

Sexual Orientation and Gender Identity Classifications: No Demonstrable Effect On Job Creation Or Economic Growth

There appears to be no evidence supporting the claim that the absence of sexual orientation and gender identity in a state’s or city’s nondiscrimination laws has any effect on job creation and economic growth. Despite the claims by some that the addition of these classifications is necessary if a city or state wants to grow its jobs and economy, the facts indicate otherwise. Indeed, numerous studies suggest that states without these classifications may actually have greater economic growth, while states with them have comparatively weaker economies and slower job growth.¹

The fact that many of the strongest economies are in states that do not recognize these classifications belies the contention that these classifications are prerequisites for job growth and economic flourishing. The evidence demonstrates that cities and states do not need to add sexual orientation and gender identity classifications in order to attract or retain businesses, create jobs, or grow their economies. This paper summarizes some of the recent studies.

1. Nine of Forbes’ Most Recent Top Fifteen States for Business Do Not Have State Nondiscrimination Laws that Included Sexual Orientation and Gender Identity as Protected Classes.

Each year, Forbes publishes its list of the “top ten states for business.” The magazine considers many factors, including items such as business cost, regulatory environment, economic climate, and growth prospects. Its most recent list, published in 2015, is telling. Of the top fifteen states for business, nine of them do not currently include sexual orientation and gender identity in their nondiscrimination laws.³

2. Three of Forbes’ Most Recent Top Five States for Projected Job Growth Do Not Have State Nondiscrimination Laws that Include Sexual Orientation and Gender Identity.

Forbes also publishes an annual list of the five states that have the best indicators for future job creation. Three of these states—Arizona, Florida, and Georgia—do not include sexual orientation and gender identity in their nondiscrimination laws.⁴

Forbes’ Best States for Business 2015		
	State	SO/GI Laws?
1	Utah ²	Yes
2	North Carolina	NO
3	Nebraska	NO
4	North Dakota	NO
5	Colorado	Yes
6	Texas	NO
7	Virginia	NO
8	Indiana	NO
9	South Dakota	NO
10	Washington	Yes
11	Georgia	NO
12	Oregon	Yes
13	Minnesota	Yes
14	Iowa	Yes
15	Ohio	NO

¹ This is not to suggest that there is a correlation between low economic growth and the presence of these classifications in the law or between strong economic growth and the absence of these classifications. Our main point is that there is absolutely no correlation between stronger economic growth and these classifications.

² Utah added sexual orientation and gender identity to portions of its nondiscrimination laws in 2015. However, public accommodations are exempted from Utah’s nondiscrimination laws.

³ “Best States for Business,” *Forbes.com*, <http://www.forbes.com/best-states-for-business/> (last visited Mar. 16, 2016).

⁴ Badenhausen, Kurt, “The Best States for Future Job Growth,” *Forbes*, Oct. 21, 2015, available at <http://www.forbes.com/sites/kurtbadenhausen/2015/10/21/the-best-states-for-future-job-growth/> (last visited Nov. 6, 2015).

3. Three of Forbes’ Top Five States for Actual Job Growth Do Not Have State Nondiscrimination Laws that Include Sexual Orientation and Gender Identity.

Forbes also publishes a list of the top states for job growth. Three of the five states that experienced the most job growth in 2014 do not include sexual orientation and gender identity in their nondiscrimination laws.⁵

4. Nine of CNBC’s Top Fifteen States For Business Do Not Have State Nondiscrimination Laws that Include Sexual Orientation and Gender Identity.

CNBC publishes an annual study of states that it believes are best for businesses. It considers ten categories of measurements, including factors such as the cost of doing business in the state, the state’s economy, the quality of life for the state’s citizens, and the cost of living. In CNBC’s most recent study, ten of the fifteen states with the best economic climate for businesses do not have nondiscrimination laws that include sexual orientation and gender identity as protected classes.⁶ In 2014, eleven of the top fifteen states in the CNBC rankings did not recognize sexual orientation and gender identity.⁷

CNBC’s Top States for Business 2015		
	State	SO/GI Laws?
1	Minnesota	Yes
2	Texas	NO
3	Utah	Yes
4	Colorado	Yes
5	Georgia	NO
6	North Dakota	NO
7	Nebraska	NO
8	Washington	Yes
9	North Carolina	NO
10	Iowa	Yes
11	South Dakota	NO
12	Virginia	NO
13	Indiana	NO
14	Idaho	NO
15	Wisconsin	Yes

5. Eight of Pew Charitable Trusts’ Most Recent Top Ten States for Job Growth Did Not Have State Nondiscrimination Laws that Included Sexual Orientation and Gender Identity.

In 2014, Pew Charitable Trusts published its research on the states that it believes will experience the greatest job growth in the near future. At the time the list was published, eight of the top ten states did not recognize sexual orientation and gender identity in their nondiscrimination laws.⁸

⁵ Dill, Kathryn, “The Top 10 Cities and States for Job Growth,” *Forbes*, Nov 4, 2014, available at <http://www.forbes.com/sites/kathryndill/2014/11/04/the-top-10-cities-and-states-for-job-growth/> (last visited Nov. 6, 2015). The three states without sexual orientation or gender identity classifications that Forbes includes in its top 5 for job growth potential are North Dakota (1), Texas (3), and Florida (5).

⁶ “America’s Top States for Business 2015,” *CNBC*, available at <http://www.cnbc.com/2015/06/24/americas-top-states-for-business.html> (last visited Mar. 16, 2016). Those states are Texas (2), Georgia (5), North Dakota (6), Nebraska (7), North Carolina (9), South Dakota (11), Virginia (12), Indiana (13), and Idaho (14).

⁷ “America’s Top States for Business 2014,” *CNBC*, available at <http://www.cnbc.com/2014/06/24/americas-top-states-for-business.html> (last visited Feb. 24, 2015). Those states are Georgia (1), Texas (2), Utah (3), Nebraska (4), North Carolina (5), Virginia (9), North Dakota (10), South Dakota (11), Arizona (13), Tennessee (14), and Kansas (15). As has already been noted, Utah added sexual orientation and gender identity to parts of its state nondiscrimination law in 2015. But at the time the 2014 study was released, the state did not recognize these classifications.

⁸ Prah, Pamela, “Which States Will Generate Jobs in 2014?,” *The Pew Charitable Trusts*, Jan. 7, 2014, available at <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2014/01/07/which-states-will-generate-jobs-in-2014> (last visited Nov. 6, 2015). The eight states without sexual orientation or gender identity classifications that Pew identified are North Dakota (1), Arizona (2), Texas (3), Florida (5), Georgia (6), South Carolina (7), Idaho (9), and Utah (10).

6. Nine of Chief Executive.Net’s Best Ten States For Business Do Not Have State Nondiscrimination Laws that Include Sexual Orientation and Gender Identity; Nine of the Worst States Do.

Chief Executive.net publishes a yearly ranking of the best and worst states for businesses. It looks to such factors as whether the states have progressive business development programs, low taxes, and a quality living environment. In the website’s most recent rankings, nine of the ten best states for businesses do not have state nondiscrimination laws that include sexual orientation and gender identity as protected classes.⁹ In contrast, nine of the ten worst states do have such laws.

Chief Executive.net Best & Worst States for Business 2015		
	State	SO/GI Laws?
1	Texas	NO
2	Florida	NO
3	North Carolina	NO
4	Tennessee	NO
5	Georgia	NO
6	Indiana	NO
7	Louisiana	NO
8	Nevada	Yes
9	Arizona	NO
10	South Carolina	NO
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41	Vermont	YES
42	Oregon	YES
43	Michigan	No
44	Hawaii	YES
45	Connecticut	YES
46	Massachusetts	YES
47	New Jersey	YES
48	Illinois	YES
49	New York	YES
50	California	YES

7. Eight of the Ten States That ALEC Projects to Have The Best Economic Outlook in 2015 Do Not Have State Nondiscrimination Laws that Include Sexual Orientation and Gender Identity.

The American Legislative Exchange Council (ALEC) evaluates the economic outlook of all fifty states utilizing fifteen policy considerations that it contends “have proven, over time, to be the best determinants of economic success.” Twelve of its top fifteen states do not have state nondiscrimination laws that include sexual orientation and gender identity.¹⁰

8. Eight of Pew Charitable Trusts’ Bottom Ten States for Job Growth Had State Nondiscrimination Laws that Included Sexual Orientation and Gender Identity.

Eight of the ten states that Pew identified in 2014 as having the worst forecast for job creation were states that have added sexual orientation and gender identity to their state nondiscrimination laws. These states were New Mexico (1), New Hampshire (2), Massachusetts (4), New York (6), Vermont (7), Maine (8), Illinois (9), and the District of Columbia (10).¹¹

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To summarize, while the debate about adding sexual orientation and gender identity to existing nondiscrimination laws is likely to continue, no one should think that adding these classifications will improve their city or state’s economic outlook. The weight of the research simply does not support the claim that these classifications are essential for a thriving economy.

⁹ “2015 Best and Worst State Rankings,” ChiefExecutive.net, available at <http://chiefexecutive.net/best-worst-states-business/> (last visited Mar. 16, 2016).

¹⁰ Laffer, Arthur, et al., “Rich States, Poor States, 2015 Edition” *American Legislative Exchange Council*, available at <http://www.alec.org/publications/rich-states-poor-states/> (last visited Nov. 6, 2015). Those states are North Dakota (2), Indiana (3), North Carolina (4), Arizona (5), Idaho (6), Georgia (7), Wyoming (8), South Dakota (9), Texas (11), Virginia (12), Alaska (14), and Florida (15).

¹¹ *Id.* Of the states that do not include sexual orientation and gender identity, only Tennessee (3) and Alaska (5) were projected to be among the bottom ten states for job creation. *Id.*