

**Chair Tom Gill and Commissioners
Commission on Sexual Orientation and the Law
c/o Legislative References Bureau
Hawaii State Capitol
Honolulu, HI 96813**

December 3, 1995

Dear Chair Gill,

Without intentionally dignifying Mr. Hochberg's and Ms. Sheldon's Minority chapter in our report with a response, I feel I have a compelling personal interest in correcting their gross misrepresentation of events as they occurred at our October 25 and November 8 meetings. Their distortions of testimony and the Commission's response to those testifying are more than overblown hyperbole. It could be interpreted as slander. I am not willing to have this go into the public record unchallenged.

It is with considerable amusement that I read the Minority's account of Diane Sutton's testimony before the Commission and her recent letter to the *Star Bulletin* (11/15). I would like to point out now as I did at the time of her testimony that the Minority and Ms. Sutton are again "factually inaccurate"¹ in their allegations that I or anyone called her a "liar." Attached is a memo from Mr. Tom Aitken of Pahoia School documenting just how off-base her knowledge of Project 10 is and how she has misrepresented herself as a SCBM representative.²

I do not really have to defend myself: what was said is on audio tape, video tape and in the official minutes of the meeting for that day. Mr. Hochberg was there and witnessed her entire testimony. For him to report events other than as they occurred in the Minority chapter of the Commission's report is disingenuous of him at best. Quoting Ms. Sutton's letter in the Minority chapter as if it were true when he knows otherwise is more than disingenuous. The implications of this kind of misrepresentation of the facts exemplify the complete lack of professionalism and integrity of the Minority opinion.

In spite of the glaring inaccuracies in Ms. Sutton's testimony and the fact that her testimony had nothing to do with the issue before the Commission, Ms. Sutton was allowed to consume 15-20 minutes of the Commission's time with her histrionics. This was out of your good graces, Mr. Gill, in the interest of being "fair" to those on all sides of the issue.

The same can be said of Ms. Loree Johnson whose paranoid scatological fantasies and quantum leaps in "logic" defy the imagination. The fact that she was allowed to testify TWICE before the Commission on issues that were not on the agenda for their respective days is a testimony of how far the Commission was

¹ See Minutes of 11/8/95

² Letter amended 12/6/95 to include Mr. Aitken's memo per his request.

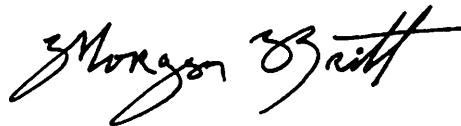
willing to go to accommodate all points of view.

If Ms. Sutton or Ms. Johnson consider themselves "harassed" when politely calling attention to known discrepancies between the content of their testimony and the facts, or being asked to get to the point after rambling at length on unrelated issues to Commission, they are stretching the definition of the word. Perhaps they would regard any public scrutiny of their testimony as "harassment." For such people as Ms. Sutton and Ms. Johnson to be allowed to continue unchallenged in their self-appointed role as spokespersons for their communities with no other credentials than their self-righteous indignation is (to use the words of Ms. Johnson) "repugnant, self-indulgent, exploitive, addictive and dangerous."³

I also take exception to Mr. Hochberg's misrepresentation of me on page 85 of the Report. There was no discussion of school policy or curriculum before the Commission. How he can presuppose my stand on this would indicate that he has greater mental powers than we know him to possess. It is safe to say that I would agree with Mr. Aitken's view that put-downs based on sexuality should not be tolerated any more than racial slurs or violence towards any group in our public schools. Children (and Ms. Sutton) should be taught this. Mr. Hochberg still seems to consider gay and lesbian youth in our schools as fair targets for abuse.

I don't have to call Ms. Sutton, Ms. Johnson or Mr. Hochberg a "liar." A liar, according to *Webster's*, is one who "makes untrue statements with the intent to deceive" or "create(s) a false or misleading impression." I'm sure they wouldn't stoop to that. However, a person who continues to assert that the sky is green, for example, does not make it so by persisting in her allegations. In fact, in the face of the patently obvious (that the sky is not green), one is led to much more basic conclusions about the person making such allegations. I don't have to state the obvious.

Sincerely,



Morgan Britt, Commissioner

cc: Governor Benjamin Cayetano
Senate President Norman
Mizuguchi
House Speaker Joseph Souki

Commissioners:
Jim Hochberg
Nanci Kreidman
Bob Stauffer
Ku'umealoha Gomes
Marie A. "Toni" Sheldon

³ See Minutes of 10/11/95 and written testimony of Loree Johnson dated 10/10/95

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**A Brief Analysis of Important Economic Benefits Accruing from Same-Sex Marriage
Revised Testimony Before Commission on Sexual Orientation and the Law, State of Hawaii**

Sumner J. La Croix, Professor of Economics, University of Hawaii
Lee Badgett, Assistant Professor of Public Affairs, University of Maryland
(As amended)
October 5, 1995

1. Intangible Economic Benefits

It is difficult to place a money value on some rights adhering to marriage, such as the right to visit a spouse in the hospital. Such rights are, however, often highly valued by each partner in the marriage. Some (but not all) intangible benefits also have the desirable feature that they do not impose costs on other people. One example is the right to obtain a spouse's vital statistics (HRS 338-18). Another is the Immigration and Naturalization Service's (INS) policy favoring the immigration of family members (including spouses) who are citizens of foreign countries.

2. Benefits from Marriage that Affect a Small Number of Couples

A relatively large class of legal benefits involves rights that are of limited economic value to the typical married couple, as the rights are used infrequently. Three examples follow. Conveyance taxes are not levied on transfers of property between a husband and wife (HRS 247-3(4) & (12)), but such conveyances are infrequent. A University of Hawaii employee's spouse is exempted from the nonresident tuition differential when the spouse is not a Hawaii resident (HRS 304-4(b)), but there are likely to be only a few such instances each year. Election law (HRS 11-204) allows an immediate family member to contribute up to \$50,000 to an immediate family member who is a candidate for public office, but relatively few same-sex couples would exercise this benefit. Of course, while the expected value of each benefit is small, the sum of numerous small benefits can be quantitatively significant.

3. Cost of Creating a Relationship (Without Access to the Institution of Marriage)

In one relatively simple and inexpensive step, marriage creates a relationship between two adults that grants several rights that can otherwise be simulated with private agreements between two unmarried partners. The laws of Hawaii include the following such benefits:

- Access to Family Court for the award of child custody and support payment proceedings.
- The right to enter in Premarital Agreements.
- The Probate code provides protection rights, notice rights, and other inheritance rights to spouse and other related parties.
- Defined principles for the control, division, acquisition, and disposition of community property in divorce.
- The right to spousal support and right to file a nonsupport action.

Excerpt from the Minutes of September 27, 1995, Testimony of Sumner J. La Croix, Professor of Economics University of Hawaii and Lee Badgett, Assistant Professor of Public Affairs, University of Maryland, Pages T-10 through T-18.

- The award of child custody and support payments in divorce proceedings.
- Post-divorce rights relating to support and property division.
- Full parenting rights to children born or adopted within the marriage.
- The right to claim a deceased spouse's body.
- The right to change name.

Same gender couples can sometimes construct private agreements that explicitly address many of the issues raised above, and legal advisors often recommend that couples write up such agreements. These documents often require the costly services of a lawyer. The documents may have to be drawn up more than once, as they will have to be changed as conditions change. In some situations, there is uncertainty about whether these contracts will be honored, particularly when they involve children. There are many cases of even wills being contested and sometimes overturned. Marriage allows a couple to save the money and time costs associated with drawing up these documents. These economic benefits can be significant, amounting to several thousand dollars.

4. Benefits from Marriage with a Significant Expected Value

A. Retirement

There are two major benefits specified in public employee retirement plans and in some private plans that are affected by a retiree's marital status: (1) health insurance and (2) pensions. Both are extended to surviving spouses in some circumstances.

1. Retirement Health Insurance Benefits

A major retirement benefit specified in the Employee Retirement System (ERS) of the State of Hawaii and in many private pension plans is full payment of health, dental, and vision insurance premiums by the employer after retirement. Coverage can be extended to a spouse. ERS offers the employee and his/her spouse the same menu of health insurance plans offered to public employees with the same schedule of copayments and coinsurance at no charge. The spouse receives this benefit if he/she is neither covered at work nor by another retirement plan. If the alternative is an individual policy with Kaiser at a monthly cost of \$122, then the benefits to the couple amount to \$1,464.00.

When a vested retiree (with at least ten years of service) becomes eligible for Medicare, the Hawaii public employees retirement plan pays the premium for Part B of the Medicare Program for both the retiree and the spouse (if they choose to enroll). This program confers benefits on spouses who do not have the same benefit coverage in their own retirement plan. The current monthly price for the Medicare Part B premium is \$46.10, amounting to \$553.20 annually.

Excerpt from the Minutes of September 27, 1995, Testimony of Sumner J. La Croix, Professor of Economics University of Hawaii and Lee Badgett, Assistant Professor of Public Affairs, University of Maryland, Pages T-10 through T-18.

2. Retirement Pension Benefits

The state retirement system (in particular, the noncontributory plan) forces an employee to choose from a menu of payment plans when the employee decides to retire. The payment plans include (1) receiving a lump-sum payment; (2) receiving monthly payment which stop at the death of the retiree; (3) receiving monthly payments which stop at the death of both the retiree and the spouse. Assuming that the last two payment plans are designed to have the same present value for a typical retiree, then the additional cost to the state of incorporating same-sex couples into its benefits plan will be relatively small. There will, however, be some additional cost, as a retiree in a same-sex marriage with a short expected lifespan and a healthy spouse will now have the option of picking the stream of payments ending with the death of the spouse. This payment package is likely to be relatively unattractive, as it is based on a relatively long survival of the retiree's spouse. However, in a same sex marriage two spouses of the same age have the same statistical life expectancy. When the retiree does choose this package, it will, on average, generate higher costs to the state system.

Of course, many retirees in a same-sex marriage will pick the payment plan which ends at the death of the retiree, as they will rationally infer, using information from life tables and their own information concerning their spouse's health, that the spouse will die first or that the spouse will not live long enough to justify the lower stream of pension benefits. Thus, in more than one-half of the plans, there will be no additional cost to the state.

In the Hawaii ERS noncontributory plan, an unmarried retiree has the right to name a second beneficiary and pick the payment package which ends at the death of the second beneficiary and the retiree. However, an unmarried partner has no rights to such a stream, while a married partner has the right to a pension payment package which does not end until he/she dies.

B. Health Insurance

The Hawaii Prepaid Health Care Act mandates that private employers provide a minimum package of health insurance benefits to employees who work more than 20 hours per week. While the Act does not require that health insurance be provided to dependents, almost all private firms as well as the State of Hawaii also cover spouses. Since most spouses in Hawaii will be working, the spouse will already have health insurance. Most insurance plans then only pay a supplemental benefit, i.e., they only cover what the spouse's plan does not cover. If the spouse is not working, then the spouse can be enrolled in, for example, the HGEA's "Kaiser Gold" package, containing health, drug, vision, and dental insurance, for an additional \$17.70 per month. If the alternative is an individual health care policy from Kaiser, then the annual benefit from including the spouse in the employee's health care plan is \$1,251.48.

Excerpt from the Minutes of September 27, 1995, Testimony of Sumner J. La Croix, Professor of Economics University of Hawaii and Lee Badgett, Assistant Professor of Public Affairs, University of Maryland, Pages T-10 through T-18.

C. The Impact of Marriage on Taxes

Federal and State Income Taxes: Marriage Taxes and Bonuses from the Tax Tables

The impact on income tax payments is complex, partly because both state and federal tax laws are involved, and because the effect of marriage depends on the number of earners in a household and the level of each spouse's earnings. This section presents two general scenarios: one in which marriage reduces a couple's income taxes and a second in which marriage increases a couple's income taxes.

The tax scenarios are based on the Arnie Aloha family described by the Tax Foundation of Hawaii (April 1994 brochure). The husband earns \$38,357 and the wife earns \$29,232, and they have two young children. After adding other sources of income, their total family gross income is \$84,760. After subtracting their itemized deductions of \$15,476, the couple's taxable income is \$59,484 and their tax bill is \$11,713. If they had no children, their taxable income would have been \$64,384, and they would have paid \$13,085 in taxes.

Suppose that the same couple is unmarried with the same individual employment earnings. Suppose also (for simplicity) that they prorate the deductions and each claim half of the other income. If the higher earner claims the two children as dependents and files as head of the household, then the total federal taxes paid the two separately are \$9,724, or \$1,989 less than if they were married. If the same couple had no children and is unmarried, then their federal income taxes would be \$12,104, or \$981 less than if they were married. The effect in this scenario is clearly to increase the couple's taxes when if they are married. This result is the well known "marriage penalty."

Consider now a second scenario with the same Arnie Aloha family. In this second scenario, the family's income is the same as in the first scenario, but all of the family's income is earned by just one of the two adults. In this scenario, if the couple is married and has two young children, then the couple's tax bill is \$12,688. If they had no children, they would have paid \$13,085 in taxes.

Suppose that the same couple is unmarried. Then when two children are claimed as dependents, the total tax bill would be \$12,688 or \$975 more than if they were married. If the same unmarried couple has no children, then the tax bill would be \$15,346 or \$2,261 more than if they were married. The effect in this scenario is clearly to decrease the couple's taxes when they are married. This result is the less well known "marriage bonus." All four results are summarized in Table 1 (attached).

These examples reproduce the familiar result that the tax schedules favor traditional married couples with one primary earner and penalize married couples with similar income levels. See Rosen, 1987 and Pechman and Engelhardt, 1990 for a more technical discussion in the economics literature. In general, marriage bonuses are created when only one partner is working or when the two partners have very unequal earnings. Same gender couples could have very unequal earnings when one partner is staying home with children, or is in school, or in a full-time training program, or is already retired.

Excerpt from the Minutes of September 27, 1995, Testimony of Sumner J. La Croix, Professor of Economics University of Hawaii and Lee Badgett, Assistant Professor of Public Affairs, University of Maryland, Pages T-10 through T-18.

Hawaii state income taxes produce similar types of marriage bonuses and penalties that are smaller in size than the federal bonuses and penalties (see attached table). The presence of tax and bonus effects in the Hawaii tax tables is because they have the same basic structure as federal income tax tables.

Additional Tax Bonuses from Marriage in the Federal Tax System

Spouses (who are not claimed as dependents on other returns) are automatically given an exemption, while unmarried partners must meet a much more rigorous test of economic dependency which many could not meet.

If an unmarried individual's employer offers domestic partner benefits, such as health care benefits, the amount paid by the employer for the partner's benefits is considered part of the employee's taxable income unless the partner can be claimed as a dependent. The amount paid by employers for a spouse's benefit is, however, not taxable income.

If a couple's relationship ends, there are tax advantages if the couple is married. Alimony payments are deductible, and divorce-related property settlements (transfers from one spouse to the other) are exempt from capital gains tax (until the spouse receiving the property sells it). When an unmarried couple's relationship ends, they cannot claim these tax benefits.

Tax Bonuses Stemming from the Marital Deduction with Federal Estate and Gift Taxes

A married person receiving an estate (or total gifts) beyond \$600,000 from his/her spouse does not owe estate or gift taxes due to the unlimited "marital deduction." Other heirs would have to pay estate or gift taxes on the value of the estate or gifts beyond the \$600,000 ceiling. The effect of the marital tax deduction is to defer payment of the transfer tax until the death of the spouse (which is usually, but not always, reduces the present value of tax savings for the spouse). Also, annual gifts beyond \$10,000 to unrelated individuals are taxed; transfers to spouses are not taxed. See.

D. Federal Social Security Benefits

Married couples receive significant advantages in the nation's social security programs, particularly in the size of monthly benefits paid under Old-Age and Survivors Insurance Program (OASI), but also in the Disability Insurance Program. All figures cited below are taken from the 1994 Green Book compiled by the Committee on Ways and Means, U.S. House of Representatives.

The benefits from marriage in the OASI Program have several sources. First, when a fully insured worker retires, his or her spouse receives a benefit equal to 50% of the retired worker's benefit (unless the spouse is entitled to a larger benefit based on his or her own work history). In 1993, the average monthly benefit for wives and husbands of retired workers was \$347, or \$4,164 more annually than a same gender couple with one fully insured worker and an uninsured partner would

Excerpt from the Minutes of September 27, 1995, Testimony of Sumner J. La Croix, Professor of Economics University of Hawaii and Lee Badgett, Assistant Professor of Public Affairs, University of Maryland, Pages T-10 through T-18.

have received. Second, when the retired worker dies, the surviving spouse (from age 60 and up) then receives the retired worker's full benefit. In 1993, the average widower in this program received \$630 per month, or \$7,560 annually, while a surviving member of a same sex couple would receive nothing. Third, when an insured spouse dies, the surviving spouse is entitled to a lump-sum death benefit of \$255. Finally, when a currently insured (non-retired) worker dies, the widow or widower is eligible for a monthly benefit if the couple had children who are under age 16 or disabled, and the legal children of the deceased also receive benefits. In 1993 the average widow or widower in this category received \$448 per month or \$5,376 annually, and children average \$173 per month or \$2,076 annually, while a surviving member of a same sex couple and the survivor's legal children would receive nothing.

The Disability Insurance system also favors married couples. If a disabled worker has a spouse who is either aged 62 or older or is caring for a young or disabled child of the worker, the spouse is eligible for a benefit that averaged \$156 per month or \$1,872 annually in 1993. In a same sex couple, the partner of a disabled person would receive nothing.

More detailed studies of the social security system show that over time, the numerous benefits awarded by the social security system to married couples generate significant benefits. Married couples—even when both spouses work—have rates of return on their social security tax payments that are two to three times higher than the rate of return earned by single individuals with the same income. See Boskin, *et al.*, 1987. Net marginal social security tax rates, which adjust the social security payroll tax rates by the amount of future benefits, are much lower for earners with dependent spouses than for single men and women. See Feldstein and Samwick, 1992. Many earners with dependent spouses have negative social security tax rates, meaning that an additional dollar of income provides more in future benefits than the worker pays in social security taxes.

In sum, the OASI tax advantages for married couples generate significant economic benefits that are worth thousands of dollars annually during retirement. In addition, the payments provided to some spouses under the Disability Insurance system provides significant added financial security when a spouse becomes disabled.

E. Tort Actions

According to Hawaii state law (HRS 663-3, 663-18), in the case of a spouse's death caused by a wrongful act by some third party, the surviving spouse may bring a civil lawsuit against the third party. The spouse may attempt to recover damages, including loss of companionship, consortium, and marital care, as well as the expenses of any illness and burial. Also, the spouse can attempt to recover the loss to the estate and the loss of support to the spouse. Loss of support can be as large as 40 percent of the decedent's lost earnings.

F. Death Benefits

Excerpt from the Minutes of September 27, 1995, Testimony of Sumner J. La Croix, Professor of Economics University of Hawaii and Lee Badgett, Assistant Professor of Public Affairs, University of Maryland, Pages T-10 through T-18.

If a Hawaii State public employee dies due to natural causes (with 10 years of credited service) or due to a job-related accident, a monthly benefit is paid to the surviving spouse until remarriage. Only a surviving spouse is eligible for the death benefit.

In some private firms, either a surviving spouse or a designated beneficiary can receive a death benefit. However, a surviving spouse can roll a death benefit into an IRA, while an unrelated person cannot. Thus, a spouse is able to defer federal taxes on the death benefit, while an unrelated person cannot.

G. Hawaiian Home Lands Lease

Upon the death of the lessee, a spouse can assume the lease on land in a Hawaiian Home Lands development, while an unrelated occupant cannot. While the expectation in a same sex marriage is that the two spouses will die at the same time, in many cases a spouse will significantly outlive the lessee spouse. By remaining in the leased dwelling, the spouse could then save the rental on housing of a similar quality. Using the 1990 rental price (\$401) for housing in the lower quartile of the rental housing distribution, the benefit would amount to \$4,812 annually.

H. Workers' Compensation

Hawaii Workers' Compensation law allows death benefits to be paid to a dependent spouse or other dependent family members (parent, son, daughter, grandchild, etc.). However, death benefits are not paid to an unrelated partner in an unmarried couple. The benefits are significant, as they are equal to 62% of a worker's weekly wage, with a minimum weekly payment of \$xx and a maximum weekly payment of \$dd. The stream of payments to the spouse does not end until the spouse's death or remarriage.

Table: Federal and State Income Tax Payments for Married and Unmarried Couples

	Married, Filing Jointly	Unmarried	Gain or Loss w/ Marriage
Dual Earner, w/ children			
Federal	\$11,713	9,724 ^a	1,989
Hawaii	5,230	5,006	224
Total	16,943	14,730	2,213
Dual Earner, w/o children			
Federal	13,085	12,104	981
Hawaii	5,438	5,613	-175
Total	18,523	17,717	806
Single Earner, w/ children			
Federal	11,713	12,688 ^b	-975
Hawaii	5,230	5,481	-251
Total	16,943	18,169	-1,226
Single Earner, w/o children			
Federal	13,085	15,346	-2,261
Hawaii	5,438	6,074	-636
Total	18,523	21,420	-2,897

Notes: a: Higher earner files as head of household; lower earner files as single.

b: Single earner files as head of household and claims partner as dependent.

c: Single earner files as single and claims partner as dependent.

Excerpt from the Minutes of September 27, 1995, Testimony of Sumner J. La Croix, Professor of Economics University of Hawaii and Lee Badgett, Assistant Professor of Public Affairs, University of Maryland, Pages T-10 through T-18.

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Excerpt from the Minutes of September 27, 1995, Testimony of Sumner J. La Croix, Professor of Economics University of Hawaii and Lee Badgett, Assistant Professor of Public Affairs, University of Maryland, Pages T-10 through T-18.

Testimony Before Commission on Sexual Orientation and the Law, State of Hawaii

Public Policy Issues: *How Will Same-Sex Marriage Affect Hawaii's Tourism Industry?*

Sumner La Croix and James Mak , Professors of Economics, University of Hawaii

First, legalization of same-sex marriage in Hawaii is likely to induce a significant annual flow of tourists who travel to Hawaii to enter into a same-sex marriage. Following (and modifying) the analysis in Jennifer Garuda Brown's 1995 *Southern California Law Review* article, we assume that: (1) 3% of the U.S. population over the age of 16 is gay (5.76 million people); (2) 15% of gay people have a current demand for marriage; (3) marriages from this backlogged demand will take place in Hawaii over a five-year period; (4) a second state does not legalize same-sex marriage over this five-year period; (5) the couples travel alone to Hawaii; (6) the number of states declining to recognize same-sex marriages does not decrease; and (7) other tourists are not crowded out of the market during the peak tourist seasons. Using these assumptions, we calculate that 172,500 additional tourists will visit Hawaii annually to be married. We emphasize that this estimate is very rough, as the number of additional tourists visiting Hawaii could be much lower or much higher as these assumptions vary.

Second, Hawaii encourages tourists to visit and participate in the Honolulu Marathon each year. The general presumption is that the additional sports tourism generates additional income for Hawaii residents. Tourists' use of public facilities also imposes depreciation costs, operating costs, and congestion costs on Hawaii's citizens and on other tourists, thereby offsetting some of the income gains. Given the excess capacity in the state's hotel industry and various supporting industries, we conclude that as long as additional tourists visiting to run in the Marathon generate net benefits for Hawaii, it is reasonable to assume that a new flow of tourists visiting Hawaii to be married will also generate net benefits for Hawaii. In 1992 the average "Westbound" visitor (originating in North America or Europe) stayed in Hawaii for 10.47 days and spent \$117 per day. Total expenditures by the new tourists would then amount to \$211 million annually for five years. Since, on average, a dollar of visitor expenditures translates into \$0.60 of household income, the \$211 million of expenditures will yield approximately \$127 million of income annually over five years for Hawaii's households.

Third, private groups have boycotted several states and cities to protest against local laws and policies. There is, however, no evidence that cities with strong gay rights laws or strong civil rights laws, such as San Francisco, New York, and Seattle, have suffered reduced tourism flows.

Fourth, another possibility is that the higher percentage of gay tourists visiting Hawaii would lower the value of visiting Hawaii for some heterosexuals, who would then choose to visit other destinations. The extent to which this phenomenon, known as "tipping," would occur in Hawaii is difficult to gauge. However, one could argue that it is unlikely to persuade significant numbers of heterosexual tourists to choose other destinations. In 1992, there were 6,874,000 visitors to Hawaii. An additional 172,500 gay visitors would increase the annual flow of tourists by 2.5%. Suppose we assume that 5% of current visitors to Hawaii are gay, reflecting a possible higher propensity for travel among the 3% of the U.S. population which is gay. Then the total number of gay tourists would increase to approximately 7.5% of the new total. It seems unlikely that an increase in the proportion of gay tourists from 5% to 7.5% of the total would be sufficient to significantly lower the value of tourism to the other 92.5% of the visitors.

Heterosexual tourists are, however, likely to notice public weddings of same-sex couples, including those of resident gay couples from Hawaii. The impact of such public visibility on Hawaii's image as a resort destination and on tourism revenues is uncertain. Tourism could decrease if some tourists are uncomfortable with public same-sex weddings, or could increase if public same-sex weddings make Hawaii a more exotic, interesting tourist destination.

Excerpt from the Minutes of October 11, 1995, Testimony of Sumner La Croix and James Mak, Professors of Economics, University of Hawaii, Pages T-28, 29.

Data References for Mak/La Croix Testimony on Effects on Tourism

1. Assumptions that (a) 3% of the U.S. population is gay and (b) 15% of gay people will have a demand for marriage are taken from Jennifer Garuda Brown's 1995 *Southern California Law Review* article.
2. Data on Westbound visitor expenditures are from the *State of Hawaii Data Book*, 1993-94, p. 184. Data on length of stay are from *State of Hawaii Data Book*, 1993-94, p. 180. The relationship between income and expenditure is derived from *State of Hawaii Data Book*, 1993-94, p. 191.




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November 28, 1995

To: Thomas P. Gill
Chair, Commission on Sexual Orientation and the Law

Fm: Sumner La Croix 
Professor, Department of Economics, University of Hawaii

Re: Draft Report of the Commission (dated 11/22/95)

I am writing to you to correct the misrepresentation of my testimony in Chapter 5 (the Minority Report) of the Draft Report. Let me address a few specific issues.

1. The Minority Report states (p. 69) that "Dr. La Croix could not estimate whether the net effect on tourism dollars would be positive or negative." However, Professor James Mak and I submitted written testimony to the Commission ("Public Policy Issues: How Will Same Marriage Affect Hawaii's Tourism Industry?") in which we stated that the additional tourists traveling to Hawaii to enter into a same-sex marriage would generate "\$127 million of income annually over five years for Hawaii's households." The Minority Report distorts our views on this subject.
2. The Minority Report states (p. 65) that "[u]nless data show that most or all same-sex couples have greatly unequal income, Dr. Ghali, Professor Roth, and Dr. La Croix agree that there is no reason to assume a general tax benefit from marriage." My position is that there is a tax benefits from marriage if some same-sex couples have unequal incomes.
3. The Minority Report uses Dr. Ghali's testimony to attempt to refute my analysis of major benefits not extended to same-sex couples. However, Dr. Ghali's analysis is generally directed toward another question: he analyzes whether the extension of such benefits to same-sex couples would improve social welfare. These are two very different questions, and I have not addressed the second question. In many cases (p. 63), Dr. Ghali's criticism amounts only to a call for more research that would allow the major benefits denied to same-sex couples to be quantified more precisely.
4. In sum, my analysis indicates that there are major economic benefits that are extended to married opposite-sex couples that are not extended to same-sex couples. Moreover, Professor Mak and I both expect that the impact on tourism would be positive.

An Equal Opportunity/Affirmative Action Institution

Memorandum to Thomas P. Gill, Chairperson, dated November 28, 1995, from Sumner La Croix, Professor, Department of Economics, University of Hawaii, regarding Draft Report of the Commission.

Testimony
Presented to
State of Hawaii
Commission on Sexual Orientation
and the Law

Regarding the Impact of Having
Same-Sex as Compared to Opposite-Sex Parents
on the Development of Children

Robert J. Bidwell, MD

November 8, 1995

Excerpt from the Minutes of November 8, 1995, Testimony of Robert J. Bidwell, M.D., Pages T-3 through T-7.

Pediatrics, like many other professional disciplines, was late in addressing the issues of homosexuality, lesbian/gay parenting, and the impact of these on children, adolescents and families. Fortunately, my profession is making up for lost time and has begun a careful examination of these important subjects. A fairly extensive pediatric literature has developed on homosexuality and adolescence. The literature on gay and lesbian parenting is more sparse. In 1994, however, an excellent examination of the topic appeared in *Pediatrics in Review* (Gold, et al, 1994), one of the most respected journals in pediatrics; my testimony will attempt to summarize their review as well as provide information from more recent data appearing in journals identified through "MedLine" and "PsychLit" searches.

In September 1994, the article "Children of Gay or Lesbian Parents" by M.A. Gold, et al, appeared in *Pediatrics in Review*, an official publication of the American Academy of Pediatrics (Gold, et al, 1994). Among other issues relevant to pediatrics, it provided estimates of the prevalence of gay/lesbian parenting in the U.S. and a review of the literature on the development of children whose parents are gay or lesbian. They estimated that there are from 1 to 5 million lesbian mothers and 1 to 3 million gay fathers in the U.S., and that 6 to 14 million people have one or more gay or lesbian parents.

In reviewing the literature on the development of children of gay and lesbian parents Gold, et al, acknowledge the fact that the data is incomplete because many studies have had small numbers of subjects, non-random subject selection, narrow racial or socioeconomic representation and no long-term longitudinal follow-up. Nevertheless, they present the results of two recent large-scale reviews of the literature related to this topic which are summarized below. In 1992, C.J. Patterson reviewed 12 studies that overall looked at 300 children of gay and lesbian parents, all compared, in their respective studies, to equal numbers of children of heterosexual parents (Patterson, 1992). Taken as a whole, the reviewed studies provided the following findings:

1. There were no differences in the development of sexual orientation, gender identity or sexual role behavior between children of gay/lesbian parents and those of heterosexual parents.
2. Adolescent sexual orientation was similar in children from homosexual and heterosexual families (5-8% in both groups acknowledging homosexual attraction or behavior).
3. Both groups of children had equivalent rates of psychiatric disturbance and behavioral or emotional problems.
4. There were no statistically significant differences in personality characteristics, locus of control, moral maturity, or intelligence.
5. Children of lesbian mothers spent more time with their mothers' male friends and had more contact with their fathers than did children of single heterosexual mothers.

6. Children growing up in gay and lesbian families were shown to be more tolerant of diversity and more open to discussion of sexuality issues and interpersonal relationships than children in heterosexual families.
7. Children of gay/lesbian parents are less likely to be victims of parental sexual or physical abuse than children of heterosexual parents.

Gold, et al, next looked at F.W. Bozett's review of the literature on gay fathers (Bozett, 1989). This literature has more often focused on parenting style than on child development. Taken as a whole these studies suggest that:

1. There is no evidence that gay or heterosexual fathers differ in problem-solving, providing recreation for children or in encouraging autonomy.
2. Paternal attitudes did differ: Gay fathers were less traditional, more nurturing, invested more in their paternal role and viewed their paternal role more positively than heterosexual fathers.

Finally, Gold, et al, note that studies have shown that children brought up in two-adult homes, regardless of the gender of the two adults, adjust better than those raised by single parents. Gold, et al, summarized their review of the issue of children of gay or lesbian parents by stating:

There are no data to suggest that children who have gay or lesbian parents are different in any aspects of psychological, social, and sexual development from children in heterosexual families. There has been fear that children raised in gay or lesbian households will grow up to be homosexual, develop improper sex-role behavior or sexual conflicts, and may be sexually abused. There has been concern that children raised by gay or lesbian parents will be stigmatized and have conflicts with their peer group, thus threatening their psychological health, self-esteem, and social relationship. These fears and concerns have not been substantiated by research.

I will briefly summarize the research reports identified by "MedLine" and PsychLit" that have appeared since 1993 which relate to the children of gay/lesbian parents. In 1993, O'Connell published a study of 11 young adults (aged 16 to 23 years) whose mothers were lesbian (O'Connell, 1993). These offspring expressed a perceived need for some secrecy as teenagers about maternal sexual orientation in order to preserve friendships and had unrealized fears of male devaluation and homosexuality that abated over time. They exhibited "profound loyalty" and protectiveness toward their mothers, openness to diversity and sensitivity to the effects of prejudice.

A second study by Flaks, et al, compared the 3 to 9 year old children of 15 lesbian couples born through donor insemination with 15 matched heterosexual-parent families (Flaks, et al, 1995). There was no significant difference between the two groups of children in cognitive functioning

and behavioral adjustment. There was no difference in the parents' relationship quality and parenting skills except that lesbian couples exhibited more parenting awareness skills than did heterosexual couples.

Finally, a British study by Tasker and Golombok (Tasker and Golombok, 1995), attempted a longitudinal study of teenagers and young adults from lesbian and heterosexual single-parent homes. Those raised by lesbian mothers functioned well both as children and as adults. For children of lesbian parents the teen years were more difficult, although "this did not appear to be attributable to any difficulty in family relationships within the home, but to concerns about presenting their family background to others."

In summary, while the data on gay/lesbian parenting is still incomplete there is much that is known. In examining the breadth of the professional literature there is no evidence to date that the physical, emotional, psychological or social health of the children of gay or lesbian parents is compromised by the sexual orientation of their parents. While there is some data to suggest that for some teenagers the adolescent years may be difficult as they attempt to avoid the stigma of having parents who are "different", there is no data to suggest that deep or lasting harm results. As one author suggests, "Pain does not mean damage". While no parent wants their child to experience pain, in my work as a pediatrician, I have seen pain, which is a fact of life, lead to increased maturity, strength, and sensitivity to the pain of others. This observation is supported in the literature on the experience of children of gay/lesbian parents.

Gay and lesbian parenting is a fact of life as well. Our Hawaiian Islands are home to thousands of gay and lesbian parents and their children. Marriage can only strengthen the relationship of two people who have committed themselves to each other. Research shows that children from two-parent families are at an advantage over children from single-parent homes, regardless of the sexual orientation of the parents. Societal recognition will strengthen these families and over time, reduce the stigma or embarrassment that may be felt by some children, especially as they enter adolescence, because they have families that may be "different" from others. I urge you to carefully review the articles that accompany my testimony, and hope that you come to this conclusion---that recognition of same-sex relationships will strengthen our community's gay and lesbian families and benefit their children.

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SPECTRUM INSTITUTE

A Non-Profit Corporation Promoting Respect For Human Diversity

November 30, 1995

Hon. Tom Gill,
Chairperson
Commission on Sexual
Orientation and the Law
Honolulu, Hawaii

Thomas F. Coleman
Executive Director

Re: Comment on Draft of Final Report

Dear Mr. Gill:

Today I received a copy of the Commission's report. I would like to commend you for your thoroughness and patience in studying these difficult issues.

I would like to make a correction to the majority report which, at several places, refers to me as Thomas P. Coleman or omits my middle initial. (p. C-2, p. 27 fn 99, p. 31 fn 113, p. 36 fn 123, p. 38 fn 128, p. 39 fn 129.) My correct name is Thomas E. Coleman. Thank you in advance for making this correction.

I would also like to make the following correction and comments regarding the minority report. The minority report states, at page 91, "Mr. Coleman stated that he is a homosexual." I'm not sure if the meeting was tape recorded, but if it was and if the tape is reviewed carefully, you will find that I never stated that I am a homosexual. It would be appropriate for that sentence in the minority report to be deleted since such a comment was never made by me at the hearing. If the author of the minority report refuses to delete this sentence, I believe that it would be the prerogative of the majority to delete it from the final report.

I would also like to comment on footnote 242 in the minority report. Had the minority done a proper search of available computer databases, they would have discovered that, during the past seven years, I was mentioned and quoted in more than 30 newspaper and magazine articles dealing with domestic partnership or discrimination on the basis of marital status and sexual orientation. Articles mentioning "Thomas F. Coleman" have appeared in the following publications (attached): Time Magazine, Los Angeles Times, New York Times, Los Angeles Daily Journal, Washington Post, Wall Street Journal, San Francisco Chronicle, Long Beach Press Telegram, Seattle Post-Intelligencer, McCalls, Orlando Sentinel, Los Angeles Daily News, and U.S. News and World Report. The minority's failure to discover any of these articles casts doubt on their research abilities.

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Letter from Thomas F. Coleman to Commission regarding comments to November 22, 1995 Draft Report, dated November 30, 1995.

SPECTRUM INSTITUTE

Tom Gill
November 30, 1995
Page 2

The failure of the minority to discover references to "Spectrum Institute" probably stems from the fact that the media has usually referred to the "Family Diversity Project," which is a project of Spectrum Institute, rather than referring specifically to the corporate name of "Spectrum Institute." I have enclosed a brochure about Spectrum Institute, which lists its two major projects, one of which deals with family diversity. I believe that this brochure was previously submitted to the Commission.

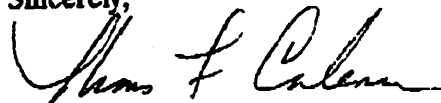
Also, so that the record will be clear regarding the activities of Spectrum Institute, I am enclosing letters from various organizations which we have assisted in the past few months. They include: American Association of Retired Persons, ACLU Foundation, Service Employees International Union, City of Atlanta, and the Los Angeles City Council.

Finally, the minority's insinuation that I have not written anything on the topics under study by the Commission is certainly misleading. I submitted many government reports to the Commission staff, including, I believe: Report of the Anti-Discrimination Task Force of the California Insurance Commissioner, Final Report of the Los Angeles City Attorney's Task Force on Marital Status Discrimination, Final Report of the Los Angeles City Task Force on Family Diversity, and excerpts from the final report of the Governor's Commission on Personal Privacy -- all of which I authored.

To counter the innuendos regarding the bona fides of Spectrum Institute, and to dispel the myth that I have not been quoted by the media as an expert in the field of marital status and sexual orientation discrimination, it would certainly be proper for the majority to make some appropriate comment in the Majority Response to the Minority Report, even if in a footnote.

Good luck in finalizing your work, and thank you for the opportunity to participate in this historic project.

Sincerely,



THOMAS F. COLEMAN

Letter from Thomas F. Coleman to Commission regarding comments to November 22, 1995 Draft Report, dated November 30, 1995.

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Andrew Koppelman
Assistant Professor

December 4, 1995

Hawaii Commission on Sexual Orientation and the Law
Fax: (808) 587-0681

Dear Commissioners,

Herewith are my comments on your November 22 draft report. As a general matter, its recommendations are eminently sensible and well-reasoned. These comments address a few details of the report that, in my opinion, can be improved. It also addresses a few egregious errors in the minority report.

On p. 29, n. 97, a good source to cite would be Samuel Marcossan, "The 'Special Rights' Canard in the Debate Over Lesbian and Gay Civil Rights," 9 Notre Dame J. L. Ethics & Pub. Pol'y 137 (1995).

On pp. 30-34, it would be helpful for purposes of educating the public if the report explained the way in which the Baehr v. Lewin court relied on the analogy with Loving v. Virginia. I have defended this analogy extensively in my own writing. See, e.g., my "Why Discrimination Against Lesbians and Gay Men is Sex Discrimination," 69 N.Y.U. L. Rev. 197 (1994).

On p. 32, n. 102, the obligatory citation would be to Charlotte Patterson, "Children of Lesbian and Gay Parents," *Child Development* 63:1025-42 (1992), cited on p. G-7 of your report, which is the most comprehensive review to date of the studies that have been done of children of lesbian and gay parents. Pp. 71-74 of the minority report ought to be answered here. The discussion of children there is sheer fantasy, consisting in claims about the inferior quality of parenting by lesbians and gays that are entirely unsupported, indeed refuted, by all the evidence we now have. This part of the minority report slanders many responsible, caring parents, evidently without bothering to find out whether there is any basis at all for its claims. (Patterson's survey is not cited or addressed, nor are any of the studies she cites.) It is reprehensible for public officials to make such cavalier, groundless, and damaging claims.

On p. 33 of the majority report and pp. 68-69 of the minority

Letter from Andrew Koppelman letter to Commission regarding comments to November 22, 1995 Draft Report, dated December 4, 1995.

report, Jennifer Gerarda Brown's important conclusions about the likely economic effects of recognizing same-sex marriage are rejected on the basis of testimony before the Commission, the content of which is left unspecified. All we are told is that two economists disagree with Brown. If you reject her arguments, you ought to say why. You seem persuaded by the "tipping" argument, but this is addressed well on pp. 806-810 of her article, which deserves an answer in the text of the report.

On p. 34 n. 11, you indicate that the summary of Hawaii polls reproduced on the last page of the draft, which somewhat prejudicially puts "same-sex 'marriage'" in scare quotes, is from an unknown source. I have a copy of the source in my possession. It is the August, 1994 issue of Michael Gabbard's newsletter, Stop Promoting Homosexuality Hawaii, p. 4.

On the weaknesses of the procreation-based argument against same-sex marriage, you may find helpful pp. 273-277 of my N.Y.U. Law Review article, cited above. In particular, the argument is inconsistent with Turner v. Safley, 482 U.S. 78 (1987), in which the U.S. Supreme Court held that prison inmates, some of whom are serving life sentences and so cannot procreate, have a right to marry.

On p. 38, the Commission briefly discusses the argument, presented on p. 89 of the minority report, that churches would be forced to marry same-sex couples even if their faith forbids them from sanctifying such unions. This is a silly argument that does not deserve extended discussion, but a couple of illustrations might help to show how silly it is. There are already marriages recognized by every state that some religions refuse to recognize. Many rabbis will not celebrate intermarriages between Jews and non-Jews. The Catholic church will not celebrate marriages in which one of the parties is divorced, and the former spouse is still living. The legal right of Jewish and Catholic clergy to discriminate in this way has never, so far as I am aware, been questioned by anyone.

Finally, the minority report's description, on pp. 83-84 of its report, of the process by which the American Psychological Association decided that homosexuality is not a pathology, blatantly misrepresents one of its sources, Ronald Bayer's book Homosexuality and American Psychiatry. Bayer's study is largely an account of how the views of such therapists as Charles Socarides, on whom the minority report relies heavily, became discredited as inconsistent with all the evidence. Bayer observes, on p. 34, that Socarides' arguments for treating homosexuality as a pathology are "sometimes opaque." It is astonishing that the minority cites his book as supportive of its views. It may be helpful to the Commission to have a summary of the relevant intellectual developments.

The history is basically as follows. The modern psychiatric proponents of the disease view have relied on the claim (disagreeing with Freud) that all human beings were constitutionally predisposed to heterosexuality and that only overwhelming environmental forces, specifically massive fears induced during childhood, could divert sexual object choice toward a same-sex object. These writers, principally Sandor Rado, Irving Bieber, and Socarides, all thought that this diversion is caused by severe early developmental disturbances. All therefore concluded that homosexuality must invariably be associated with severe personality disorders. (There were differences of opinion as to how early the trauma occurred, and therefore how profound the consequent disturbance was. These views are described in Bayer, Homosexuality and American Psychiatry, pp. 28-38.) The only homosexuals any of these doctors knew, of course, were their patients, who had come to them precisely because they were leading troubled lives. "Since it was assumed that all homosexuals suffered from a pathological condition there was no question about the methodological soundness of relying upon patients for a more general understanding of the disorder." Bayer, p. 41.

The reason why the disease theory has now been abandoned by most psychiatrists and psychologists is that this prediction has been demonstrated to be false, most importantly by Evelyn Hooker's studies, which found that psychologists judging projective test results of matched pairs of male homosexuals and heterosexuals could not distinguish the homosexuals from the heterosexuals, and categorized two-thirds of the members of both categories as of average adjustment or better. Evelyn Hooker, "The Adjustment of the Male Overt Homosexual," 21 J. Projective Techniques 18 (1957). Hooker's work is discussed in Bayer, Homosexuality and American Psychiatry, pp. 49-53. See also Sylvia A. Law, "Homosexuality and the Social Meaning of Gender," 1988 Wisc. L. Rev. 187, 212-14, and citations therein. The disease theory also misconstrued the nature of homosexual desire, which it held could not be the basis of enduring, loving relationships. Thus Socarides wrote that mutual love "cannot be achieved in any homosexual relationship on an enduring basis," because "there are multiple underlying factors which constantly threaten any ongoing homosexual relationship: destruction, mutual defeat, exploitation of the partner and the self, oral-sadistic incorporation, aggressive onslaughts, and attempts to alleviate anxiety -- all comprising a pseudo-solution to the aggressive and libidinal conflicts that dominate and torment the individuals involved." Charles W. Socarides, "Homosexuality -- Basic Concepts and Psychodynamics," 10 Int'l J. Psychiatry 118, 119, 122 (1972). It has since been documented that many homosexual relationships are, except for the sex of the participants and the legal status of the union, indistinguishable from heterosexual marriages. A study of San Francisco bay area gays found that 29% of the men, and almost three-fourths of the women, were currently involved in a stable relationship. Alan Bell & Martin Weinberg,

Homosexualities (New York: Simon and Schuster, 1978), pp. 91, 97. Many of these couples foster the same intimacy, caring, and enduring commitment that are valued in the most successful heterosexual marriages. See Kath Weston, Families We Choose: Lesbians, Gays, Kinship (New York: Columbia University Press, 1991); Letitia Anne Peplau, "Research on Homosexual Couples: An Overview," 8 J. Homosexuality 3 (Winter 1982), and citations in both of these works.

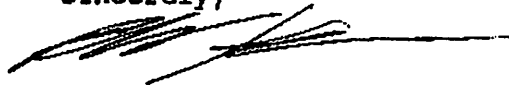
Notwithstanding this evidence, some psychiatrists continue to insist that homosexuality is a disease. Their reasons for thinking so, however, have become increasingly obscure. Consider the murky formulations of Socarides, the most prominent member of the faction of the psychiatric community that still holds the disease view.

Heterosexual object choice is outlined from birth by anatomy and then reinforced by cultural and environmental indoctrination. It is supported by universal human concepts of mating and the traditions of the family unit, together with the complementariness and contrast between the two sexes. Everything from birth to death is designed to perpetuate the male-female combination. This pattern is not only culturally ingrained, but anatomically outlined. The term "anatomically outlined" does not mean that it is instinctual to choose a person of the opposite sex. The human being is a biologically emergent entity derived from evolution, favoring survival.

Charles Socarides, "Homosexuality," in Silvano Arieti, ed., American Handbook of Psychiatry, 2nd. ed. (New York: Basic Books, 1974), v. 3, p. 291; quoted in Bayer, Homosexuality and American Psychiatry, pp. 34-35. The argument seems quite mystical, and it is hard to imagine any empirical evidence that could have any impact on this view. The Commission's conclusion that sectarian religious views are not an appropriate basis for public policymaking is entirely applicable here.

I hope these comments are helpful, and look forward to seeing the final report.

Sincerely,



Andrew Koppelman

**DISCUSSION OF SOME BENEFITS WHICH MAY ACCRUE TO INDIVIDUALS
FROM EXTENDING MARITAL BENEFITS TO DOMESTIC PARTNERS**

A Testimony Before the Commission on Sexual Orientation and the Law

**Moheb Ghali
Retired Professor of Economics, University of Hawaii**

The Commission has heard testimonies by Professor Sumner La Croix and Mr. David Shimabukuro regarding the possible benefits to individuals which may be available should domestic partners be extended rights now available only to married couples. The purpose of my testimony is to clarify some of the points raised in these two testimonies and to point the need for specific information without which the value and the costs of the potential benefits cannot be evaluated. I will attempt as much as possible to indicate which areas are worth pursuing, and the data that would be required.

Underlying much of what follows is a concept on which all economists agree: in any redistributive economic policy corresponding to each benefit extended there is a cost of equal or greater magnitude. This is so because as long as we are dealing with distribution not production in an economic environment with resource constraints, benefit to an individual is a cost to another. Had there been free benefits, there would be no point of policy decisions. The cost will thus be at least equal to the benefit. I say at least because the implementation of the policy and the administration of the benefit transfer will require some resources which some may call bureaucratic cost, administrative costs, or deadweight loss, but by whatever name, they are additional costs.

These cost should not mean that redistributive policies are inherently bad. In some instances there are overarching social objectives which justify the additional costs. Realizing this places an added importance on the need for precise definitions and accurate measurements of the benefits, as we know the cost will be at least that much, and that this is the information which policy makers need if they are to properly discharge their responsibilities.

I will confine my remarks to the benefits discussed in those testimonies, however, I will be happy to provide further remarks which may help the Commission in its deliberations on any other potential benefits which may be brought before you.

1. Benefits from Marriage with a Small Expected Value

Economists and statisticians use a concept "expected value" to measure the value of a future benefit which an individual may or may not receive. The expected value of a benefit is the economic value of the benefit multiplied by the probability that the individual will actually get that benefit. Thus if there is very small probability, say 1 in a 1000 chance,

that I will take advantage of a particular benefit, say waiver of the nonresident tuition differential at the UH, and that differential is \$1,500, the expected value of that benefit to me is only \$1.50 ($\$1,500 \times .001$). If taking advantage of the benefit will occur in the future, say 5 years hence, economists apply a discount to the expected value of the benefit. For example, if the nonresident tuition waiver may be used five years hence, the \$1.50 needs to be discounted (say at 10% interest rate), yielding a present value of the 96 cents. Because, many of the benefits listed by Professor La Croix under this heading have very small probabilities of being used, as he correctly points out, the expected value of each benefit is small, and the sum of the discounted expected values of this group of benefits is likely to be small. While it is possible to collect data to measure the discounted expected values of these benefits, I do not believe the magnitude of the benefits is sufficient to justify the cost of the data acquisition.

2. One time only Benefits from Marriage.

One can ensure that assets are efficiently transmitted to beneficiaries at death by having a simple will, for which one can use the very inexpensive simple forms available in stationary stores. If one needs to establish a trust, it must be for other reasons, and those reasons apply to people regardless of their marital status. Durable powers of attorney do not require marital status, one need not be related to an individual to grant that individual a durable powers of attorney. The only case I can think of where marital status confer a benefit, is dying without a valid will. Under these conditions a spouse would be treated differently from a domestic partner. But the remedy is currently available and is very inexpensive: a simple will. I do not believe that data or measurement are warranted for this category of potential benefits.

3. Retirement Health Insurance Benefits:

Currently spouses are covered by the retiring spouse's medical insurance, a benefit which is not available to non-spouses. The value of the benefits to a "spouse" is calculated by Professor La Croix at \$1,464 for a medical insurance and \$533.20 for Medicare Part B policy. The total is \$1,997.20 per person annually. What I would like to point out is that the benefits to one person are costs to someone else, and that cost considerations must be introduced in the discussion. The Health Fund, or the private employer will face increased costs of almost \$2,000 per eligible person. It is crucial to collect data in order to calculate the estimated fiscal impact on the ERS and the Health Fund, for an informed decision on the potential cost of extending the coverage to non-married couples depends on the costs as well as the benefits. It is also important to evaluate whether a general increase in employee contributions will be required or will the additional cost be covered by State tax revenues. Data from the ERS on the average (say over 10 years) annual cost of spousal medical coverage, as well as an estimate of the number of domestic partners who are expected to benefit are needed. These data are indispensable to reaching an informed decision.

4. Retirement Pension Benefits:

Professor La Croix lists the three options offered to the retiree by ERS. However, he does not consider in his discussion Option 1, rather he concentrates his analysis on the other two options. All three options have the same expected value. Option 1: receiving a lump-sum payment is available to all retirees. Choosing that option, one can buy an annuity from a private sector insurance company and designate any beneficiary one chooses. If the rate of return in the private sector is higher than in the ERS, one can actually get a better income stream doing that.

Now regarding Options 2 and 3, the ERS uses the term "designated beneficiary" not spouse. As Mr. Shimabukuro pointed out in his testimony, a domestic partner, or anyone else, can be the designated as the beneficiary under these options, under the existing ERS definitions. Thus there are no additional benefits to be realized in the pension plan.

5. Health Insurance:

If it is true, as Professor La Croix states, that most of the couples who are domestic partners in Hawaii are working, and thus, each individual is covered by health insurance, there is no problem to be solved. It is possible that one of the domestic partners will not be working and thus will have no health coverage unless the other domestic partner purchases it.

For a number of years economists have studied the problem of the allocation of time within a family, including the division of labor between the spouses. Economists consider a spouse's decision to work at home rather than enter the labor force as an economic decision made by the family, hopefully rationally, realizing the implications regarding loss of income, benefits of not working, tax implications, as well as health coverage, social security and other taxes, and retirement benefits. Considering the costs of non-participation in the labor market and the economic value to the family of the non-market work at home, a spouse will work at home if the expected gain exceeds the costs, and that cost includes purchase of the additional health insurance coverage. True, providing health coverage for non-working spouses but not for non-working domestic partners makes the cost of staying home higher by \$1,251.48 for the domestic partner than the cost of staying home for the spouse. It is unlikely, however, that compared to the forgone income from employment that the \$1,251.48 is the determining factor in the choice of whether or not to work. Economists agree that government subsidies distort market prices and resource allocation, thus a subsidy to non-working spouses affects the efficiency of resource allocation. But economists also agree (in what is called theory of the second-best) that two wrongs do not make a right: balancing a subsidy to one group by a subsidy to another can increase the inefficiency in resource allocation.

Finally, if for the sake of equity, rather than efficiency in resource allocation, one is willing to subsidize the choice of a domestic partner to stay home rather than work, someone will

have to pay that extra \$1,251.48 so that the benefits can be extended. Again, the benefits to a group must be balanced against the cost of an identical magnitude (assuming no administrative costs) to another group. That balancing is a political decision. However, the politicians will need data on the possible magnitude of this subsidy, and the alternate sources for its financing if they are to make informed decisions. Here data are needed on the number of domestic partners who do not participate in the labor market, and an analysis of the alternative ways of funding the coverage.

6. Major Tax Considerations:

The Federal tax code's differential treatment of married and single individuals applies, as Professor La Croix points out, both ways: it gives an advantage for married couples with highly unequal incomes and penalizes a married couple with equal incomes. It is not clear, however that domestic partners will gain as a group if they get "married". Unless data show that most or all same-sex couples are of the unequal income category, there is no reason to assume a general benefit. Data on the distribution of incomes of domestic partners are needed for a conclusion to be reached regarding the potential impact of the Federal tax code. Legal analyses are needed to determine if the Federal tax filing status of domestic couples would change as a result of State action.

The advantage of deferring the transfer tax on estates valued at over \$600,000 can be accomplished by anyone through the creation of trusts. One does not even need to establish a trust to defer the payment of estate taxes when the first partner dies. If property (real estate and financial and personal assets) are all held by the partners as joint tenants, there will be no transfer at the death of one of the partners. After the death of the surviving partner, the tax liability occurs: but that is the same as would happen to a married couple) If one's choice is not to hold assets in joint tenancy, one can then establish trusts. That too holds for married couples.

7. Death Benefits:

Under the current ERS rules, as Mr. Shimabukuro testified, the benefits payable upon the death in-service of an employee are available only to the surviving spouse (until re-married) and the dependent children (under age 18) if the employee was under the noncontributory plan. If the member was under the contributory plan, the beneficiary, who can be a non-spouse would get the ordinary death benefits, and if the death was accidental, the beneficiary also gets the members accumulated contributions. The only benefit exclusive to spouses under the contributory plan is an additional pension.

Data on the number of cases of in-service death as a percent of the total active membership over the past five years would give a reasonable estimate of the probability of the death benefits. The average payment per case of in service death over the past five years would be a reasonable estimate of the benefit value. Both of these data should be

easily available from the ERS. The benefit value multiplied by the probability would yield the expected value of the death benefits. This figure, the expected value of death benefits to survivors of non-contributory members is needed to measure both the potential benefits and costs of any policy change.

Similarly, the expected value of the exclusive spouse pension under the contributory plan can be calculated to evaluate the potential benefit and cost of policy change.

8. Hawaiian Home Lands Lease

Professor La Croix list as the last of the major benefits the right of a surviving partner to maintain a lease on Hawaiian Home Lands parcel after the death of the Hawaiian partner who held the lease on the parcel. There is a cost to extending this benefit that must be evaluated. As long as there is a shortage of Hawaiian home sites, which may be evidenced by waiting lists, to allow the domestic partner to remain in the Hawaiian Home Lands property, thus saving \$4,812 annually in rent, means that an eligible Hawaiian family is denied that property, and is paying rent elsewhere. To the extent that the Hawaiian family on the waiting list pays a rent higher than the \$4,812 annually (as they are likely to have dependent children in the family), there is an inefficiency in the allocation of resources. Data on the excess demand for Hawaiian Home Lands parcels should be easily available.

To evaluate this potential benefit, one needs to know the frequency of domestic partnerships that occupy Hawaiian Home Lands properties at this time. An opinion survey of Hawaiian community attitude towards granting the rights to domestic partners of Hawaiians in preference to other Hawaiian families would be helpful, as it will ultimately be the Hawaiian Home Lands that will make the decision regarding the extension of this benefit to domestic partners.

Conclusion:

Data are needed only for the benefits discussed above under 3 and 5 (medical), and 7 (death while in service). Much of these data could be by analysis of the historical data of the ERS. A more significant effort would be needed to conduct the opinion survey needed under 8.

HAWAII, TOURISM AND SAME-SEX MARRIAGE

A Testimony Before the Commission on Sexual Orientation and the Law

Moheb Ghali

Retired Professor of Economics, University of Hawaii

I. Introduction

In an article published recently¹ Professor Jennifer G. Brown sets out to prove that there are great financial rewards to the first state that legalizes same-sex marriages. In the third paragraph of the article she states that "The tourism revenue from same-sex marriages could exceed \$4 billion." The \$4 billion figure appears many times throughout the paper, and should, in Professor Brown's opinion, provide a compelling reason for Hawaii to consider the legalization of such marriages.

For Professor Brown's suggestion to be considered the public policy debate on the issue, one needs to examine its merits as a viable economic option. As we show below, the benefit estimated by Brown are groundless and her argument is without merit when viewed as an economic argument.

II. Methodology and the Underlying Model

We begin by discussing a methodological issue important to assessing the value of the estimates provided by Professor Brown. The argument developed in the paper is based on an *underlying economic model* implicit in the calculations of economic impacts she performs. The economic model Professor Brown uses is the most primitive Keynesian type where unemployment and excess capacity are caused solely by insufficiency of effective demand. The notion of the multiplier comes out of the Keynesian demand type model where the structure of the economy is depicted in very few (four or five) equations. Such a device is of not much value in policy discussions. First, the structure of the economy and the interactions between its various sectors are much more complex than can be depicted by such a model². Secondly, the production side of the economy is entirely ignored in such demand sided models. Also ignored in such models are the supply of factors of production and the changes in the supply over time through the regional

¹. This testimony is condensation of a more detailed analysis which is available from the author

mobility of capital and labor.³ All these elements and their interactions, as well as the dynamic structure of the economy do play significant roles in determining the response of economic variables such as personal income, employment and government revenues to a stimulus such as increased tourism. The use of a "multiplier" to calculate the impact of increased tourists expenditures is clearly improper.

It should be noted that, except in naive static models, the multiplier is not instantaneous; the successive rounds of expenditures occur over time. It is not, therefore proper to take the present value and simply multiply it by the "multiplier".

Nor is the impact of tourists' expenditures temporally invariant. The response of the economy to a stimulus of a given magnitude will vary from year to year depending on such factors as the rate of capacity utilization, the unemployment rate, the interest rate and the rate of inflation, among other factors, and these do vary over time.. The structure of the economy itself changes over time making impact predictions beyond a handful of years untenable. Yet Professor Brown uses "the multiplier", a single number which is constant over time, to estimate 20 year effects.

These complexities do not mean that nothing can be done to estimate the impact of increased tourism. Much can and has been done, and specifically for Hawaii. A realistic model which incorporates the dynamic features and the varied interactions and feedbacks in the economy can be constructed and its coefficients estimated (the coefficients need to be re-estimated periodically to capture any structural changes). The model can then be used to simulate the response of the various economic variables to any stimulus or combination of stimuli. A study of this type examining the impact of tourism growth in Hawaii is available, and while it is dated, the methodology is clear and the parameter estimates can be easily updated.⁴

These remarks on the "multiplier" used by Professor Brown to generate the economic impact of the initial tourists' spending apply equally to the use of the other "multipliers" to generate the increase in household wealth, in government revenues⁵ and in jobs listed in Table 5⁶.

Finally, the employment multiplier, an extension of the income multiplier, which converts the additional income into additional "jobs" is not a very useful concept. Even if

one regarded labor as homogeneous, and in reality this assumption is false, the impact of a given expenditure increase on employment will depend, as we pointed out above, on a number of variables such as capacity utilization, the extent of unemployment, the state of technology, the wage rate, not to mention the supply of labor and the factors which influence it.

III. The Residency Requirement

Turning from methodology to one of the assumptions made by Professor Brown, we find that the same-sex couple would travel to the first state that legalizes same-sex marriage and spend 10 days, which Professor Brown recommends that the state imposes as a residency requirement. The possible negative impact of a 10 day residency requirement is dismissed in a cavalier manner in a footnote. It is clear that Professor Brown either underestimates or is unaware of the number of Japanese citizens who visit Hawaii to get married. The effect of imposing a 10 day residency requirement may be losing all of that market. The demand of these tourists is certainly elastic as there are other alternative destinations. Any serious consideration of a residency requirement should closely investigate the potential impact on that market.

IV. Migration As A Possible Outcome

Will the married couple return to their home state? Professor Brown asserts, with great confidence but with no evidence, that "... almost all of the couples who come to the state to wed will return to their home states. Although the legal change may induce some gay and lesbian couples to move permanently to the first-mover state in search of a gay-friendly place, it is likely that couples will take up residence in the first-mover state only if they had employment opportunities there."⁷ This is an assertion about an empirical issue that cannot, because of its potential impact, be taken at face value, rather it deserves serious research. Statements made by Professor Brown elsewhere in the paper in conjunction with a widely accepted economic proposition lead us to the opposite conclusion. The well known economic proposition is due to Professor Charles Tiebout, states that "People vote with their feet." If the freedom of movement is unrestricted, people will select to live in the communities and jurisdictions which best reflect their

preferences. If there is only one state that is "a gay-friendly place" one would expect migration by same-sex couples to that state.

Same-sex couples getting married certainly would have a very strong incentive to move to the first-mover state, as it, by definition, grants them all the rights and benefits of a married couple. These rights need not be recognized upon return to the home state. Many states have a "marriage evasion provision" which invalidates a marriage solemnized in another state if the couple were married in that state specifically to evade the laws of their home state. Confronted with the numerous benefits the same-sex couple are entitled to under the laws of Hawaii and the almost certainty that their home state will neither recognize their marriage nor grant them the rights and benefits, same-sex couples voting with their feet is the likely outcome given their mobility.

Should migration of same-sex couples to Hawaii occur, what would be the impact? According to Professor Brown estimation there will be 140,250 marriages in each of the first five years and 25,500 marriages per year thereafter. If we assume that only one fourth of the couples who get married will choose to migrate to Hawaii, certainly not an unreasonable assumption in view of the expected benefits, we can expect 35,000 couples or 70,000 individuals to be added to Hawaii's population in each of the first five years, and 12,570 each year thereafter. The impact on housing, infrastructure such as utilities and roads, labor markets and government services can be quite large.

V. The Four Billion Dollars Question

Returning to the \$4 billion: is it true that "Four billion dollars rest on the table, waiting for one of the players to seize the prize." ?⁸ At this point we need to recall our initial discussion of the underlying economic model. The model assumes the existence of unemployment and excess capacity for the increased demand to generate increased real income and employment, otherwise only inflation, or as happened in the 1980's "stagflation" would result. It is therefore crucial to consider whether the \$4 billion represents an increase in real income, that is output, and whether the employment increases predicted by Professor Brown will occur.

First, it is necessary to keep in mind that the \$4 billion is the present value of a stream of income spread over 20 years. As such, the \$4 billion calculation requires that

the conditions of "Keynesian type deficiency in effective demand" persist over that 20 year period. Professor Brown cites evidence of excess capacity in hotels (a decline of 2% in occupancy rates in 1993, although she also cites an increase in room rates of 3% for the past three years), and a corresponding decline in luxury hotel values as evidence of deficiency in demand. She gives the sluggishness of the Japanese and the United States economies, and the attraction of other travel destinations as the reasons for the excess capacity⁹. Neither of these are expected to last for twenty years. Even if they did, the market adjustment to asset prices will after a period of time clear the excess capacity. It is very likely that the asset market adjustment period is considerably less than 20 years.

Secondly, even if the excess capacity in hotel rooms were to persist (and I do not believe it will), hotel rooms are not the only input in the production of tourists services. No evidence is given by Professor Brown of excess supply of labor in the services sector, nor that if such surplus currently exists will persist for 20 years. Infrastructure is also an input in the production of tourist services. There is strong evidence that the current stock of capital in infrastructure, such as roads, is fully utilized. Had hotel rooms been the only input required in the production of tourist services, or had the various inputs been fully substitutable, Professor Brown's argument would be viable if one can document the persistence of excess capacity for twenty years into the future. As it is, the limitations on the supply of any one or a group, of the inputs needed to produce tourists services during any portion of the 20 years makes the calculations of income and employment increases on the basis of a Keynesian model irrelevant.

VI. Conclusions

Where does this leave the \$4 billion? We did not discuss Professor Brown's assumptions regarding the number of gay men and lesbians in the United states, regarding the percentage of those who would choose to travel to Hawaii for marriage. Nor did we discuss the assumption regarding the \$6,000 expenditures per wedding¹⁰¹¹. We did not discuss those assumptions because if the underlying model used to generate the results is not valid, assumptions about initial expenditures are irrelevant, and the simple calculations provided are groundless. Professor Brown has chosen to present her argument as an economic proposition. We treated it as such and found it has no merit.

¹ Jennifer Gerarda Brown, "Competitive Federalism And the Legislative Incentives to Recognize Same-Sex Marriage," *Southern California Law Review*, Vol. 68, No. 4, (1995), pp. 745-839.

² See for example Moheb Ghali and Bertrand Renaud, *The Structure and Dynamic Properties of a Regional Economy*, Lexington Books, D.C. Heath and Company, Lexington, Toronto, London, 1975.

³ For the role of supply in regional growth see Moheb Ghali, M. Akiyama and J. Fujiwara, "Models of Regional Growth, An Empirical Evaluation," *Regional Science and Urban Economics*, 11(1981) pp. 175-190, North Holland. For the effects of factor mobility on regional growth see Moheb Ghali, M. Akiyama, and J. Fujiwara, "Factor Mobility and Regional Growth," *The Review of Economics and Statistics*, LX, No., (1978), pp. 78-84), Harvard University.

⁴ See Moheb Ghali, ed., *Tourism and Regional Growth*, Studies in Applied Regional Science, Vol. 11, Martinus Nijhoff Social Sciences Division, Leiden, 1977.

⁵ Furthermore, because the naive nature of the model underlying the calculations it is not clear whether some of these items are additive. Is the increase in government tax revenue a part of the increased income or is it in addition? That is, is the increase in income increase in personal income, gross output or disposable income. Is the increase in household wealth in addition to the increase in income? By what mechanism is this wealth created: appreciation of property? savings? or is it the present value of the stream of incomes to the households?

⁶ Note that the figure Brown uses for "the multiplier" is based on a 1983 study using 1970-1980 data. Although the footnote to the table from which the figure is derived (Table 211 State of Hawaii Data Book) states that the figures have been revised, no reference or documentation for the revisions are provided.

⁷ Brown, p.815.

⁸ Brown, p.836.

⁹ Brown also cites the potential military base closings as a future possible negative impact. Most military personnel stationed in Hawaii live on the base or in private residential areas. Many shop in the military exchange stores. Those who are visitors are likely to stay in the Hale Koa, a military hotel in a prime Waikiki location and with very low room prices.

¹⁰ Professor Brown is willing to entertain the possibility that: "If the \$6,000 assumption seems inflated, the impact of an even more conservative assumption can be easily calculated. Assuming that same-sex weddings would generate only one-half as much tourism revenue (\$3,000 per wedding) simply halves the impact on the state economy: Legalizing same-sex marriage would still generate two billion dollars in tourism...."

¹¹ Brown, p.776. A glaring example of careless calculations producing meaningless numbers is given in her Table 6. The revenues and wealth and jobs calculated using Hawaii's tourist expenditures, length of stay, "multiplier" "government revenue multiplier, and employment multiplier are assumed to hold for states as diverse as Nevada, Vermont and California.

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November 7, 1995

Commission on Sexual Orientation and the Law
State of Hawaii

RE: Testimony for Wednesday, November 8, 1995

Members of the Commission:

I must begin with a formal complaint regarding the distance I traveled in order to attend the hearing, and the expense involved. We on the Neighbor Islands have not been given equal access to, nor equal voice in, these hearings which could ultimately affect us.

I have come from Pahoa on the Big Island. I am the mother of three and the grandmother of two, and have lived on the Big Island for ten years. Last year I served on the Pahoa High and Intermediate School SCBM as a representative, and will address you today regarding an issue in Pahoa which is germane to sexual orientation-based public policy and relevant to the commission.

In December 1993 Tom Aitken, seventh and eighth grade counselor at Pahoa School, wrote in *Island Lifestyles*, a local monthly magazine for the homosexual community, "I am a DOE counselor. I have organized a Project 10 . . . in my school." "Project 10" is an advocacy and promotional tool for "gay" counselors in our schools to draw students into a homosexual social and political identity without their parents' involvement, knowledge or consent.

Project 10 was brought to remote Pahoa through the "back door," unbeknown to parents, community and district and state school administrators. At the time of Mr. Aitken's *Island Lifestyles* letter neither the parents, the community, the Hawaii State Board of Education nor the Department of Education were aware of the program's existence. Parents learned later that Pahoa Project 10 had been implemented a full year earlier by unilateral approval from the school principal as a suicide prevention program.

The philosophy of Project 10 as stated in its curriculum is based on the belief that homosexual thoughts, feelings, fantasies and behavior make one a homosexual, and that if an individual is a homosexual, he is "gay" politically and socially. It characterizes the Project 10 counselor, preferably a homosexual, as non-directive in his guidance. It addresses the problems of suicide, alcohol, drug abuse, and school drop out with the need to "reinforce" the student's "gay" identity.

The project 10 package included:

- ▶ Developmental services which support "gay affirmative goals" (Project 10 Handbook) mandating that homosexuality be presented as equally desirable with heterosexuality irrespective of parents' and students' beliefs.
- ▶ A "coming out of the closet" process, creating an us vs. them mentality facilitated by a "gay" school counselor and initially confidential from parents.
- ▶ Referral of students without parental knowledge to "gay" community groups whose sexual standards are permissive.

Excerpt from the Minutes of November 8, 1995, Testimony of Diane Sutton, Pages T-86 and T-87.

Parental and community disapproval of the Project 10 program in Pahoa last year resulted in its suspension and deference to School-Community Based Management. As SCBM representative I am often asked questions on the program's status, and my answer is that Project 10 is dormant, not dead.

How can it be, people ask, after two hearings documenting parental and community opposition to Project 10, that there is risk of reimplementaion? Gay activists' tenacious efforts to resuscitate it combined with administrators' obfuscation and hesitancy to challenge it could result in its reimplementaion regardless of public sentiment.

On October 11 this year Mr. Aitken celebrated "gay coming out day" by placing one of these pink triangles in each teacher's box at Pahoa School. It reads, "I will educate myself on the diversity of sexualities, in order to better understand differences and similarities among straights, lesbians, bisexuals, gays, transgenders, transexuals, crossdressers, and drag queens. I will not tolerate put downs based on sexuality (fag, lezie, etc.) and will pursue infractions with the same zeal as racist slurs." At least one teacher displayed it on the classroom wall.

Pahoa Project 10's link to your task of examining public policy effects of extending marriage benefits to same-sex couples in Hawaii could be summarized as the domino effect. We would be remiss to look the other way and deny that the concern I've presented to you has bearing on your work here today.

On the subject of teen suicide, nationally known expert Dr. Charles Socarides, clinical professor of psychiatry at Albert Einstein College of Medicine who has treated more than a thousand clients involved in homosexuality wrote that suicides of "homosexual youth" are not the result of society's hostile environment, as the world is more accepting of homosexuals than it ever was.

He states, "Kids can't come to terms with themselves. They can't stop this unnatural behavior. They wish someone would help them, and they despair of this. They know it is against the biological realities of life."

In a letter printed in the Honolulu Advertiser on August 10, 1994, Mr. Floyd Shaw wrote, "I have been in the gay community for over 35 years . . . let us clarify this suicide matter. I have had two of my best friends (brothers) kill themselves because they were gay. They did not commit suicide because they were not accepted - we all loved them. They killed themselves, as others may do, because they did not want to be gay and felt they had no alternative. Of course they do!"

I argue on the civil grounds that parents are mandated by state law to send their children to public school. Legal sanctioning of same-sex marriage would most certainly result in endorsement of school programs which without parental involvement have the purpose or effect of encouraging or supporting homosexuality as a positive lifestyle alternative, programs which our community is already on record as not supporting.

Respectfully,

Diane Sutton

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November 9, 1995

Chairman and All Commissioners,
Commission on Sexual Orientation and the Law
State of Hawaii

Dear Chairman Gill,

RE: Discriminatory and inappropriate treatment by commissioners during the presentation of my testimony at the November 8, 1995 meeting

One purpose of Hawaii State Commission on Sexual Orientation and the Law as stated includes discussion of "substantial public policy reasons to extend or not to extend (major legal and economic benefits extended to married opposite-sex couples) . . . to same-sex couples," which, as an invited guest, I flew from the Big Island on November 8 to address.

During my testimony (approximately seven minutes long) I was interrupted at least three times by a commissioner, and at one point called a liar. These repeated and hostile interruptions resulted in my unintended omission of one entire paragraph of spoken testimony, having the outcome of effectively silencing me and obstructing my speech.

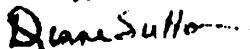
Rude interruptions and verbal assaults from the commission as I and others were attempting to speak rendered it clear that the commission is stacked with individuals who have already made up their minds and are committed to promotion of a pro-homosexual rights political agenda.

When at one point in my testimony I was literally stopped from speaking due to harassment by Commissioner Morgan Britt, you stated in an attempt to restore order that there is a wide range of opinions and convictions on the subject.

However, my treatment, and behavior by a large majority of the commissioners toward other speakers who followed me that day, revealed that the subject is really not open to consideration. In a supposedly free environment I found the one-sided and unbalanced promotion of a single viewpoint and ridicule to those not in agreement extremely disturbing.

Responsible individuals with balancing views should have been appointed to this important commission to ensure proper balance and adherence to guidelines. Incidents like the above described clearly show a breakdown in the character and legitimacy of this commission and discredit its work.

Sincerely,



Diane Sutton

Cc: All Commission on Sexual Orientation and the Law Members
Governor Ben Cayetano
Representative Joseph M. Souki, Speaker of the House of Representatives, State of Hawaii
Senator Norman Mizuguchi, President of the Senate, State of Hawaii

Letter to Commission from Diane Sutton, dated November 9, 1995.

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