L. Berman 2007; P.J. Huffstutter 2007). Many state policies are hostile to the very forms of cultural and social diversity that can attract and retain high tech businesses and employees. This reputation did not develop over night. It has been the product of a number of acts of omission and commission. The fact that there is no State prohibition against discrimination on the basis of sexual orientation and gender identity is one such factor. In addition, Michigan affords no hate crimes protection to members of the LGBT community. Michigan adopted one of the broadest bans in the country prohibiting same sex marriage, intentionally drafted to outlaw even the possibility of any form of civil union. The State Attorney General turned what was supposed to be a shield into a sword and held that the marriage amendment prohibited state employers from offering domestic partnership benefits to same sex couples. Finally, in a judicial opinion that was widely criticized in the legal community, the Michigan Supreme Court went further than any court in the country using the marriage amendment to deny a wide range of possible LGBT rights. (Case Note, Harvard Law Review 2009).

The hostility to diversity is not confined to the LGBT community. It includes issues of race as well. When the University of Michigan fought to defend affirmative action and the value of diversity in the US Supreme Court, the State gained substantial reputational benefits. This social and political capital was squandered, however, just a few years later when Michigan joined ranks as one of only a handful of states to adopt a constitutional amendment outlawing any form of affirmative action.

It is common to rank states in terms of their tax policies or their business climates. These are not the only type rankings that influence business decisions. There are social, political and cultural rankings as well. Unfortunately, Michigan does not rate very well on these indices. In 2006, for example, Michigan ranked third highest in the country in terms of FBI statistics for hate crimes. (Mediamouse 2007). "Mapping our Rights" is an organization that provides a national ranking of states in terms of their openness and policies on reproductive health, gender-based and LGBT-based rights. Michigan ranks 42nd in this survey – 8 from the bottom. (Mapping Our Rights 2009). Finally, researchers at the University of Chicago Law School conducted a study rating the Supreme Court in every state. (S. Choi, M. Gulati, and E. Posner 2008). The Michigan Supreme Court rated 42nd in terms of opinion quality, 40th in terms of productivity and 50th overall. Policy analysts always joke that Mississippi rates at the bottom of important state indices for education and infrastructure investment, making Mississippi the butt of many comparative jokes. Michigan may soon well risk being known as the Mississippi of civil and political rights.

This does not have to be the case. Progress can be made on both the economic and the social fronts. Indeed, the two are interconnected. Progress on the social and political front will be essential to making sustained progress on the economic front. The economy is a complex ecosystem. Extending the prohibition against discrimination to include sexual orientation and gender identity is part of the economic solution. Michigan is consciously targeting high tech industries as the primary engine for its future growth. But these are exactly the type of business that are sensitive to a state's social and cultural environment, inclusive of LGBT rights. A state's position on these social issues is taken as a deeper signal of its commitment to openness and diversity overall. Diversity and tolerance, in turn, are critical to cultivating an environment conducive to the growth of what Richard Florida calls the "creative class." (R. Florida and G. Gates 2001; R. Florida 2002; R. Florida 2005). Protecting rights is just good business.

Michigan is fighting for its future. In this fight, Michigan is in fierce competition with other states. At times, this competition takes the form of offering special tax breaks and subsidies. At other times, it involves making the necessary investments in roads and infrastructure to secure the prospects of long term growth. Michigan must also create a positive social and cultural environment to attract and retain the workers and businesses that will lay the foundation for its future growth. The social and cultural deficit Michigan has created in recent years is as serious as its economic deficit. The economic problems cannot be solved without paying greater attention to these social issues as well.

Passing House Bill No. 4192 to amend the Elliott-Larsen Civil Rights Act to include sexual orientation and gender identity would be a constructive first step in this process.

August 26, 2009

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EXHIBIT P

ANN ARBOR.com

By Kellie Woodhouse
Higher education reporter

Majority of University of Michigan students at odds with key state policies

Posted: Sun, Feb 26, 2012 : 1:23 p.m. Topics:News, Education, Government

University of Michigan students between classes at Angell Hall.

Angela J. Cesere | AnnArbor.com

It's no secret that college students are overwhelmingly liberal or moderate.

The **University of Michigan** is no exception, according to the results of an annual freshman survey conducted jointly by the **University of California's Cooperative Institutional Research Program** and U-M.

That survey found that just 21 percent of U-M freshmen consider themselves conservative, while 41 percent of students identify as members of the political left and another 39 percent consider themselves moderates.

On key issues, survey results reveal that the majority of U-M freshmen hold beliefs that are directly at odds with Michigan policies and statutes.

For example, an overwhelming majority of U-M freshman think same sex couples should have the right to marry. In 2011, 81 percent of the school's 5,359 incoming freshmen respondents said they support same-sex marriage, up roughly 8 percent from 2009.

The belief is not held just by liberal students. More than half of conservative students agreed with same-sex marriage. In fact, U-M freshmen are 9 percent more supportive of same-sex marriage than students elsewhere.

Yet in Michigan civil unions and same-sex marriage are illegal and, recently, have led to political contention. In December the Michigan legislature passed a law banning gay and lesbian state employees from extending health care benefits to their partners, causing dissent from democratic leaders and civil rights activists.

"Students are flying in the face in terms of what has been passed" in the State of Michigan, said **Malinda Matney**, senior research associate for the U-M Division of Student Affairs. Matney said university students are largely champions of individual rights.

"When you look at some of the (state) policies that happened (recently) they have been specifically about not having individual rights," Matney said. "In the case of same sex partner recognition, that's definietely a rights question that the voters and the students disagree on."

The state also is in a legal battle over a statute that prevents homosexual couples from adopting children together. **April DeBoer** and **Jayne Rowse** raise two adopted children together in Detroit, but only DeBoer has legal guardianship over the children. The couple filed a lawsuit in January.

Survey results suggest that the couple has a strong backing at U-M. Nearly 84 percent of students said gays and lesbians should have the right to adopt.

Diference 'not surprising'

Amanda Caldwell, president of the U-M College Democrats, says that many fiscally conservative students hold more liberal social values than most Republican lawmakers in Lansing.

"It just shows at the state level how far removed our politicians are form the beliefs and the values of Michiganders and Michigan's young people," she said. "At Michigan, you really see a large percentage of students in the classroom —not just the social realm where you associate yourself with other students who share your values— supporting issues like gay marriage."

"Young people understand that even if they are against gay marriage and that it it against their personal beliefs, it's not necessarily something that the sate should be deciding," Caldwell continued.

Wayne State University student and former Ann Arbor resident Lucianna Sabgash, center, speaks to the crowd during a Wall Street protest open forum in the Diag at the Univeristy of Michigan's campus in Ann Arbor last fall.

Joseph Tobianski I AnnArbor.com

Michael Heaney, a U-M professor specializing in organizational studies and political science, says part of the reason students hold liberal opinions on social issues is that "young people have less at stake with the current status quo."

Heaney said he is unsurprised that U-M students, roughly two-thirds of whom are from Michigan, are at odds with state policies on social issues

"It doesn't surprise me at all. You've got to think about the demographics of the state of Michigan. There's a difference between people who chose to live in Michigan verses people who are born in Michigan," he explained. "More liberal people… are going to leave Michigan and go to larger urban areas."

"A lot of those more liberal folks are going to select out so the residue, the people that stay, are more likely to be conservative," Heaney continued.

Two representatives of U-M's College Republicans did not respond to requests for comment.

Affirmative action and marijuana

In 1972, the Ann Arbor **Hash Bash** was started by U-M students. It appears that the desire to legalize marijuana is still alive at U-M today. Fifty-five percent of survey respondents said cannabis should be legalized, up nearly 17 percent since 2006.

The significant jump in support occurred in the midst of a 2008 law legalizing medical marijuana in Michigan. Since then, Republicans have assumed control of Lansing and Michigan Attorney General **Bill Schuette** has claimed that the state's medical marijuana law has been abused. Last year Schuette led a statewide effort to close multiple dispensaries, contending the establishments could be shut down under a state public nuisance law.

There's also a petition circulating throughout the state that seeks to amend the Michigan Constitution to make pot legal for people 21 and older. The petition needs more than 322,600 signatures from registered voters in Michigan to put the issue on a statewide ballot.

While gay rights issues and marijuana legalization are supported by the majority of U-M students, using affirmative action in admission policies has not received as much student support.

Proposal 2, a state law banning public universities from considering race in admissions, is currently under review in federal court. Affirmative action policies in university admissions have been a controversial state issue for more than a decade due to a U.S. Supreme Court battle that questioned a since-retired race consideration policy at U-M.

Michigan voters originally passed Proposal 2, a ban on considering race in admissions, in 2006, three years after a **U.S. Supreme Court** ruling found that U-M could work toward achieving diversity in its admissions policy, but that the school's existing policy considered race too heavily.

According to survey results, 33 percent of U-M freshmen agreed that "students from disadvantaged social backgrounds should be given preferential treatment in college admissions," a slight change from 32 percent of freshmen in 2009.

U-M freshmen support of weighted admissions policies is lower than the national average of 42 percent.

Matney said the relative steadiness of weighted admissions is due, in part, to an overexposure to news about the issue.

"The nation did grow in their support of affirmative action, our students did not. Our students quite simply are tired of the national debate and, quite frankly, the debate here in Michigan," she said. "This has been in the news every single week, and sometimes every single day, since they were in kindergarden."

Kellie Woodhouse covers higher education for AnnArbor.com. Reach her at kelliewoodhouse@annarbor.com or 734-623-4602 and follow her on twitter.

Tags: University of Michigan,

EXHIBIT Q

the Williams INSTITUTE

The Charles R. Williams Institute
On Sexual Orientation Law and Public Policy

February 12, 2007
To: Sen. Ken Cheuvront and Rep. Robert Meza
From: M. V. Lee Badgett, Ph.D. and Danielle MacCartney, Ph.D.
Re: Financial effects of domestic partner benefits on State of Arizona

Providing domestic partner benefits to State of Arizona employees' domestic partners will have several financial effects on the state. The possibility of cost increases is usually high on the list of employer concerns about partner benefits, although a great deal of evidence suggests that cost increases will be small. However, just as important are the benefits that the State of Arizona will see if state employees can cover a domestic partner, and those benefits will offset some of the costs of coverage. Based on our own research and a review of research of other academics, we conclude that the State of Arizona will see the following effects from offering benefits to state employees' same-sex or different-sex domestic partners:

1. *Spending related to Medicaid and uncompensated health care for uninsured people is likely to fall.*
2. *Current employees will be healthier, more satisfied, and less likely to leave their jobs.*
3. *Domestic partner benefits will increase the ability of public employers to recruit talented and committed employees.*
4. *In addition to the benefits, health care costs would increase by a small amount.*

Below we present some calculations and summaries of studies to support these conclusions.

1. Spending related to Medicaid and uncompensated health care for uninsured people is likely to fall and income tax revenues will rise, offsetting some of the costs of domestic partner coverage.

Offering domestic partner 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 using government data shows that people in same-sex couples were twice as likely as married people to be uninsured, and people in unmarried different-sex couples were three times as likely to be uninsured. One in five people with a same-sex partner lack insurance, and one in three people with an unmarried different-sex partner are uninsured. That study finds that if employers offer domestic partner benefits, some people who are currently uninsured are likely to receive insurance. Fewer uninsured people also translates into savings for the state budget, since the state and local government contribution to uncompensated care averaged $276 per uninsured person according to a recent study. Access to a partner's health insurance will also reduce the number of people eligible for Medicaid, adding to the state's offsetting savings.

Finally, costs will also be offset to some degree by the fact that the value of domestic partner benefits is taxable income according to the IRS, leading to higher state and federal income tax payments.

2. Current employees will be healthier, more satisfied, and less likely to leave their jobs.

A growing body of research shows that offering domestic partner benefits has several positive effects on current employees, particularly gay, lesbian, and bisexual employees. These effects on employees would likely benefit the State of Arizona as an employer.

First, a supportive workplace climate and supportive policies--including domestic partner benefits--increase disclosure, or "coming out", of lesbian, gay, and bisexual employees.

Second, this increase in disclosure has positive benefits to worker health. Using different measures of general anxiety or anxiety in particular contexts, several studies found either that people who were more out reported lower levels of anxiety and less conflict between work and personal life, or that more closeted people reported higher levels of anxiety.

Third, lesbian, gay, and bisexual workers who are more out will be better workers. Several studies show that out workers report greater job satisfaction. In addition, some survey participants who were more out also reported sharing their employer's values and goals more than workers who were more closeted. A 1995 study shows that more out workers report higher levels of satisfaction with their co-workers. Finally, partner benefits reduce gay, lesbian, and bisexual workers' turnover and increase their commitment to firms.

3. Domestic partner benefits will increase the competitiveness of the state in recruiting and retaining talented and committed employees.

Increasingly, U.S. employers provide domestic partners of employees with the same employee benefits that spouses are covered. In 1990, only a handful of employers offered domestic partner benefits, but the number increased dramatically through the 1990s into this decade (Badgett, 2001). In 2006, one organization that tracks employer policies, the Human Rights Campaign, lists 9,384 employers offering health benefits to the domestic partners of employees. Recent surveys of U.S. employers find that 14% to 56% of employers now provide health care coverage to partners. Now more than 264 companies in the Fortune 500 offer domestic partner benefits.

From another perspective, Arizona's state government peers increasingly cover domestic partners of their own employees. Thirteen states (California, Connecticut, Illinois, Iowa, Maine, Montana, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington) and the District of Columbia, along with 137 cities and counties, provide coverage to domestic partners of state or local government employees. In Arizona, the cities of Phoenix, Scottsdale, Tempe, and Tucson, along with Pima County, already offer domestic partner benefits to employees.

Many Arizona employers already offer domestic partner benefits to employees, including US Airways, Avnet Inc., PetSmart Inc., BFI Waste Systems, and over 30 other private employers. Therefore, in order to remain attractive to employees who have or might someday have domestic partners, public employers will need to offer comparable benefits.

Indeed, evidence suggests that employees make decisions about job offers based on domestic partner benefits. A March 2003 poll by Harris Interactive/Witeck-Combs found that 6% of heterosexual workers reported that domestic partner benefits would be the most important factor in deciding to accept a new job–more than those who would look for on-site child care. In that study, almost half (48%) of lesbian, gay, and bisexual employees said that partner benefits would be their most important consideration if offered another job. Furthermore, 7% of heterosexual workers who actually changed jobs reported that partner benefits were the most important factor in that decision—a factor almost as common as changing jobs for better retirement benefits (12%).

Public employers' provision of domestic partner benefits also sends an important positive signal to a much larger group of employees and to the private sector. A 2006 Harris Interactive/Witeck-Combs poll finds significant support for the principle of equal benefits for all employees: 69% of heterosexual employees agreed that "Regardless of their sexual orientation, all employees are entitled to equal benefits on the job, such as health insurance for their partners or spouses." A recent study by Richard Florida found that heterosexual employees, even those without unmarried partners, often look for domestic partner benefits as a signal of an employer that values diversity and creativity. In a follow-up study, Florida argued that regions that do not embrace the benefits of diversity-friendly policies risk alienating the creative workforce that is the key to gaining a competitive edge in the global market.

This evidence suggests that partner benefits will become increasingly important in competing for talented and committed employees of all sexual orientations. Recruitment and turnover are costly for public employers, although the cost varies from job to job. For example, one recent study calculated the training, vacancy, hiring, and recruiting costs for a registered nurse to be $62,000 to $67,000. Since partner benefits are expected to reduce turnover and to make state employment more attractive, turnover costs are likely to fall, offsetting at least some of the expenses of coverage.

4. Health care costs would increase by a small amount relative to the State's total spending on health benefits.

The State of Arizona uses the "Benefit Options" program to provide state and university employees with affordable health insurance. As domestic partners and their children sign up for coverage, the state plan will incur additional expenses. Because the state's Benefit Options medical plan is self-insured, the state plan would be responsible for paying those costs. To estimate the total cost of providing health insurance coverage to the domestic partners of state and local government employees in Arizona, we use data from the State of Arizona Benefit Options 2005 Annual Report to estimate new enrollment and added costs.

Estimated cost per enrollee: In 2005, the total claims expenses for Benefit Options were $377,960,900. We adjust this figure by the Consumer Price Index for medical care to account for two years of health care inflation, predicting expenditures of approximately $410 million in 2007. We then calculate average spending per covered person by dividing that total by the number of covered employees and estimated dependents from the 2005 report (totaling approximately 122,500 people), resulting in a figure of $3,344 per person covered.

Predicted new enrollees: To calculate predicted partners we multiply the number of state employees and retirees currently receiving health insurance benefits by the likely take-up rates for partners and children. A recent study suggests that some partners will already have health insurance and others might not take up the coverage because employees will be taxed on any costs borne by employers. That study found that 0.1% - 0.3% of employees are likely to sign up a same-sex partner, and 1.3%-1.8% of employees are likely to sign up a different-sex partner. To account for uncertainty in the sign-up rate, we use the range of possible enrollment suggested by this study, or 1.4% to 2.1%. (The City of Phoenix experienced a 1.3% increase in enrollment of domestic partners.) Because some partners will also have children, we further assume that each partner of an active employee comes with an average of 0.18 additional dependents, an assumption derived from information on active employees in 2005. Overall, we predict that between 968 and 1451 new partners and children would enroll in Benefits Options.

Calculating total costs: Multiplying the number of new enrollees by the average cost per enrollee generates predicted total costs of $3.2 million to $4.9 million. Since the state's share of costs is 84%, the cost to the state of allowing employees to sign-up a domestic partner would be $2.9 million to $4.4 million after adding in payroll taxes owed on the value of the benefits to employees. These additional costs are equivalent to only 0.7% to 1% of Benefit Options expenditures by the state.

For references to studies cited, see M. V. Lee Badgett and Gary J. Gates, "The Effect of Marriage Equality and Domestic Partnership on Business and the Economy," The Williams Institute, 2006. http://www.law.ucla.edu/williamsinstitute/publications/MarriageEqualityontheEconomy.pdf; Michael Ash and M. V. Lee Badgett, "Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Same-sex and Unmarried Different-sex Couples," *Contemporary Economic Policy*, Oct. 2006.