

# Discrimination Based on Sexual Orientation and Gender Identity in Wyoming



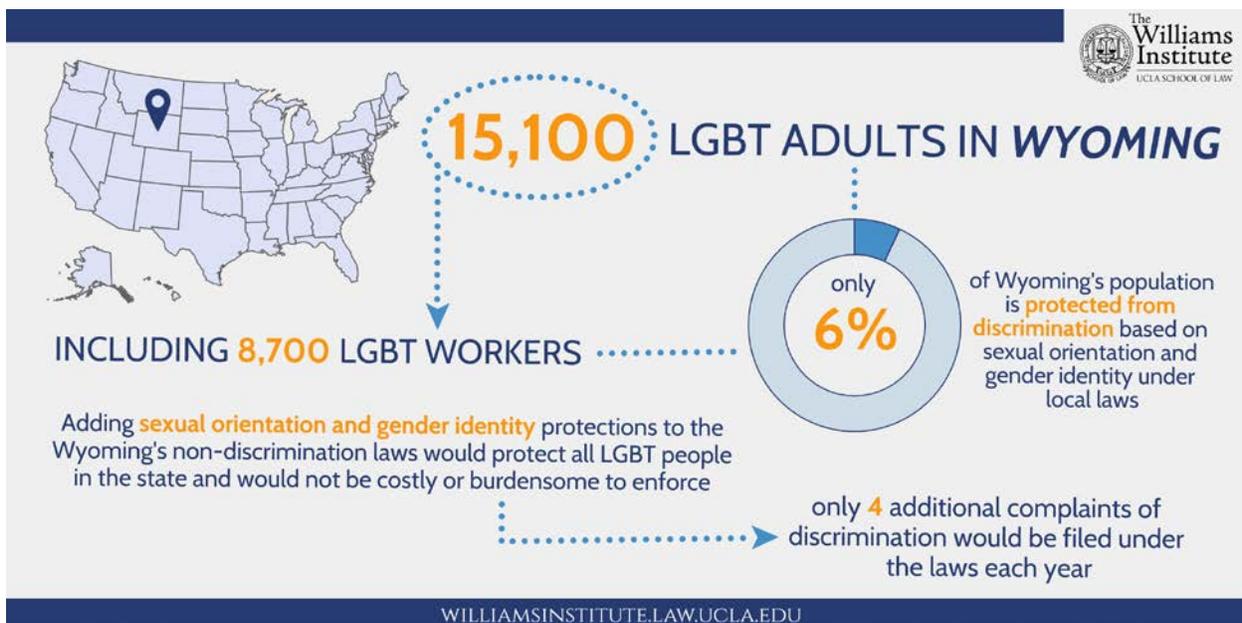
Christy Mallory and Brad Sears

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## Executive Summary

Over 4% of American adults identify as LGBT. Approximately 15,100 LGBT adults live in Wyoming. Wyoming does not have a statewide law that expressly prohibits discrimination based on sexual orientation or gender identity.

This report summarizes evidence of sexual orientation and gender identity discrimination in Wyoming, explains the current protections from sexual orientation and gender identity discrimination in the state, and estimates the administrative impact of adding sexual orientation and gender identity to the state's existing non-discrimination laws.



## Key findings of this report include:

### *LGBT People in Wyoming Report Experiencing Discrimination and Harassment in Employment, Housing, Public Accommodations, and Other Settings*

- An estimated 15,100 LGBT adults live in Wyoming. There are nearly 8,700 LGBT people aged 16 and older in Wyoming's workforce.<sup>1</sup>
- Survey data indicate that discrimination against LGBT people occurs in Wyoming. In response to one recent survey of LGBT people in Wyoming, more than one third of respondents reported that they had experienced workplace harassment and one quarter said they had experienced employment discrimination because of their sexual orientation or gender identity.<sup>2</sup> Another survey of LGB people in Wyoming found that 29% of respondents reported that they had been discriminated against in employment opportunities; 20% reported that they had been terminated from a job; and 17% reported they had experienced housing discrimination because of their sexual orientation.<sup>3</sup>
- In addition, aggregated data from two large public opinion polls conducted between 2011 and 2013 found that 78% of Wyoming residents thought that LGBT people experienced discrimination in the state.<sup>4</sup> Another public opinion poll conducted in 2016 found that 56% of Wyoming residents thought that gay and lesbian people experienced a lot of discrimination in the U.S. and 55% of Wyoming residents thought that transgender people experienced a lot of discrimination in the U.S.<sup>5</sup>
- National survey data on discrimination against LGBT people are consistent with data from Wyoming. For example, a national survey of LGBT people conducted by Pew Research Center in 2013 found that 21% of respondents said that they had been treated unfairly by an employer in hiring, pay, or promotions and 23% had received poor service at a restaurant, hotel, or other place of business because of their sexual orientation or gender identity.<sup>6</sup>
- When transgender people are surveyed separately, they report similar or higher levels of discrimination. For example, the 2015 U.S. Transgender Survey, the largest survey of transgender and gender non-conforming people in the U.S. to date, found that 27% of respondents reported being fired, denied a promotion, or not being hired for a job they applied for in the year prior to the survey because of their gender identity; 23% of respondents reported experiencing some form of housing discrimination in the year prior to the survey because of their gender identity; and 31% reported experiencing some form of mistreatment in a place of public accommodation in the year prior to the survey because of their gender identity.<sup>7</sup>
- Reports of discrimination based on sexual orientation and gender identity in Wyoming have also been documented in administrative complaints, lawsuits, reports to community-based organizations, and the media.

### *LGBT People in Wyoming Experience Socioeconomic Disparities*

- Research has linked greater socioeconomic disparities for LGBT people to region, a lack of legal protections from discrimination, and less supportive social attitudes toward LGBT people. Data indicate that LGBT people in Wyoming experience socioeconomic disparities compared to their

non-LGBT counterparts. Nearly one-third of LGBT adults (32%) in Wyoming reported having an annual household income below \$24,000 compared to 18% of non-LGBT adults.

### ***Local Governments, Private Employers, and Public Universities in Wyoming Have Made Efforts to Protect LGBT People from Discrimination and Harassment, but Coverage Is Incomplete***

- Laramie is the only locality in Wyoming with a broad local ordinance that prohibits discrimination based on sexual orientation and gender identity in employment, housing, and public accommodations. Two other localities, Cheyenne and Jackson, have policies that prohibit discrimination based on sexual orientation or gender identity against their own city government employees.
- Laramie's non-discrimination ordinance protects approximately 6% of Wyoming's adult population and workforce from discrimination based on sexual orientation or gender identity.
- At least four of the large private sector employers in Wyoming – Halliburton, Rio Tinto Energy, Lowe's, and Walmart – prohibit discrimination on the basis of sexual orientation or gender identity. In addition, the University of Wyoming prohibits employment discrimination based on sexual orientation and gender identity.

### ***Public Opinion in Wyoming Supports the Passage of Non-Discrimination Protections for LGBT People***

- In response to a statewide poll conducted in 2014, 62% of respondents said that they were in favor of adding sexual orientation and gender identity to the Wyoming's employment non-discrimination law.<sup>8</sup>
- In response to a national poll conducted in 2011, 69% of those polled in Wyoming said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.<sup>9</sup>

### ***A Statewide Law Prohibiting Discrimination Based on Sexual Orientation and Gender Identity in Wyoming Would Not Be Administratively Burdensome or Costly to Enforce***

- Adding sexual orientation and gender identity to the state's non-discrimination law would result in approximately four additional complaints being filed with the Wyoming Department of Workforce Services each year.
- The additional four complaints of discrimination could likely be absorbed into the existing system with no need for additional staff and negligible costs.

## Evidence of Discrimination

### *Survey Data and Reports of Sexual Orientation and Gender Identity Discrimination in Wyoming*

Research shows the existence of widespread and continuing discrimination against LGBT people in the U.S. In response to surveys, LGBT people consistently report having experienced discrimination in employment, housing, public accommodations, and other areas. For example, in response to a national survey of LGBT people conducted by the Pew Research Center in 2013, 21% of those surveyed said that they had been treated unfairly by an employer in hiring, pay, or promotions, and 23% said that they had received poor service at a restaurant, hotel, or other place of business because of their sexual orientation or gender identity.<sup>10</sup> Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians reported that they had experienced workplace harassment in the last five years and 12% had lost a job because of their sexual orientation.<sup>11</sup>

When transgender people are surveyed separately, they report similar or higher levels of discrimination. For example, in response to the 2015 U.S. Transgender Survey, 27% of respondents reported being fired, denied a promotion, or not being hired for a job they applied for in the year prior to the survey because of their gender identity, and 15% reported being verbally, physically, or sexually harassed at work in the year prior to the survey because of their gender identity.<sup>12</sup> In addition, 23% of respondents reported experiencing some form of housing discrimination in the year prior to the survey because of their gender identity, and 31% of respondents who said that staff at a place of public accommodation knew or thought they were transgender had a negative experience while obtaining goods or services in the year prior to the survey.<sup>13</sup>

Discrimination has also been reported in surveys of LGBT people in Wyoming. In response to a 2014 survey of LGBT people in Wyoming, more than one third of respondents reported that they had experienced workplace harassment and one quarter said they had experienced employment discrimination because of their sexual orientation or gender identity.<sup>14</sup> Additionally, 2006 study based on a survey of LGB people in Wyoming found that 29% of respondents reported that they had been discriminated against in employment opportunities; 20% said they had been terminated from a job; and 17% said they had experienced housing discrimination because of their sexual orientation.<sup>15</sup>

In addition, public opinion polls indicate that people in Wyoming, both LGBT and non-LGBT, think LGBT people experience discrimination. Aggregated data from two large public opinion polls conducted between 2011 and 2013 found that 78% of Wyoming residents thought that LGBT people experienced discrimination in the state.<sup>16</sup> Another public opinion poll conducted in 2016 found that 56% of Wyoming residents thought that gay and lesbian people experienced a lot of discrimination in the U.S. and 55% of Wyoming residents thought that transgender people experienced a lot of discrimination in the U.S.<sup>17</sup>

Reports of discrimination against LGBT people in the U.S. have also been documented in court cases, state and local administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. Additionally, a number of federal, state, and local

administrative agencies and legislative bodies have acknowledged that LGBT people have faced widespread discrimination.<sup>18</sup>

Documented reports of discrimination against LGBT people in Wyoming include:

- In 2015, the Administrator of the Wyoming Department of Workforce Services reported that the Department had received 40 complaints of discrimination based on sexual orientation in the prior four-year period, even though state law does not prohibit such discrimination. According to the Administrator, the complaints included allegations of serious violence and abuse by co-workers, including one instance in which co-workers “placed human excrement in complainants’ lockers and lunchboxes,” and “one complainant alleged he was tied naked to the front of a pickup and then his co-workers played “chicken” with that pickup.”<sup>19</sup>
- In 2015, a recent graduate of the University of Wyoming stated in testimony before a state legislative committee that he planned to leave the state if lawmakers did not pass non-discrimination protections for LGBT people. He stated that his “ability to live and work in Wyoming is hindered” because he is gay.<sup>20</sup>
- In 2014, a municipal judge in Wyoming refused to perform marriages for same-sex couples as part of her official duties. The Wyoming Commission on Judicial Conduct and Ethics issued a recommendation that she be removed from office and she was suspended. The judge filed a challenge to the recommendation in the Wyoming Supreme Court.<sup>21</sup> The court did not accept the Commission’s recommendation for removal, but ordered that the judge must either perform marriages for same-sex couples in her judicial capacity or cease performing all marriages.<sup>22</sup>
- In 2012, a former employee of a food service company in Casper reported to the media that he had been fired when a new manager discovered that he was gay.<sup>23</sup>
- In 2012, employees of a bar in Cheyenne posted a sign in a window of the bar that read: “No same sex couples may participate in our Wednesday night promotion!!” After a negative reaction from the public, the bar staff explained that the sign “does not discriminate against anyone” and was intended “to avoid having relatives or friends pretend to be gay to get drinks [on couples’ night].” The bar took the sign down approximately two weeks after it was posted.<sup>24</sup>
- In 2006, two female school administrators filed a lawsuit alleging that they had been terminated after a student complained that they had been seen holding hands while shopping.<sup>25</sup> The women stated that after the incident, the superintendent spoke to them about the allegations, telling them that he “knew all about” them. During the following year, the school underwent a reorganization and both of their positions were eliminated. The women then applied to several job openings but were not selected for any of them. They filed suit alleging that they had been discriminated against based on sexual orientation in violation of their equal protection rights. Following a trial, the jury found that the school superintendent had unconstitutionally

discriminated against the women, awarding them \$160,515 in damages. On appeal, the Tenth Circuit held that the superintendent was not the final policymaker for the district and, therefore, the district could not be liable for his actions. The court further concluded that in 2003, discrimination on the basis of sexual orientation was not clearly established to be unconstitutional and, therefore, qualified immunity protected the superintendent from personal liability.<sup>26</sup>

- In 2002, an employee of an industrial fabrication company in Wyoming filed a lawsuit against his employer alleging that his male supervisor discriminated against him based on sex stereotypes in violation of Title VII of the Civil Rights Act of 1964.<sup>27</sup> According to the employee, the supervisor referred to him by derogatory names for gay men, spoke to him using sexually charged language, and rubbed his genitals on the employee.<sup>28</sup> The district court found that the employee did not provide enough evidence to show that the supervisor discriminated against him because he failed to act sufficiently masculine or conform to other sex stereotypes.<sup>29</sup> The court granted summary judgment on the employee's Title VII claim, among other claims, but allowed a tort claim to proceed.<sup>30</sup>
- In 2000, a state government employee filed a lawsuit alleging that her supervisor had harassed her because he perceived her to be a lesbian. The employee argued in the suit that harassment based on her perceived sexual orientation constituted sex discrimination under Title VII of the Civil Rights Act of 1964. The Wyoming district court granted summary judgment to the state agency on the employee's Title VII claim, holding that "[s]exual orientation is conspicuously and intentionally absent from the list of protected categories under Title VII," and that "[r]ecasting allegations of homophobia as 'sex stereotyping' does not of itself bring the action under the purview of the Civil Rights Act."<sup>31</sup> The employee appealed several of the District Court's rulings on her other claims, but did not appeal the court's decision on the Title VII claim.<sup>32</sup>

Anecdotal reports suggest that LGBT people in Wyoming tend to be private about their sexual orientation, in part, out of fear of violence or discrimination. As one *Time Magazine* article reported, a gay man who relocated to Wyoming with his same-sex partner "'didn't expect that people in Wyoming would be as closeted as they are'. . . . One reason is that gay bashings still occur. Not long ago, [the man reported], a gay couple w[as] assaulted in a bar in a rural part of Wyoming. One of the victims had to see a doctor for bruised ribs and cartilage damage. But the men didn't file a police report. 'I suspect it has to do with them not wanting to out themselves to the police . . . They were embarrassed to say they were gay.'"<sup>33</sup> The author also "met a lesbian couple who have lived in the same Casper home for 21 years and yet have never spoken openly with the neighbors about their love for each other. Instead, they let people think they are just roommates." According to the reporter, "Wyoming has constructed an entire culture around the fraught military concept known as 'Don't ask, don't tell.' Nearly every Wyomingite I met used that phrase, or a version of it, with respect to homosexuality. 'People have an open mind but a closed mouth here,' said former Senator Simpson".<sup>34</sup>

## **Socioeconomic Disparities for LGBT People**

Research has found that gay men and transgender people experience wage gaps,<sup>35</sup> and has found an association between lower earnings and lack of state-level protections from discrimination for LGBT people.<sup>36</sup> Research also indicates that LGBT people, in general, are disproportionately poor,<sup>37</sup> and that social climate and policy are linked determinants of poverty among LGBT communities.<sup>38</sup>

For example, a 2014 analysis conducted by the Williams Institute using data from the Gallup Daily Tracking poll linked greater socioeconomic disparities for LGBT people to region, a lack of legal protections, and less supportive social attitudes toward LGBT people.<sup>39</sup> The analysis found that LGBT people face greater social and economic disparities in states without statewide laws prohibiting sexual orientation discrimination, and in regions of the country, such as the Mountain region, with a poorer social climate for LGBT people.<sup>40</sup>

Data collected through the Gallup Daily Tracking poll (2012-2017) indicate that LGBT people in Wyoming experience socioeconomic disparities compared to their non-LGBT counterparts. Nearly one-third of LGBT adults (32%) Wyoming reported having an annual household income below \$24,000 compared to 18% of non-LGBT adults.<sup>41</sup>

## **Current Protections from Discrimination**

Wyoming does not include sexual orientation or gender identity in its statewide non-discrimination laws.<sup>42</sup> In 2015, a bill was introduced in the Wyoming Legislature that would have added sexual orientation and gender identity to the list of personal characteristics protected from discrimination in various areas including employment, public accommodations, education, health care, and jury service.<sup>43</sup> The bill passed the Senate but failed in the House.<sup>44</sup> Similar bills have been introduced in previous sessions.<sup>45</sup>

One locality in Wyoming, Laramie, has adopted a broad local ordinance that prohibits discrimination based on sexual orientation and gender identity in employment, housing, and public accommodations. Two other localities, Cheyenne and Jackson, prohibit discrimination based on sexual orientation and gender identity in city government employment. In addition, several universities and private corporations in Wyoming have adopted internal policies that prohibit discrimination based on sexual orientation and gender identity in employment and education.

### ***Statewide Non-Discrimination Laws in Wyoming***

State laws in Wyoming prohibit discrimination based on personal characteristics in employment, public accommodations, and other areas such as education and health care. There is no law prohibiting housing discrimination in the state.

The Wyoming Fair Employment Practices Act prohibits employment discrimination based on race, sex, national origin, age, disability, religion, ancestry, and pregnancy.<sup>46</sup> The law applies to public and private sector employers with two or more employees.<sup>47</sup> The Wyoming Department of Workforce Services enforces the Fair Employment Practices Act.<sup>48</sup> The Department has the power to “process, investigate, mediate and render decisions on complaints of employment discrimination and claims for wages.”<sup>49</sup> An employee must file a complaint with the Department within 90 days of when the discriminatory practice occurred.<sup>50</sup> In cases where discrimination is found, the Department may provide remedies to the complainant including hiring or reinstatement, back pay, and other relief that the Department finds appropriate.<sup>51</sup>

Wyoming law also prohibits discrimination in public accommodations on the basis of race, sex, national origin, and religion.<sup>52</sup> The public accommodations non-discrimination provisions are not privately enforceable. Those who violate the law may be charged with a misdemeanor and fined up to \$750.00.<sup>53</sup>

### ***Local-Level Protections from Discrimination Based on Sexual Orientation and Gender Identity***

One locality in Wyoming, Laramie, has enacted a broad local ordinance that prohibits discrimination based on sexual orientation and gender identity in public and private sector employment, housing, and public accommodations.<sup>54</sup> Individuals who have experienced discrimination may file a complaint under the ordinance with the city manager.<sup>55</sup> The city manager has the power to investigate complaints and may attempt to resolve any unlawful discrimination between the parties informally.<sup>56</sup> If these efforts fail, the manager may refer the complaint to the city attorney, who may file a civil action on behalf of the complainant.<sup>57</sup> The ordinance does not specify the types of remedies that may be awarded by a court.

Laramie’s non-discrimination ordinance protects approximately 6% of Wyoming’s adult population and workforce from discrimination based on sexual orientation or gender identity.<sup>58</sup>

Two other localities, Cheyenne and Jackson, have policies that prohibit discrimination based on sexual orientation and gender identity in city government employment.<sup>59</sup>

### ***Corporate and University Policies that Prohibit Discrimination Based on Sexual Orientation and Gender Identity***

Research indicates that private companies often adopt internal policies prohibiting employment discrimination based on personal characteristics, including sexual orientation and gender identity, because they make good business sense. For example, one study of corporate motivations behind adopting workplace non-discrimination policies found that 53% of the top 50 Fortune 500 companies and the top 50 federal contractors in the U.S. with LGBT-inclusive policies had adopted the policies for economic reasons.<sup>60</sup> The specific economic benefits these companies pointed to included improved recruitment and retention of employees, increased employee productivity and customer satisfaction, an expanded customer base, and others. Additionally, a growing body of academic research supports the link between LGBT-inclusive corporate policies and positive business-related outcomes, including

greater job commitment, improved workplace relationships, increased job satisfaction, and improved health outcomes among LGBT employees.<sup>61</sup>

Many of Wyoming's top employers have adopted internal policies that prohibit employment discrimination against LGBT people. Several of Wyoming's largest private sector employers including Halliburton, Rio Tinto, Lowe's, and Walmart, have adopted policies prohibiting discrimination based on sexual orientation.<sup>62</sup> Walmart also prohibits discrimination based on gender identity.<sup>63</sup> Additionally, the University of Wyoming, Wyoming's largest employer, prohibits discrimination in employment and education based on sexual orientation and gender identity.<sup>64</sup>

Many employers in Wyoming have publicly supported adding protections from sexual orientation and gender identity discrimination to state laws. When the state legislature was considering a sexual orientation and gender identity non-discrimination bill in 2015, a number of business leaders joined a coalition in support of the bill.<sup>65</sup> The director of the Wyoming Mining Association, a member of the coalition, explained, "For us the bottom line is we've had these policies in place at a company level, and let's codify it."<sup>66</sup> The Wyoming Chamber of Commerce, the Wyoming Lodging and Restaurant Association, and the Wyoming Education Association, among other groups, also supported the bill.<sup>67</sup> In the same year, a group of 50 businesses publicly supported the passage of Laramie's sexual orientation and gender identity non-discrimination ordinance.<sup>68</sup>

## **Public Support for Non-Discrimination Protections for LGBT People**

Public opinion in Wyoming supports the passage of non-discrimination protections for LGBT people. A poll of Wyoming residents conducted in 2014 found that 62% of respondents favored a change to state law to protect LGBT people from employment discrimination.<sup>69</sup> Similarly, in response to a national poll conducted in 2011, 69% of those polled in Wyoming said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.<sup>70</sup>

## **Administrative Impact of Adding Sexual Orientation and Gender Identity to Wyoming's Existing Non-Discrimination Laws**

### ***Complaint Estimate***

Despite the persistence and pervasiveness of discrimination against LGBT people, studies show that enforcing sexual orientation and gender identity provisions in non-discrimination laws has only a minimal burden on state agencies. Complaints of sexual orientation and gender identity discrimination are filed by LGBT people at approximately the same rate as complaints of race and sex discrimination are filed by people of color and women, respectively.<sup>71</sup> However, because the LGBT population is

relatively small, the absolute number of sexual orientation and gender identity complaints filed under state non-discrimination laws is low.<sup>72</sup>

Wyoming's existing employment non-discrimination law allows individuals to file complaints with the Wyoming Department of Workforce Services. We estimate that if sexual orientation and gender identity were added to the employment non-discrimination law, four additional complaints would be filed with the Department each year.<sup>73</sup> To reach this estimate, we drew on Gallup polling data and Census data from Wyoming to estimate the size of the LGBT workforce in the state, and applied a national sexual orientation and gender identity complaint rate to that population. We have previously used this methodology to estimate the number of complaints that would be filed on the basis of sexual orientation and gender identity in other states.<sup>74</sup>

Results from Gallup polls conducted from 2012 to 2017 show that 2.8% of people in Wyoming's workforce identify as LGBT.<sup>75</sup> Applying this percentage to the number of people in Wyoming's workforce (310,369<sup>76</sup>) indicates that there are 8,690 LGBT workers in Wyoming.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Wyoming to determine how many complaints will be filed annually if these characteristics are added to the employment non-discrimination law. We used the national average complaint rate from a 2015 study that analyzed administrative complaint data from 14 states that prohibited sexual orientation and gender identity discrimination at that time.<sup>77</sup> The study found that across these states, the average rate of complaints filed on the basis of sexual orientation or gender identity was 4.6 per 10,000 LGBT workers.<sup>78</sup>

Applying the national complaint rate (4.6 per 10,000 LGBT workers) to the number of LGBT workers in Wyoming (8,690) suggests that four complaints of sexual orientation and gender identity discrimination would be filed annually if these characteristics were added to the state's employment non-discrimination law.

### ***Cost of Enforcement***

Available data suggest that an additional four complaints filed with the Wyoming Department of Workforce Services each year would not be costly or burdensome to enforce. According to the most recent data available from the Department (FY 2010-2013), the Department handled an annual average of 197 discrimination complaints.<sup>79</sup>

The Department's reports do not provide enough data to determine the cost of enforcement per complaint, so it is not possible to precisely estimate any added expense associated with the additional four complaints. However, the data suggest that the additional complaints would have a minimal impact on the Department. The annual number of complaints filed with the Department varied from 188 to 210 complaints over the four fiscal year periods from 2009 through 2013.<sup>80</sup> On average, annual filings from 2009 through 2013 fluctuated by 11 complaints. There was no corresponding fluctuation in the Department's budget during this time. This information suggests that an additional four complaints

would be within the range of normal variation and could be absorbed by the Department with minimal impact on staff and resources.

Fiscal Year	Number of Complaints Handled	Budget
2013	188 <sup>81</sup>	\$960,000 <sup>82</sup>
2012	191 <sup>83</sup>	\$960,000 <sup>84</sup>
2011	197 <sup>85</sup>	\$960,000 <sup>86</sup>
2010	210 <sup>87</sup>	Not available

This assessment is consistent with the Wyoming Legislative Service Office’s determination that the sexual orientation and gender identity non-discrimination bills introduced in 2009, 2010, 2013, and 2015 would have “no fiscal or personnel impact.”<sup>88</sup>

## Conclusion

Documented evidence indicates that LGBT people face discrimination across the country, including in Wyoming. There are currently no statewide laws that expressly prohibit discrimination based on sexual orientation or gender identity in Wyoming. Adding these characteristics to Wyoming’s non-discrimination laws would provide new protections or strengthen existing protections from discrimination for approximately 15,100 LGBT adults, including 8,700 workers, in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately four complaints of sexual orientation or gender identity employment discrimination would be filed in Wyoming annually if the law were amended. It is likely that the additional four complaints could be absorbed by the Wyoming Department of Workforce Services with little impact on the staff and negligible costs.

## **About the Williams Institute**

The Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy at UCLA School of Law advances law and public policy through rigorous, independent research and scholarship, and disseminates its work through a variety of education programs and media to judges, legislators, lawyers, other policymakers and the public. These studies can be accessed at the Williams Institute website.

### **For more information**

The Williams Institute, UCLA School of Law

Box 951476

Los Angeles, CA 90095-1476

(310)267-4382

[williamsinstitute@law.ucla.edu](mailto:williamsinstitute@law.ucla.edu)

[www.law.ucla.edu/williamsinstitute](http://www.law.ucla.edu/williamsinstitute)

## Endnotes

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<sup>1</sup> These estimates were reached by applying the percentage of people in Wyoming that are LGBT (3.3%) to the adult population of Wyoming (457,750) and the percentage of people in Wyoming's workforce that are LGBT (2.8%) to the number of people in the Wyoming labor force aged 16 and older (310,369), respectively. Special analysis of LGBT population and LGBT participation in the workforce by Dr. Shoshana Goldberg under Dr. Kerith Conron's licensing agreement using data from the Gallup Daily Tracking Poll (2012-2017) (on file with authors); American Community Survey, U.S. Census Bureau, American FactFinder, 2015 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates.

<sup>2</sup> HRC Staff, *Enhanced Plans to Achieve LGBT Equality in Wyoming*, HRC.org, Sept. 18, 2014, <http://www.hrc.org/blog/enhanced-plans-to-achieve-lgbt-equality-in-wyoming>.

<sup>3</sup> Cathy Connolly & Gail Leedy, *Out in the Cowboy State: A Look at Gay and Lesbian Lives in Wyoming*, 19 J. GAY & LESBIAN SOC. SERV.'S. 17, 25 (2006), [http://libres.uncg.edu/ir/asu/f/Leedy\\_Gail\\_2006\\_Out\\_in\\_the\\_cowboy.pdf](http://libres.uncg.edu/ir/asu/f/Leedy_Gail_2006_Out_in_the_cowboy.pdf). The study asked participants to rank the level of discrimination they had experienced in each area from no discrimination to a high level of discrimination. Those respondents indicating that they had experienced a "moderate" or "high level" of discrimination are included in the percentages reporting discrimination in this report.

<sup>4</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Evaluations of Government and Society Study, Survey 3 (2011) & Survey 4 (2012) and Pew Research Center Poll (2013) (data and calculations on file with author).

<sup>5</sup> PRRI, American Values Atlas: Wyoming, <http://ava.prrri.org/#discrimination/2016/States/trnsdis/m/US-WY> (under dropdown menu for "Select Question" select "Discrimination against gay and lesbian people" or "Discrimination against transgender people;" under dropdown menu for "Select Response" select "Yes;" under dropdown menu for "Year" select "2016").

<sup>6</sup> A Survey of LGBT Americans: Attitudes, Experiences and Values in Changing Times, Pew Research Center, June 13, 2013, <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>.

<sup>7</sup> SANDY JAMES ET AL., 2015 U.S. TRANSGENDER SURVEY 11, 12, 14 (2016), <http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

<sup>8</sup> Laura Hancock, *New Coalition Pushes Anti-Discrimination Law for Wyoming*, CASPER STAR TRIBUNE, Jan. 8, 2015, [http://trib.com/news/state-and-regional/govt-and-politics/new-coalition-pushes-anti-discrimination-law-for-wyoming/article\\_7b8d2cc6-5156-5d7e-bed4-89833335c1a3.html](http://trib.com/news/state-and-regional/govt-and-politics/new-coalition-pushes-anti-discrimination-law-for-wyoming/article_7b8d2cc6-5156-5d7e-bed4-89833335c1a3.html).

<sup>9</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).

<sup>10</sup> A Survey of LGBT Americans: Attitudes, Experiences and Values in Changing Times, Pew Research Center, June 13, 2013, <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>.

<sup>11</sup> BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.

<sup>12</sup> SANDY JAMES ET AL., 2015 U.S. TRANSGENDER SURVEY 12 (2016), <http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

<sup>13</sup> *Id.* at 175, 212.

<sup>14</sup> HRC Staff, *supra* note 1.

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<sup>15</sup> Cathy Connolly & Gail Leedy, *Out in the Cowboy State: A Look at Gay and Lesbian Lives in Wyoming*, 19 J. GAY & LESBIAN SOC. SERV.'S. 17, 25 (2006), [http://libres.uncg.edu/ir/asu/f/Leedy\\_Gail\\_2006\\_Out\\_in\\_the\\_cowboy.pdf](http://libres.uncg.edu/ir/asu/f/Leedy_Gail_2006_Out_in_the_cowboy.pdf). The study asked participants to rank the level of discrimination they had experienced in each area from no discrimination to a high level of discrimination. Those respondents indicating that they had experienced a “moderate” or “high level” of discrimination are included in the percentages reporting discrimination in this report.

<sup>16</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Evaluations of Government and Society Study, Survey 3 (2011) & Survey 4 (2012) and Pew Research Center Poll (2013) (data and calculations on file with author).

<sup>17</sup> PRRI, American Values Atlas: Wyoming, <http://ava.prrri.org/#discrimination/2016/States/trnsdis/m/US-WY> (under dropdown menu for “Select Question” select “Discrimination against gay and lesbian people” or “Discrimination against transgender people;” under dropdown menu for “Select Response” select “Yes;” under dropdown menu for “Year” select “2016”).

<sup>18</sup> SEARS & MALLORY, *supra* note 11.

<sup>19</sup> Ben Neary, *Wyoming Officials Look at Discrimination Protections for Gays*, CASPER STAR-TRIBUNE, Jan. 9, 2015, [http://trib.com/news/state-and-regional/govt-and-politics/wyoming-officials-look-at-discrimination-protections-for-gays/article\\_82e50c65-e25b-531c-b9b7-b5d329a3a975.html](http://trib.com/news/state-and-regional/govt-and-politics/wyoming-officials-look-at-discrimination-protections-for-gays/article_82e50c65-e25b-531c-b9b7-b5d329a3a975.html).

<sup>20</sup> Trevor Brown, *Gay Rights in the Workplace Bill Moving Ahead*, WYOMING TRIBUNE EAGLE, Feb. 21, 2015.

<sup>21</sup> Pete Williams, *Wyoming Judge Faces Removal for Refusing Same-Sex Marriages*, NBCNEWS.COM, Aug. 17, 2016, <http://www.nbcnews.com/news/us-news/wyoming-judge-faces-removal-refusing-same-sex-marriages-n632906>.

<sup>22</sup> Buckrail, *Wyoming State Supreme Court Rules on Judge Who Refuses to Perform Same-Sex Marriages*, KTVQ.COM, Mar. 8, 2017, <http://www.ktvq.com/story/34696697/wyoming-state-supreme-court-rules-on-judge-who-refuses-to-perform-same-sex-marriages>.

<sup>23</sup> Miles Bryan, *For Those Fired for Being Gay, An Old Court Case Becomes a New Tool*, WYOMINGPUBLICMEDIA.ORG, Nov. 14, 2014, <http://wyomingpublicmedia.org/post/those-fired-being-gay-old-court-case-becomes-new-tool>.

<sup>24</sup> Becky Orr, *Message at a Local Bar Stirs Facebook Firestorm*, WYOMING TRIBUNE EAGLE, Nov. 1, 2012, [http://www.wyomingnews.com/news/local-bar-s-sign-stirs-firestorm-on-facebook/article\\_9c758a46-9446-5aa5-9545-5a70769e232e.html](http://www.wyomingnews.com/news/local-bar-s-sign-stirs-firestorm-on-facebook/article_9c758a46-9446-5aa5-9545-5a70769e232e.html).

<sup>25</sup>

<sup>26</sup> *Milligan-Hitt v. Bd. of Tr. of Sheridan County Sch. Dist. No. 2*, 523 F.3d 1219 (10th Cir. 2008).

<sup>27</sup> *Sisco v. Fabrication Techs.*, 350 F. Supp. 2d 932 (D. Wyo. 2004).

<sup>28</sup> *Id.* at 935-37.

<sup>29</sup> *Sisco*, 350 F. Supp. 2d at 940-41.

<sup>30</sup> *Id.* at 944.

<sup>31</sup> *Brockman v. Wyoming*, No. 00-cv-0087-B, slip op. (D. Wyo. May 9, 2001).

<sup>32</sup> *Brockman v. Wyoming*, 342 F.3d 1159, 1169 (10th Cir. 2003), *cert. denied*, 540 U.S. 1219 (2004).

<sup>33</sup> John Cloud, *The New Face of Gay Power*, 162 TIME 15, Oct. 5, 2003, at 52.

<sup>34</sup> *Id.*

<sup>35</sup> Marieka Klawitter, *Meta-Analysis of the Effects of Sexual Orientation on Earnings*, 54 INDUST. REL. 4, 13 (2014) (finding an average wage gap of -11% and a range of -30% to 0% for gay men); Carpenter et al., *Transgender*

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*Status, Employment, and Income* (forthcoming 2017), at 9 (on file with authors); Jamie H. Douglas & Michael D. Steinberger, *The Sexual Orientation Wage Gap for Racial Minorities*, 54 *INDUST. REL.* 59, 96 (2015).

<sup>36</sup> Amanda K. Baumle & Dudley L. Poston Jr., *The Economic Cost of Homosexuality: Multilevel Analysis*, 89 *Soc. Forces* 1005 (2011); Marieka M. Klawitter, *Multilevel Analysis of the Effects of Antidiscrimination Policies on Earnings by Sexual Orientation*, 30 *J. POL. ANALYSIS & MGMT.* 334 (2011); Gary J. Gates, Cal. Center for Pop. Research, *The Impact of Sexual Orientation Anti-Discrimination Policies on the Wages of Lesbians and Gay Men* (2009), <http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2009-010/PWP-CCPR-2009-010.pdf>.

<sup>37</sup> M.V. LEE BADGETT, LAURA E. DURSO & ALYSSA SCHNEEBAUM, WILLIAMS INST., *NEW PATTERNS OF POVERTY IN THE LESBIAN, GAY, AND BISEXUAL COMMUNITY* (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>; Taylor N.T. Brown, Adam P. Romero & Gary J. Gates, WILLIAMS INST., *FOOD INSECURITY AND SNAP PARTICIPATION IN THE LGBT COMMUNITY* (2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-and-SNAP-Participation-in-the-LGBT-Community.pdf>.

<sup>38</sup> M.V. LEE BADGETT & ALYSSA SCHNEEBAUM, *THE IMPACT OF WAGE EQUALITY ON SEXUAL ORIENTATION POVERTY GAPS*, WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Impact-of-Wage-Equality-on-Sexual-Orientation-Poverty-Gaps-June-2015.pdf>.

<sup>39</sup> AMIRA HASENBUSH, ANDREW R. FLORES, ANGELIKI KASTANIS, BRAD SEARS & GARY J. GATES, WILLIAMS INST., *THE LGBT DIVIDE: A DATA PORTRAIT OF LGBT PEOPLE IN THE MIDWESTERN, MOUNTAIN & SOUTHERN STATES* 22 (2014), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-divide-Dec-2014.pdf>.

<sup>40</sup> Press Release, Williams Inst., *LGBT Americans Face Greater Social and Economic Disparities in the South, Midwest, and Mountain States* (Dec. 18, 2014) (available at <http://williamsinstitute.law.ucla.edu/press/press-releases/lgbt-divide/>). In the words of report author Gary Gates: "It's not just that LGBT people in the Midwest and South are poorer because people in those regions tend to be poorer overall. In some cases the economic disadvantages that LGBT people have relative to non-LGBT people markedly increase in those regions. In others, the advantages that you see for LGBT people in other parts of the country either disappear or reverse."

<sup>41</sup> Special analysis of LGBT population and LGBT participation in the workforce by Dr. Shoshana Goldberg under Dr. Kerith Conron's licensing agreement using data from the Gallup Daily Tracking Poll (2012-2017) (on file with authors).

<sup>42</sup> State Profile – Wyoming, Movement Advancement Project, [http://www.lgbtmap.org/equality\\_maps/profile\\_state/51](http://www.lgbtmap.org/equality_maps/profile_state/51).

<sup>43</sup> S.F. 115, 2015 Leg. Sess. (Wyo. 2015).

<sup>44</sup> Legislative Digest, S.F. 115, 2015 Leg. Sess. (Wyo. 2015).

<sup>45</sup> S.F. 131, 2013 Leg. Sess. (Wyo. 2013); H.B. 142, 2011 Leg. Sess. (Wyo. 2011); H.B. 87, 2010 Budget Sess. (Wyo. 2010); H.B. 203, 2009 Leg. Sess. (Wyo. 2009).

<sup>46</sup> WYO. STAT. ANN. § 27-9-205 (2015).

<sup>47</sup> *Id.* § 27-9-102(b).

<sup>48</sup> Labor Standards, Wyo. Dept. of Workforce Serv's., <http://wyomingworkforce.org/job-seekers-and-workers/labor-standards/Pages/default.aspx>.

<sup>49</sup> *Id.*

<sup>50</sup> Fair Employment Rules, Wyo. Dept. of Workforce Serv's., ch. III, §3(b), [http://wyomingworkforce.org/employers-and-businesses/labor-standards/Documents/Chapter percent203 percent20- percent20Fair percent20Employment percent20Rules.pdf](http://wyomingworkforce.org/employers-and-businesses/labor-standards/Documents/Chapter%203%20-%20Fair%20Employment%20Rules.pdf).

<sup>51</sup> WYO. STAT. ANN. § 27-9-106.

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<sup>52</sup> *Id.* §§ 6-9-102; 6-9-103.

<sup>53</sup> *Id.* §6-9-103.

<sup>54</sup> LARAMIE, WYO., CODE §§ 9.32.10 – 9.32.130 (2015).

<sup>55</sup> *Id.* § 9.32.090.

<sup>56</sup> *Id.* §§ 9.30.090 – 9.30.100.

<sup>57</sup> *Id.* § 9.30.110.

<sup>58</sup> Calculated by authors using data from the American Community Survey (2011-2015).

<sup>59</sup> Jackson, Wyo., Res. 15-26 (Dec. 7, 2015), *available at* <http://townofjackson.com/files/4914/5030/0465/120715.pdf>; City of Cheyenne, Personnel Rules & Regulations, Jan. 1, 2015, *available at* <http://www.cheyennecity.org/DocumentCenter/View/18338>.

<sup>60</sup> BRAD SEARS & CHRISTY MALLORY, THE WILLIAMS INST., ECONOMIC MOTIVES FOR ADOPTING LGBT-RELATED WORKPLACE POLICIES (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corp-Statements-Oct2011.pdf>.

<sup>61</sup> M.V. LEE BADGETT, LAURA E. DURSO, ANGELIKI KASTANIS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, THE BUSINESS IMPACT OF LGBT-SUPPORTIVE WORKPLACE POLICIES (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf>.

<sup>62</sup> Ecumenical Council for Corporate Responsibility, Rio Tinto – Revisiting the Principles: A Decade of Corporate Responsibility Reviewed (Apr. 2006), [http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CCwQFjAC&url=http%2Fpercent3A%2Fpercent2Fwww.eccr.org.uk%2Fmodule-Downloads-prep\\_hand\\_out-lid-11.html&ei=peehU6zml6TNsQTP0oGoDQ&usq=AFQjCNH2zVMv8BeV-d36FjL-YsmaKxBxKQ&sig2=1Ed02rTG-VRpsvK-CX-s5w](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CCwQFjAC&url=http%2Fpercent3A%2Fpercent2Fwww.eccr.org.uk%2Fmodule-Downloads-prep_hand_out-lid-11.html&ei=peehU6zml6TNsQTP0oGoDQ&usq=AFQjCNH2zVMv8BeV-d36FjL-YsmaKxBxKQ&sig2=1Ed02rTG-VRpsvK-CX-s5w); Lowe's, Company Compliance: Code of Ethics, [http://www.lowes.com/cd\\_Legal+Center+Company+Compliance\\_979044423](http://www.lowes.com/cd_Legal+Center+Company+Compliance_979044423) (last visited Sept. 9, 2016); HUMAN RIGHTS CAMPAIGN, CORPORATE EQUALITY INDEX 2014 92 (2014), <http://www.hrc.org/campaigns/corporate-equality-index> (Halliburton's policy); Kevin Litwin, *Wyoming Top Employers*, BUS. CLIMATE, March 27, 2014, <http://businessclimate.com/wyoming-economic-development/wyoming-top-employers>.

<sup>63</sup> HUMAN RIGHTS CAMPAIGN, CORPORATE EQUALITY INDEX 2014, *supra* note 62.

<sup>64</sup> Univ. of Wyo., UW Reg. 1-3: Equal Education and Employment Opportunity Statement and Policy/Diversity (Affirmative Action) Program, Sept. 12, 2014, <http://www.uwyo.edu/generalcounsel/files/docs/uw-reg-1-3.pdf>.

<sup>65</sup> Gregory Nickerson, *Wyoming LGBT Advocates Made Gains with Coalition*, WYOFIL.COM, Mar. 31, 2015, <http://www.wyofile.com/wyoming-lgbt-advocates-made-gains-coalition/>.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Laura Hancock, *New Coalition Pushes Anti-Discrimination Law for Wyoming*, CASPER STAR TRIBUNE, Jan. 8, 2015, [http://trib.com/news/state-and-regional/govt-and-politics/new-coalition-pushes-anti-discrimination-law-for-wyoming/article\\_7b8d2cc6-5156-5d7e-bed4-89833335c1a3.html](http://trib.com/news/state-and-regional/govt-and-politics/new-coalition-pushes-anti-discrimination-law-for-wyoming/article_7b8d2cc6-5156-5d7e-bed4-89833335c1a3.html).

<sup>70</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).

<sup>71</sup> CHRISTY MALLORY & BRAD SEARS, THE WILLIAMS INST., EVIDENCE OF EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY: AN ANALYSIS OF COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES, 2008-2014 (2016), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Employment-Discrimination-Complaints-2008-2014.pdf>;

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CHRISTY MALLORY & BRAD SEARS, THE WILLIAMS INST., EVIDENCE OF HOUSING DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY: AN ANALYSIS OF COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES, 2008-2014 (2016), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Housing-Discrimination-Complaints-2008-2014.pdf>;  
CHRISTY MALLORY & BRAD SEARS, THE WILLIAMS INST., EVIDENCE OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY: AN ANALYSIS OF COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES, 2008-2014 (2016), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Public-Accommodations-Discrimination-Complaints-2008-2014.pdf>.

<sup>72</sup> *Id.*

<sup>73</sup> We do not include an estimate of the impact of adding sexual orientation and gender identity to other non-discrimination laws in Wyoming because we do not have data that would allow for such analysis. Our data allow us to estimate the number of complaints alleging employment, housing, or public accommodations discrimination that would be filed with state administrative enforcement agencies. Wyoming's public accommodations law is a criminal misdemeanor law and as such does not allow private enforcement through a state administrative agency. Wyoming does not have a housing non-discrimination law.

<sup>74</sup> See *Workplace*, THE WILLIAMS INST., <http://williamsinstitute.law.ucla.edu/category/research/workplace/> (last updated Dec. 10, 2013).

<sup>75</sup> Gary J. Gates & Frank Newport, *supra* note 1.

<sup>76</sup> American Community Survey, U.S. Census Bureau, American FactFinder, 2014 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates.

<sup>77</sup> "National average" refers to the average of the complaint rates in 14 states across the country that prohibited sexual orientation and/or gender identity discrimination in 2015. MALLORY & SEARS, *supra* note 71.

<sup>78</sup> The data gathered for the 2015 study included all employment discrimination complaints filed on the basis of sexual orientation and gender identity; it was not limited to complaints filed by LGB employees. Heterosexual, non-transgender employees may also file complaints under sexual orientation non-discrimination laws if they were discriminated against because of their heterosexuality, gender identity, or because they were perceived to be LGBT. However, we use the LGBT workforce as the underlying population for purposes of our analysis because LGBT employees likely file the vast majority of sexual orientation discrimination complaints. See Rubenstein, *supra* note 71.

<sup>79</sup> Wyo. Dept. of Workforce Services, *Workstat Program Performance Report*, v1.0 (Aug. 2013) (on file with author).

<sup>80</sup> *Id.*

<sup>81</sup> Wyo. Dept. of Workforce Serv's., *Workstat Program Performance Report*, *supra* note 79.

<sup>82</sup> Wyo. Dept. of Workforce Serv's., *Workstat Program Snapshot Form*, v1.0 (Aug. 2013)(on file with author).

<sup>83</sup> Wyo. Dept. of Workforce Serv's., *Workstat Program Performance Report*, *supra* note 79.

<sup>84</sup> Wyo. Dept. of Workforce Serv's., *Workstat Program Snapshot Form*, *supra* note 82.

<sup>85</sup> Wyo. Dept. of Workforce Serv's., *Workstat Program Performance Report*, *supra* note 79.

<sup>86</sup> Wyo. Dept. of Workforce Serv's., *Workstat Program Snapshot Form*, *supra* note 82.

<sup>87</sup> Wyo. Dept. of Workforce Serv's., *Workstat Program Performance Report*, *supra* note 79.

<sup>88</sup> Fiscal Note, S.F. 115, 2015 Leg. Sess. (Wyo. 2015); Fiscal Note, S.F. 131, 2013 Leg. Sess. (Wyo. 2013); Fiscal Note, H.B. 142, 2011 Leg. Sess. (Wyo. 2011); Fiscal Note, H.B. 87, 2010 Budget Sess. (Wyo. 2010); Fiscal Note, H.B. 203, 2009 Leg. Sess. (Wyo. 2009).