

**The Impact of Same-Sex Marriage on Hawai‘i’s Economy and Government:  
An Update After the U.S. Supreme Court’s Same-Sex Marriage Decisions**

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**Abstract**

This report provides an update on the potential impact of marriage equality in Hawai‘i on the state’s economy in light of the U.S. Supreme Court’s recent DOMA and Proposition 8 decisions. We find that marriage equality is likely to lead to substantial increases in Hawai‘i visitor arrivals, visitor spending, and state and county general excise tax revenues due to pent-up demand for same-sex marriage. Over the 2014-2016 period, we estimate that additional visitor spending due to marriage equality would amount to \$217 million. The additional gains in visitor spending are time-sensitive: Spending by U.S. same-sex couples and their guests on honeymoons and marriages will be diverted to other states until Hawai‘i recognizes marriage equality.

JEL Codes: J12, K36, I18

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## 1. Background

On 26 June 2013, two U.S. Supreme Court decisions allowed same-sex marriage to resume in California and mandated that the federal government recognize marriages of same-sex couples living in states with marriage equality.<sup>1</sup> Thirteen states—California, Connecticut, Delaware, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New York, Rhode Island, Vermont, Washington and the District of Columbia—now issue marriage licenses to same-sex couples. Federal government recognition of same-sex marriages provides married same-sex couples living in states with marriage equality access to all rights and responsibilities provided to opposite-sex married couples by the federal government. In these states, same-sex spouses have all rights granted to spouses of veterans, federal employees, and military personnel; they are eligible for federal housing, food stamps, and social security benefits provided to spouses; and they are treated by the federal government as spouses for taxation, bankruptcy, inheritance, student loans, and agricultural loans.<sup>2</sup>

Four states—Colorado, Hawai‘i, Illinois, and New Jersey—provide civil unions for same-sex couples, and two states—Nevada and Oregon—domestic partnerships, a legal status virtually identical to civil unions.<sup>3</sup> The federal government does not recognize either relationship as equivalent to marriage and the Supreme Court’s recent DOMA<sup>4</sup> decision does not extend the more than 1,000 federal rights granted to married couples to couples in civil unions and domestic partnerships.

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<sup>1</sup> See *United States v. Windsor*, 570 U.S. \_\_\_\_ (2013) and *Hollingsworth v. Perry*, 570 U.S. \_\_\_\_ (2013).

<sup>2</sup> Married same-sex couples living in states that do not recognize same-sex marriage gained access to a smaller set of federal rights and responsibilities, including coverage under federal immigration law and recognition of same-sex marriages of federal employees. For these purposes, the federal government considers the validity of a couple’s marriage with “a place of celebration” rule. However, for most purposes—federal taxes, social security benefits, veterans benefits, medicaid, medicare, and family and medical leave for non-federal employees, the federal government considers a marriage’s validity by a “place of residence” rule.

<sup>3</sup> New Mexico has neither constitutional nor statutory provisions limiting marriage to opposite-sex couples but also has no provisions allowing for marriage or civil union of same-sex partners. Currently, 30 states have enacted a constitutional ban on same-sex marriages, and seven states, including Hawai‘i, have a statutory ban. In several states, same-sex couples are challenging constitutional bans in state and federal courts. In Hawai‘i, same-sex couples are challenging the constitutionality of its civil union law, arguing that civil union status violates equal protection and due process provisions of the U.S. Constitution. See *Jackson v. Abercrombie*, 884 F.Supp.2d 1065 (2012). Plaintiffs lost in District Court and the case is on appeal to the Ninth Circuit.

<sup>4</sup> *Defense of Marriage Act*, 1 U.S.C.A. § 7 (West, 1996).

This report updates our February 2013 report<sup>5</sup> on the impact of legalizing same-sex marriage on Hawai‘i’s economy to take into account the U.S. Supreme Court’s decisions on California’s Proposition 8 and DOMA. In the earlier report, we presented four different estimates of the economic impact, each of which depended on different scenarios regarding how the Supreme Court would rule in the two marriage cases. The Court’s two rulings remove several sources of uncertainty regarding the demand by same-sex couples and their guests to visit Hawai‘i to marry, honeymoon, or celebrate their marriages. They allow us to focus on a single estimate of the additional visitor arrivals, visitor spending, and state and county tax revenues that would be triggered by marriage equality in Hawai‘i. We break down the additional visitor spending and arrivals to show the large potential impact of the Supreme Court’s Proposition 8 decision on visitor spending by same-sex California couples and their guests and the large potential impact of the Supreme Court’s DOMA decision on visitor spending by same-sex couples and their guests from non-marriage states.

We find that marriage equality is likely to lead to substantial increases in Hawai‘i visitor arrivals, visitor spending, and state and county general excise tax revenues. Over the 2014-2016 period, we estimate that additional visitor spending due to marriage equality would amount to \$217 million. The additional gains in visitor spending are time-sensitive: Spending by U.S. same-sex couples and their guests on honeymoons and marriages will be diverted to other states until Hawai‘i recognizes marriage equality.

## **2. How Many Same-Sex Couples Are Likely to Marry in Hawai‘i?**

In our February 2013 report, we provided a detailed analysis of the number of same-sex couples residing in Hawai‘i who would likely marry over the 2014-2016 period if same-sex marriage were to become available in Hawai‘i on 1 January 2014. We concluded that 60 percent of cohabitating same-sex Hawai‘i couples would marry if the federal government recognized same-sex marriages in marriage equality states. Our previous report estimated that 1,957 same-sex couples would marry or remain in civil unions by 31 December 2016.<sup>6</sup>

We expect that a large number of same-sex couples living on the U.S. mainland would also marry in Hawai‘i in the 2014-2016 period. We discuss this in the following section.

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<sup>5</sup> Sumner La Croix and Lauren Gabriel, “The Impact of Same-Sex Marriage on Hawai‘i’s Economy and Government.” University of Hawai‘i Dept. of Economics Working Paper 13-2, February 2013, and University of Hawaii Economic Research Organization Working Paper No. 2013-1, February 2013.

<sup>6</sup> We expect that most same-sex couples in Hawai‘i who have entered into a civil union would marry to realize the more than 1,000 federal benefits that accrue to married couples but not civil union couples.

### 3. Impact of Same-Sex Marriage on Hawai‘i Visitor Arrivals and Visitor Spending

The impact of marriage equality will be larger as the number of same-sex couples who marry becomes larger. Hawai‘i’s population of cohabitating same-sex couples—just 3,262 couples reported in the 2010 U.S. Census—amounts to less than 0.5 percent of its 1.4 million population. If the economic impact of same-sex marriage were to be confined to these couples, it would not be very large from the perspective of Hawai‘i’s overall economy. Hawai‘i’s large tourism industry provides, however, a wide channel by which the economic impact of marriage equality could be greatly magnified, as marriage equality will attract U.S. same-sex couples and their guests to Hawai‘i to marry, honeymoon, and participate in wedding celebrations. Thus, it is important for us to estimate not just how many Hawai‘i same-sex couples will marry but how also how many U.S. same-sex couples will visit Hawai‘i to marry, honeymoon, or hold a celebration.

How many more visitors could Hawai‘i expect if the state recognizes same-sex marriages? We develop estimates for four different categories of visitors.

1. Same-sex couples from marriage equality states who travel to Hawai‘i to marry;
2. Visitors who travel to Hawai‘i to participate in or attend marriages (and their celebrations) of visiting and resident same-sex couples;
3. Same-sex couples from marriage equality states who travel to Hawai‘i to honeymoon;
4. Same-sex couples from states without marriage equality who travel to Hawai‘i to marry or honeymoon.

#### 3.1. Same-Sex Couples from Marriage Equality States Who Marry in Hawai‘i.

In 2011, the number of visitor days by U.S. visitors coming to Hawai‘i (by air) to marry totaled 550,375 days. We estimate the number of same-sex couples from these states who choose to marry<sup>7</sup> in Hawai‘i in two steps. First, we use data on the 2010 count of same-sex couples in states with same-sex marriage to estimate the annual number of same-sex marriages in these states. Second, we use data on visitor counts to Hawai‘i by state and data on the propensity of opposite-sex married couples to marry in Hawai‘i to estimate the number of same-sex couples who are likely to visit Hawai‘i each year to marry if Hawai‘i were to become a marriage equality state.<sup>8</sup>

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<sup>7</sup> A mainland U.S. couple who travels to Hawai‘i for their wedding and celebrations could, of course, marry officially in their home state prior to their Hawai‘i wedding ceremony and celebrations. Thus, our analysis does not rely on the marriage data compiled by the State of Hawai‘i’s Department of Health but rather on the Hawai‘i Tourism Authority’s data on U.S. visitors coming to Hawai‘i to marry.

<sup>8</sup> Visitor data are from the Hawai‘i Tourism Authority, *2011 and 2010 Annual Visitor Research Report*, Tables 37, 38, and 39. We focus on U.S. visitor days but note the potential for marriage-related tourism from countries—think Canada—who recognize same-sex marriage and already send large numbers of visitors to Hawai‘i.

The Supreme Court's Proposition 8 decision had a big effect on the potential Hawai'i market for visiting same-sex couples marrying or honeymooning in Hawai'i. Without California, 18 percent of U.S. visitors to Hawai'i come from marriage equality states. With California, 54 percent of U.S. visitors to Hawai'i come from marriage equality states, thereby **tripling** the potential market size.

The federal government's recognition of same-sex marriages in the Supreme Court's DOMA decision also opened the door to some federal recognition of same-sex married couples residing in the 36 mainland states without marriage equality. Same-sex married federal employees are now recognized by the federal government as married in all 50 states, as the federal Office of Personnel Management and the Department of Defense follow a "place of celebration" rule instead of "place of residence" rule when they consider the validity of an employee's marriage.<sup>9</sup> Under federal immigration law, the validity of a marriage is also evaluated with the place of celebration rule. This has opened the door to federal recognition of bi-national same-sex marriages for couples living in all 50 states.

Same-sex couples living in states without marriage equality can only gain access to provisions of federal law applicable to married couples by traveling to another state to marry. Some of these couples would choose to travel to Hawai'i to marry and/or honeymoon if it were to become a marriage equality state.

The requirement to travel to another state also applies to same-sex couples living in Hawai'i, a state without marriage equality. Currently, they must travel to a marriage equality state to marry and gain access to federal marriage rights. Hawai'i's lack of recognition for marriage equality reduces spending by Hawai'i same-sex couples in Hawai'i and raises the cost of marrying for many couples.

If Hawai'i were to enact marriage equality, how many U.S. same-sex couples would travel to Hawai'i to marry and how much would they spend? Our estimates rely on three simple assumptions: The propensity of a same-sex couple to visit Hawai'i to marry will be the same as that of a U.S. opposite-sex couple and the couple will spend the same amount per day and the same number of days in Hawai'i as an opposite-sex couple. Data provided to us by the Hawai'i Tourism Authority show that in 2012 the average U.S. visitor coming to Hawai'i to marry in 2012 spent \$259 per day and 10.36 days in

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<sup>9</sup> Some spousal benefits provided by federal programs are triggered not just by marital status but also by length of marriage. For example, the Social Security Administration requires that a couple be married for ten years for a spouse to be eligible for Social Security spouse and widow benefits from its retirement and disability programs. See Howard M. Iams and Christopher R. Tamborini, "The Implications of Marital History Change on Women's Eligibility for Social Security Wife and Widow Benefits, 1900-2009," *Social Security Bulletin*, 72(2), 2012: 23-38. The ten-year marriage term for eligibility will raise same-sex marriage rates across the United States over the 2013-2016 as couples marry earlier to start the eligibility period.

Hawai‘i.<sup>10</sup> Table 1 reports our estimates of the number of non-resident same-sex couples visiting Hawai‘i to marry and their spending.

**Table 1. Estimated Number of Marriages and Visitor Spending by Non-Resident Same-Sex Couples Marrying in Hawai‘i, 2014-2016**

	Markets	Number of Marriages by Same-Sex Non-Resident Couples, 2014-2016	Visitor Spending by Non-Resident Same-Sex Couples Who Marry
One	12 marriage states (w/o CA)+DC	439	\$2,358,000
Two	13 marriage states +DC	1,318	\$7,073,000
Three	13 marriage states +DC + couples from 36 non-marriage states	1,821	\$9,774,000

### 3.2. Guests Visiting Hawai‘i to Attend Same-Sex Wedding or Marriage Celebration.

We use data from (1) the Hawai‘i State Dept. of Health on the number of resident marriages in Hawai‘i during 2010; (2) the Hawai‘i Tourism Authority’s *2011 Visitor Research Report* to calculate the number of couples visiting Hawai‘i to marry; and (3) the Hawai‘i Tourism Authority’s *2011 Visitor Satisfaction and Activity Report* to estimate the number of guests who typically travel from other states to Hawai‘i to attend either an opposite-sex marriage of a Hawai‘i couple (defined as at least one spouse residing in Hawai‘i) or an opposite-sex marriage of a non-resident U.S. couple. Our analysis is primarily driven by the large number of visitors who travel to Hawai‘i annually to attend or participate in a wedding. For 2011, we estimate that of the 4,636,990 U.S. visitors to Hawai‘i, 199,391 U.S. visitors came to Hawai‘i with the primary or secondary purpose of attending or participating in a wedding.<sup>11</sup> Thus, we find that the average marriage in Hawai‘i attracts an average of 5.71 out-of-state guests to attend wedding ceremonies and/or celebrations.<sup>12</sup> We construct our estimates using the assumption that the average wedding of a same-sex couple will attract the same number of out-of-state guests and the same amount of spending per guest as an average wedding of an opposite-sex couple.

How much additional spending will these guests generate for Hawai‘i? We assume that a guest will spend the usual amount per trip that a typical U.S. tourist spent on a trip to Hawai‘i in 2011 (\$1,564).<sup>13</sup> Our estimate of spending by out-of-state guests attending a wedding or marriage celebration follows in Table 2.

<sup>10</sup> 26 February 2013 email from Director of Tourism Research, Hawai‘i Tourism Authority.

<sup>11</sup> More than half of the opposite-sex couples visiting Hawai‘i to marry in 2011 were from Japan. We exclude them from our analysis, as Japan does not recognize any form of same-sex relationship. Of course, some same-sex couples from Japan may still visit Hawai‘i to marry despite lack of marriage equality in Japan.

<sup>12</sup> Appendix Table 1 presents data and provides data sources for our estimates.

<sup>13</sup> Appendix Table 2 presents data and provides data sources for our estimates.

**Table 2. Estimated Spending by U.S. Guests Who Visit Hawai‘i to Attend or Participate in a Same-Sex Marriage Ceremony or Celebration, 2014-2016**

	Markets	HI Civil Unions Marrying With Wedding	Number of Same-Sex Marriages in Hawai‘i	Number of Out-of-State Guests	Spending by Out-of-State Guests
One	12 marriage states w/o CA +DC	400	1,817	10,377	\$16,230,000
Two	13 marriage states + DC	400	2,696	15,394	\$24,077,000
Three	13 marriage states +DC +couples fm other 36 states	400	3,209	18,268	\$28,572,000

Estimate one (Table 2)—guests from 12 states (without California) and Washington, D.C. with marriage equality—displays substantial spending by mainland U.S. wedding guests despite the relatively small number of out-of-state couples (419) marrying in Hawai‘i. This is primarily because many U.S. guests are attending weddings and wedding celebrations of residents rather than visitors. Estimate two (Table 2) includes the impact of same-sex marriage resuming in California. The number of mainland U.S. guests attending same-sex weddings in Hawai‘i and their spending increase by 39 percent. Estimate three (Table 2) includes same-sex couples in non-marriage states who decide to marry in Hawai‘i. A comparison with estimate two shows that the number of mainland U.S. guests attending same-sex weddings in Hawai‘i and their spending each increase by 17 percent.

### **3.3. Out-of-State Couples Who Travel to Hawai‘i to Honeymoon.**

In 2011, the number of visitor days from U.S. visitors coming to Hawai‘i (by air) to honeymoon totaled 2,156,957 visitor days.<sup>14</sup> We estimate the number of same-sex honeymoon visitors who visit Hawai‘i under the assumption that the percent of same-sex newly married couples who honeymoon in Hawai‘i will mirror the percent of opposite-sex newly married couples who choose a Hawai‘i honeymoon. Using data on the number of opposite-sex marriages in the United States, the expected number of same-sex marriages in the United States, and the proportion of Hawai‘i visitors from states with marriage equality, we estimate the number of honeymoon visitors using our scenarios described above.<sup>15</sup> Using data from the 2011 *Annual Visitor Research Report*, our

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<sup>14</sup> About 49 percent of U.S. honeymooners visitors in 2011 were from the eastern United States, the region with 8 of the 9 states (and DC) in which same-sex marriage is legal. By contrast, about 38 percent of U.S. visitors coming to Hawai‘i in 2011 to marry were from the eastern United States. See Hawai‘i Tourism Authority, *2011 Visitor Research Report*, Table 37.

<sup>15</sup> These estimates do not take into account additional spending by newly married Hawai‘i same-sex couples who choose to honeymoon in Hawai‘i during 2014-2016.

estimates are based on each honeymoon visitor spending 9.25 days in Hawai‘i and \$234 per day (Table 3).<sup>16</sup> Appendix Table 3 summarizes data and data sources for these estimates.

**Table 3. Estimated Visitor Spending by Same-Sex Honeymoon Visitors, 2014-2016**

	Markets	U.S. Honeymoon Visitors to Hawai‘i	Spending by U.S. Honeymoon Visitors to Hawai‘i
One	12 marriage states (w/o CA) +DC	3,919	\$8,5145,000
Two	13 marriage states + DC	11,758	\$25,544,000
Three	13 marriage states +DC + couples fm other 36 states	16,248	\$35,298,000

**3.4. Multiplier Effects.** The spending by out-of-state visitors to Hawai‘i also generates additional rounds of spending that multiply the impact of the initial spending. The multiplier effects generate additional income for Hawai‘i residents and, as discussed in the next section, additional tax revenues for the state and country governments. We use the implicit multiplier from the 2005 Hawai‘i State Input-Output Study (1.94) for visitor expenditures to calculate multiplier effects and total spending effects for each of our four scenarios. Results are reported in Table 4.<sup>17</sup>

**3.5. Summary of Additional Spending Triggered by Hawai‘i Marriage Equality.**

Estimate one (Table 4) shows potential additional visitor spending by visitors from marriage equality states (without California) in light of the Supreme Court’s DOMA decision. In our previous report, we assumed a 5 percent annual marriage rate; in this report we assume a 10 percent marriage rate over the 2014-2016 period due to the increased federal benefits available to same-sex married couples in marriage equality states. Estimate one shows that marriage equality in Hawai‘i would generate roughly **\$80 million** over the 2014-2016 period from visitors in marriage equality states (without California).

The Supreme Court’s Proposition 8 ruling triples the potential additional spending by visiting same-sex couples on honeymoons and marriages in Hawai‘i. This is because the size of the California visitor market is twice as large as the visitor market provided by the

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<sup>16</sup> Hawai‘i Tourism Authority, *2011 Visitor Research Report*, Tables 38 and 85.

<sup>17</sup> The implicit multiplier of 1.94 was calculated by Burnett and La Croix (2011) and is based on the share of visitor expenditures reported in the *2005 Hawai‘i Input-Output Study*, available at: [http://hawaii.gov/dbedt/info/economic/data\\_reports/2005\\_state\\_io](http://hawaii.gov/dbedt/info/economic/data_reports/2005_state_io).



other 12 marriage equality states and Washington, D.C. Estimate two (Table 4) shows that adding the California honeymoon and marriage market **more than doubles** our estimate of potential additional visitor spending, from \$80 million to **\$167 million**.

Estimate three (Table 4) incorporates marriage and honeymoon spending by visitors from non-marriage equality states, who gained access to some federal marriage rights via the Supreme Court's DOMA decision. Same-sex couples in these states have increased incentives to marry as a result of the DOMA decision, but their marriage rate is not likely to be as high as that of same-sex couples residing in marriage equality states who gain access to a larger package of federal benefits when they marry. We assume that inclusion in the analysis of same-sex couples from states without marriage equality lowers the annual U.S. same-sex marriage rate to 7.5 percent. Estimate three (Table 4) shows that marriage equality in Hawai'i would lead to potential additional spending by same-sex couples from non-marriage states of roughly \$50 million. This increases our estimate of potential additional spending from \$167 million to **\$217 million**.

**Table 4. Estimates of the Impact of Marriage Equality in Hawai'i on Direct Visitor Spending and Multiplier Spending, 2014-2016**

	Spending by Non-Resident Same-Sex Couples	Spending by Guests Attending or Participating in Same-Sex Marriages	Spending by Non-Resident Same-Sex Honeymoon Visitors	Multiplier Spending	Total Spending
One	\$2,358,000	\$16,230,000	\$8,515,000	\$52,579,000	\$79,682,000
Two	\$7,073,000	\$24,077,000	\$25,544,000	\$109,986,000	\$166,680,000
Three	\$9,774,000	\$28,572,000	\$35,298,000	\$142,870,000	\$216,515,000

#### **4. Impact of Marriage Equality in Hawai'i on State and County Revenues**

Opposite-sex Hawai'i couples who choose to marry often find that they are subjected to a marriage tax penalty, i.e., their joint state and federal income tax obligations increase. In our January 2013 Report (p. 13), we tentatively concluded marriage equality would be likely to increase State of Hawai'i income tax revenues and that this effect would be relatively small and difficult to estimate with much precision.

Same-sex marriages would generate additional revenue for the State of Hawai'i from its issuance of marriage licenses. In Hawai'i, a marriage license can currently be obtained

via an on-line application for a \$60 license fee and a \$5 processing fee. Revenues from marriage fees for each of our three markets are summarized in Table 5.<sup>18</sup> Our projections

**Table 5: Revenues from Same-Sex Marriage License Fees, 2014-2016**

	Scenario	Same-Sex Marriages Subject to Fees, 2014-2016	DOH Application-Processing Fees	Total Revenues from DOH Fees
One	12 marriage states (w/o CA) + DC	1,417	\$65	\$92,000
Two	13 marriage states + DC	2,296	\$65	\$149,000
Three	13 marriage states +DC + couples from other 36 states	2,809	\$65	\$183,000

Note: The number of same-sex marriages subject to fees was calculated by subtracting the assumed number of Hawai'i civil unions converting to marriages from the total number of same-sex marriages estimated to occur in each scenario.

of license fee revenues are somewhat overstated, as some U.S. same-sex couples visiting Hawai'i for a wedding ceremony and celebrations will surely have already been officially married in their home state prior to their visit. In addition, the Hawai'i State Department of Health would need to incur costs to process the additional marriage applications.

What would be the implications of the additional same-sex marriage spending for state and county excise tax revenues? We use a gross excise tax (GET) rate of 4.35 percent, a

**Table 6. Change in Gross Excise Tax (GET) Revenues, 2014-2016**

	Scenario	Additional Visitor and Multiplier Spending	Additional State GET Revenues	Additional City and County of Honolulu GET Revenues
One	12 marriage states (w/o CA) + DC	\$79,682,000	\$3,187,000	\$279,000
Two	13 marriage states + DC	\$166,680,000	\$7,251,000	\$583,000
Three	13 marriage states +DC + couples from other 36 states	\$216,515,000	\$9,418,000	\$758,000

weighted average of the 4.0 percent GET rate in Maui, Kaua'i and Hawai'i counties and the 4.5 percent GET rate in the City and County of Honolulu. The State of Hawai'i

<sup>18</sup> Under the two marriage bills currently under consideration in the Hawai'i State Legislature, HB 1109 and SB 1369, civil unions are not automatically converted into marriages. However, civil union parties who apply for a marriage license do not have to pay the \$60 application fee and \$5 processing fee.

General Excise Tax is a 4 percent levy on receipts from sales of all final goods and services. The State of Hawai‘i collects an additional 0.5 percent levy for the City and County of Honolulu that is dedicated to construction of the City’s new rail transit system. Our use of a GET rate of 4.35 percent reflects an assumption that 70 percent of expenditures incurred by the new flow of same-sex marriage visitors will be on Oahu and 30 percent of expenditures on the Neighbor Islands. We calculate expected excise tax revenues for the 2014-016 period in Table 6.<sup>19</sup>

## **5. Impact on Hawai‘i State Government Agencies and Private Firms**

The costs to government agencies of transiting from same-sex civil unions to same-sex marriage are likely to be small. Forms need to be changed, computers reprogrammed, and training sessions developed and offered to employees at the Hawai‘i State Dept. of Taxation, Dept. of Health, and Dept. of Labor. During 2012, the Hawai‘i Dept. of Health (DOH) implemented an on-line application process for both civil unions and marriages that has reduced application costs to couples and would facilitate a low-cost transition to DOH acceptance and processing of same-sex marriage.

Marriage equality would also help to reduce costs incurred by state and county agencies of administering programs available to all married couples. Passage of a bill that clearly provides the same legal status to same-sex marriages as opposite-sex marriages maximizes administrative predictability. The potential for conflict and confusion is large when bureaucrats are required to determine the myriad of marriage rights that may accrue to Hawai‘i same-sex couples who marry in other states or who are in civil unions. Couples are likely to appeal adverse decisions and bog down the agencies and courts with administrative and legal proceedings.

Marriage equality would also help to cut costs incurred by private and public employers who must design, implement, and legally verify employee benefit packages for opposite-sex married couples, civil union couples, civil union couples residing in a state that recognizes same-sex marriage but does not recognize civil unions, same-sex married couples married in a state recognizing same-sex marriage but living in a state that does not, and same-sex married couples living in a state that recognizes marriage equality. A profusion of legal rules, accounting requirements, and higher costs could be avoided if the enactment of marriage equality in Hawai‘i converted civil unions to marriages. Consolidating these statuses to a single category—married couple—would cut costs for firms, reduce the cost of hiring employees, and improve the business climate in Hawai‘i.

## **6. Same-Sex Marriage in Hawai‘i and Health Insurance**

The Supreme Court’s DOMA decision provides two important instances in which married same-sex couples in Hawai‘i could benefit from increased access to health

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<sup>19</sup> We note that the additional personal and corporate income generated by the additional visitor spending would also generate sizeable additional state income tax revenues. We do not estimate the magnitude of these revenues in this report.

insurance or lower net-of-tax health insurance premiums if Hawai‘i recognized same-sex marriage.

**Spouse has coverage on spouse’s employer-provided health insurance.** An employee receiving employer-provided health insurance coverage often pays a higher effective price of insurance to cover a domestic partner, civil union partner or same-sex spouse than an employee with an opposite-sex spouse pays. This price gap is primarily due to federal, and in some cases, state, policies specifying how employer-provided fringe benefits are treated by federal and state tax authorities. Federal law allows the employee to pay premiums on employer-provided health insurance for the employee, spouse, and dependents from the employee’s pre-tax income, but premiums paid for the employee’s same-sex spouse and the spouse’s dependents must be paid from the employee’s after-federal tax income. This distinction results in a decreased benefit for a same-sex spouse who considers joining their partner’s plan so that any potential gains from the switch are significantly dampened.

How much would this increase the price paid by an employee for employer-provided health insurance for the employee’s same-sex spouse vis-à-vis an identical employee’s opposite-sex married spouse? Employers are required to report the fair market value of the employer’s financial contribution towards health insurance coverage for non-dependent same-sex partners as taxable wages earned for the employee. In addition, the employee’s financial contribution must be paid from the employee’s after-tax income. The combined effect of these policies is that the cost of the same-sex spouse’s health insurance to the employee is higher relative to an opposite-sex spouse by an amount equal to the additional federal and state income taxes, social security tax and Medicare tax on the full premium. In a 2007 study, Lee Badgett found that employees with domestic partners “pay on average \$1,069 per year more in taxes than would a married employee with the same coverage.”<sup>20</sup> A Hawai‘i employee earning \$80,000 would face a marginal federal income tax rate of 28 percent, a marginal Hawai‘i income tax rate of 8.25 percent, a social security tax rate of 6.2 percent, and a Medicare tax rate of 1.45 percent.<sup>21</sup> Consider a specific example of an employee with an overall marginal rate of 35 percent. In 2011, the median premium costs for single employee, employee plus one, and family health insurance plans provided by a Hawai‘i private employer were \$4,800; \$9,400; and \$14,000, respectively.<sup>22</sup> At a 35 percent tax rate, the additional tax due on an employee plus one policy would be \$1,610 and on a family policy \$3,220.

<sup>20</sup> Lee Badgett (2007), *Unequal Taxes on Equal Benefits*. Los Angeles: The Williams Institute.

<sup>21</sup> Matching social security and Medicare payroll taxes would also have to be paid by the employer on the employer’s share of the premiums paid for the employee’s partner.

<sup>22</sup> Agency for Healthcare Research and Quality, U.S. Dept. of Health and Human Services, *Medical Expenditure Panel Survey (MEPS)*, Table X.C (2011): Premium distributions (in dollars) for private-sector employees enrolled in single coverage; Table X.D (2011): Premium distributions (in dollars) for private-sector employees enrolled in family coverage; Table X.E (2011): Premium distributions (in dollars) for private-sector employees enrolled in employee-plus-one coverage. Available online at: [http://meps.ahrq.gov/mepsweb/data\\_stats/summ\\_tables/insr/state/series\\_10/2011/ic11\\_xc\\_e.pdf](http://meps.ahrq.gov/mepsweb/data_stats/summ_tables/insr/state/series_10/2011/ic11_xc_e.pdf).

Thus, for married same-sex couples with a spouse on their employer-paid health insurance policy, marriage equality in Hawai‘i would produce substantial tax savings for the couple. The U.S. Supreme Court ruling in the DOMA case requires the Internal Revenue Service to recognize same-sex marriages of couples residing in states recognizing same-sex marriage and thereby eliminates the federal taxation of the spouse’s health insurance premium.

**Private employer self-insures under ERISA.** It is somewhat unclear whether a Hawai‘i company that self-insures a health insurance program for its employees is required to offer health insurance to the civil union partners or the same-sex spouses of its employees. The reason is that the self-insured health insurance plan of this company may be governed by provisions of the federal ERISA legislation rather than the State of Hawai‘i’s Prepaid Health Care Act. ERISA only requires plans to extend benefits to spouses, and some companies have argued that DOMA’s lack of recognition of same-sex marriages implied that they did not have to extend benefits to same-sex spouses.<sup>23</sup> The Supreme Court’s recent decision requiring the federal government to defer to a state’s definition of marriage makes this line of argument much less plausible. If Hawai‘i recognizes marriage equality, employers providing a self-insured health insurance plan will very likely be required to provide benefits to same-sex spouses.

## 7. Conclusion

The U.S. Supreme Court’s decisions in the two same-sex marriage cases have substantially increased the short-term and medium-term benefits that could accrue to Hawai‘i if the Hawai‘i State Legislature enacts legislation allowing same-sex marriages to begin in Fall 2013 or early in 2014. Our updated report comes to the following conclusions.

- A reasonable expectation from the experience of other states enacting same-sex marriage legislation is that the State of Hawai‘i’s administrative adjustments needed to issue marriage licences to same-sex couples will be smooth and cost the state little.
- The U.S. Supreme Court’s decision to overturn California’s Proposition 8 and allow same-sex marriages to resume again in California has massively increased the potential gains to the state’s tourism industry from same-sex couples visiting Hawai‘i either to marry or to honeymoon and from guests attending their weddings or marriage celebrations. This is because marriage equality in California increases the proportion of Hawai‘i’s visitors from states with marriage equality from 18 percent to

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<sup>23</sup> For the general rule, see *Rovira v. AT&T*, 817 F.Supp 1062 (S.D.N.Y. 1993). However, the Ninth Circuit upheld a lower court’s ruling that a cohabiting same-sex partner was an “alternative payee” under section 1056(d)(3)(B)(ii)(I, II) of ERISA in *Owens v. Automotive Machinists Pension Trust*, 551 F.3d 1138 (9<sup>th</sup> Cir. 2009). In addition, any insurance utilized by a company which incorporates state law as well as ERISA will be bound to the marriage definition of the state.

54 percent. We estimate **\$166 million** in additional spending over the 2014-2016 period from marriages and honeymoons of same-sex couples visiting from states with marriage equality.

- The U.S. Supreme Court's ruling in the DOMA case has opened the door to a limited set of federal rights for all same-sex couples regardless of whether they live in a state with marriage equality. Some same-sex couples from states without marriage equality now have incentives to travel to another state to marry and perhaps honeymoon. Some of these couples would choose to marry and/or honeymoon in Hawai'i if same-sex marriage were legal in Hawai'i. Including spending from marriages and honeymoons of same-sex couples from states without marriage equality increases total additional spending to **\$217 million** over the 2014-2016 period.
- We estimate that marriage equality in Hawai'i will increase State of Hawai'i and City and County of Honolulu general excise tax revenues by **\$10.2 million** over the 2014-2016 period. State income tax revenues would also increase, but we have not estimated their magnitude.
- Without access to marriage in Hawai'i, local same-sex couples can only gain access to federal marriage rights by traveling to the U.S. mainland to marry. This reduces same-sex couple spending in Hawai'i, harms the Hawai'i wedding industry, and raises the cost to many same-sex couples of becoming married.
- Marriage equality in Hawai'i would lead to substantial federal tax savings for married same-sex Hawai'i couples with a spouse as a beneficiary on the other spouse's employer-paid health insurance. Marriage equality would also allow married Hawai'i same-sex couples to become eligible to draw spousal benefits from a number of federal programs, including social security.

**Any and all economic impact studies have significant limitations. Ours is no exception to this iron rule. We highlight three limitations of our study that need to be considered carefully.**

First, the substantial size of some of our visitor spending estimates is based on a pent-up demand for same-sex couples living in Hawai'i and the U.S. mainland to marry. Our estimates are based on 10 percent of cohabitating same-sex couples in same-sex marriage states marrying annually over the 2014-2016 period. If, however, the State of Hawai'i decides not to enact same-sex marriage until much later, say in 2017, much of the pent-up demand for marriage will be exercised in other states with marriage equality. U.S. and California same-sex couples will travel to other same-sex marriage states to marry and honeymoon during 2014-2016, and these states with same-sex marriage will receive the additional spending unleashed by the pent-up demand by same-sex couples to marry. No same-sex couple on the U.S. mainland is waiting for Hawai'i to recognize same-sex marriage before they marry. Once the pent-up demand is spent, annual U.S. same-sex marriage rates are likely to be much less than 10 percent, and visitor spending by same-

sex couples and their guests coming to Hawai‘i to honeymoon or marry or attend wedding celebrations after the 2014-2016 period will be substantially lower than projected in this report.

Second, we present our visitor spending results as illustrative rather than definitive in any sense. In this respect, our study is no different from other impact studies examining visitor spending generated by runners in the Honolulu Marathon, football fans and players attending the NFL’s Pro Bowl, or out-of-state and foreign students attending the University of Hawai‘i. Visitors can only come to Hawai‘i when there is available space in hotels, time-share condos, and friends’ homes. With the revival of Hawai‘i’s tourism industry from 2010, there are now periods, e.g., Christmas holidays, when hotels on some islands are full and a visiting same-sex couple and their guests might displace other guests and not generate new spending. On the other hand, marriage equality will also trigger other potential visitor and spending that we have not explicitly estimated in this report. These include spending by Hawai‘i same-sex couples who honeymoon in Hawai‘i and spending by same-sex couples and their guests from foreign countries who come to Hawai‘i to marry or honeymoon.

Finally, we fully acknowledge that a substantial standard error should be attached to our estimates. Some of the data series used in this report clearly are measured with some error. We are making inferences from a small sample of other states that have had experience with marriage equality for just a short period of time. We recognize that the response by Hawai‘i residents and visitors to marriage equality may differ somewhat from responses in other states.<sup>24</sup> And the behavior of same-sex couples with respect to marriage may well change over time as they learn more about the many benefits and costs adhering to this ancient social institution.

Regardless of these omissions and limitations, the estimated magnitude of the additional visitor spending that marriage equality could trigger is substantial—**\$217 million in 2014-2016**—and should be considered carefully by Hawai‘i’s voters and policymakers. The benefits from a pent-up demand for same-sex marriage are time dependent. If Hawai‘i waits to adopt same-sex marriage, it will not realize these gains. They will be lost forever, diverted to other states that recognize marriage equality.

The views expressed in this paper are those of Sumner La Croix and Lauren Gabriel and are not the official views of the University of Hawai‘i, the William S. Richardson School of Law, the University of Hawai‘i Economic Research Organization or the University of Hawai‘i-Mānoa Department of Economics.

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<sup>24</sup> The report’s estimates of the percent of Hawai‘i same-sex couples who will marry over time can only be used to construct estimates over short time periods, as over longer periods, new same-sex couples will form, others will divorce, and some spouses will die. In sum, a more complete analysis would account for changes in the composition and number of same-sex couples over time.

**Appendix Table 1. Average Number of Mainland U.S. Wedding Guests Per Resident and Non-Resident Hawai'i Marriage**

<b>Data Series</b>	<b>Value</b>	<b>Source</b>
Number of resident marriages in 2010	9,117	<i>State of Hawai'i Data Book 2011</i> , Table 2.46
U.S. visitors to Hawai'i to marry in 2011	54,973	HTA, <i>2011 Annual Visitor Res. Rep.</i> , Table 37.
Average size of U.S. group to Hawai'i to marry in 2011	2.13	HTA, <i>2011 Annual Visitor Res. Rep.</i> , Table 37.
Estimate of U.S. couples in 2011 visiting Hawai'i to marry	25,809	Calculated.
Number of Hawai'i marriages in 2010-2011 by all U.S. couples	34,926	Calculated.
2011 visitors to Hawai'i from the United States	4,636,990	HTA, <i>2011 Annual Visitor Res. Rep.</i> , Table 1.
Percent of HI visitors in 2011: Attend wedding main reason	0.029	HTA, <i>2011 Visitor Sat. And Activity Report</i> , Table 8.15.
Percent of HI visitors in 2011: Attend wedding sec. reason	0.014	HTA, <i>2011 Visitor Sat. And Activity Report</i> , Table 8.16.
Percent of U.S. visitors who attend wedding in Hawai'i	0.043	Add previous two lines.
2011 U.S. visitors attending Hawai'i weddings	199,391	Calculated.
<b>Average Number of Mainland U.S. Wedding Guests Per Resident and Non-Resident Hawai'i Marriage</b>	<b>5.71</b>	



**Appendix Table 2: Estimates of Number of U.S. Mainland Same-Sex Marriages in Hawai‘i and Out-of-State Guests, 2014-2016**

<b>Data Series</b>	<b>Value</b>	<b>Source</b>
U.S. marriages in 2009	2,077,000	2012 <i>Statistical Abstract of the US</i> , Table 133.
U.S. couples visiting Hawai‘i to be married in 2011	25,809	See Appendix 1.
<b>Estimate 1: Same-sex Marriage Visitors from 12 States (w/o CA)+DC</b>		
Percent of Hawai‘i visitors from 12 states +DC w/marriage equality	0.18	HTA, 2011 <i>Annual Visitor Res. Rep.</i> , Table 19.
Est. 2014-2016 same-sex marriages by couples living in 12 states +DC	34,909	Calculation
Est. 2014-2016 same-sex marriages in Hawai‘i	1,817	Calculation
Total Out-of-State Guests at all Hawai‘i same-sex weddings	10,377	Calculation
<b>Estimate 2: Same-sex Marriage Visitors from 13 States (w/ CA) + DC</b>		
Percent of Hawai‘i Visitors from California	0.36	HTA, 2011 <i>Annual Visitor Res. Rep.</i> , Table 19.
Percent of Hawai‘i visitors from 13 states + DC with marriage equality	0.54	Sum of previous two lines
Est. 2014-2016 same-sex marriages by couples living in 13 states + DC	104,727	Calculation
Est. 2014-2016 same-sex marriages in Hawai‘i	2,696	Calculation
Total out-of-state guests at Hawai‘i same-sex weddings	15,394	Calculation
<b>Estimate 3: Same-sex Marriage Visitors from 49 Mainland States</b>		
Est. 2014-2016 same-sex marriages by couples in 49 states	145,454	Calculation
Est. 2014-2016 same-sex marriages in Hawai‘i	3,199	Calculation
Total out-of-state guests at Hawai‘i same-sex weddings	18,268	Calculation

**Appendix Table 3: Estimates of Number of U.S. Same-Sex Couples Visiting Hawai'i to Honeymoon, 2014-2016**

<b>Data Series</b>	<b>Value</b>	<b>Source</b>
U.S. marriages in 2009	2,077,000	<i>2012 Statistical Abstract of the U.S.</i> , Table 133.
U.S. visitors who honeymoon in Hawai'i in 2011	233,181	HTA, <i>2011 Annual Visitor Res. Rep.</i> , Table 38.
Percent of U.S. marriages with Hawai'i honeymoons	0.11	Ratio of previous two lines.
<b>Estimate One: Same-Sex Honeymooners from 12 States (w/o CA)+DC</b>		
Number of U.S. same-sex cohabitating couples in 2010	646,464	<i>U.S. Census of Population, 2010.</i>
Percent of Hawai'i visitors fm 12 states (w/o CA)+DC w/marriage equality	0.18	HTA, <i>2011 Annual Visitor Res. Rep.</i> , Table 19.
U.S. same-sex couples living in 12 states(w/o CA)+DC w/marriage equality	116,364	Calculated from previous two lines.
Est. percent of same-sex cohabitating couples who marry annually	0.10	Assumption
Est. 2014-2016 same-sex marriages by couples living in 12 states +DC	34,909	Calculation from previous two lines.
Est. 2014-2016 same-sex honeymoon couples who visit Hawai'i	3,919	Calculation
<b>Estimate Two: Same-Sex Honeymooners from 13 States (w/CA)+DC</b>		
Percent of U.S. visitors to Hawai'i from 12 states +DC w/marriage equality	0.18	HTA, <i>2011 Annual Visitor Res. Rep.</i> , Table 19.
California visitors as percent of U.S. visitors to Hawai'i	0.36	HTA, <i>2011 Annual Visitor Res. Rep.</i> , Table 19.
U.S. same-sex couples living in 13 states (w/CA)+DC w/marriage equality	349,091	Calculation
Est. 2014-2016 same-sex marriages by couples living in 13 states +DC	104,727	Calculation
Est. 2014-2016 same-sex honeymoon couples who visit Hawai'i	11,758	Calculation
<b>Estimate Three: Same-Sex Honeymooners from 49 Mainland States</b>		
Percent of U.S. visitors to Hawai'i from marriage states	1.00	DOMA Decision
Est. 2014-2016 same-sex marriages by couples living in 49 states +DC	144,720	Calculation
Est. 2014-2016 same-sex honeymoon visitors to Hawai'i	16,248	Calculation