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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,  
  
Plaintiff,

NO. 2:20-cv-01105-JDD

DECLARATION OF  
DANIEL ZEITLIN

v.

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES;  
ALEX M. AZAR, in his official capacity as  
the Secretary of the United States  
Department of Health and Human Services,  
  
Defendants.

Pursuant to 28 U.S.C. § 1746(2), I, Daniel Zeitlin, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

1. I am over the age of 18 and competent to testify in this matter.
2. I have been with the Employment Security Department since January 1, 2018, I am the Director of the Policy, Data, Performance and Integrity Division. In that role, among other things, I oversee employment-related data collection and analysis.

1           3.       In my position, I am responsible for making revenue projections based on changes  
2 to employment tax laws, or otherwise to project the increases or decreases in employment tax  
3 revenues as a result of various events or circumstances.

4           4.       I am familiar with the rule of the Department of Health and Human Services  
5 entitled “Nondiscrimination in Health and Health Education Programs or Activities, Delegation  
6 of Authority,” 85 Fed. Reg. 37160-248 (the “Final Rule”), which was published in the Federal  
7 Register on June 19, 2020.

8           5.       I have been asked to evaluate the impact of the Final Rule on tax revenues  
9 collected by the Employment Security Department on the basis of certain conclusions by the  
10 Washington State Department of Health (DOH) as to increases in the unemployment of  
11 transgender persons as a result of losing healthcare coverage because of the new Final Rule.

12           6.       I also understand DOH estimates that, as a result of this loss of coverage,  
13 several thousand transgender persons are expected to be denied hormone therapy or surgical  
14 procedures related to gender transition, and more will therefore suffer depression, leading to an  
15 estimated minimum of 80 to 248 more lost jobs for every five year period beginning when the  
16 new regulation takes effect. That means at least 320 to 992 lost jobs over the next twenty years.  
17 Declaration of Michele Roberts, ¶ 20.

18           7.       Assuming these increased job losses over the next two decades, I have  
19 estimated the consequent decrease in certain employment tax revenues collected and the  
20 increase in unemployment insurance benefits paid by Washington State’s unemployment  
21 insurance trust fund. I have not estimated the loss of tax revenues or the loss of funds through  
22 paying benefits as a result of unemployment caused by violence against transgender persons,  
23 substance abuse, or attempted suicide, all of which can be expected to increase the incidence of  
24 unemployment among this group of Washingtonians. *Id.* at ¶ 21.

25           8.       I have estimated two of the taxes Washington State imposes on payrolls,  
26 including (1) unemployment insurance benefits tax; and (2) the Paid Family and Medical

1 Leave benefits premiums. In addition, a greater incidence of unemployment will result in (3)  
2 additional unemployment insurance benefits being paid to claimants who lost jobs, meaning a  
3 loss for the State's fund by that amount.

4 9. Based on the data provided by DOH, and assuming that each person who  
5 experiences a job loss experiences the average number of weeks of unemployment and the  
6 employer does not fill the position during those weeks of unemployment, and assuming that  
7 the Paid Family and Medical Leave premium rate continues at 0.4%, I estimate that, if the  
8 Final Rule takes effect, Washington State will lose Paid Family Leave benefit tax revenues  
9 over the next 20 years in the amount of at least between \$9,969 to \$30,905 if every job lost  
10 pays a rate of \$30,000 per year, between \$14,954 and \$46,357 if every job lost pays at a rate of  
11 \$45,000 per year, or between \$19,938 and \$61,809 if every job lost pays at a rate of \$60,000  
12 per year.

13 10. Based on the data provided by DOH, and assuming again that each person who  
14 experiences a job loss experiences the average number of weeks of unemployment, and  
15 assuming the reciprocity rate of 50%, I estimate that, if the Final Rule takes effect, Washington  
16 State will lose over the next 20 years unemployment insurance tax revenues in the amount of at  
17 least between \$180,480 and \$559,488 if every job lost pays at a rate of \$30,000 per year,  
18 between \$270,720 and \$839,232 if every job lost pays at a rate of \$45,000 per year, or between  
19 \$339,904 and \$1,053,702 if every job lost pays \$60,000 per year.

20 11. Finally, based on the data provided by DOH, and assuming again that each  
21 person who experiences a job loss experiences the average number of weeks of unemployment  
22 and the reciprocity rate of 50%, I estimate that, if the Final Rule takes effect, Washington State  
23 will pay out in benefits and lose over the next 20 years the amount of at least between  
24 \$623,700 and \$1,933,470 if every job lost pays at a rate of \$30,000 per year, between \$935,550  
25 and \$2,900,205 if every job lost pays at a rate of \$45,000 per year, or between \$1,247,400 and  
26 \$3,886,940 if every job lost pays \$60,000 per year.

1           12.     While it is difficult to estimate the exact loss to Washington State without  
2 knowing the precise rate of pay earned by the hundreds of persons DOH expects to lose a job,  
3 it is safe to say that the estimated job losses will cost Washington State a minimum of millions  
4 dollars in lost Paid and Family Leave and unemployment insurance tax revenues and  
5 unemployment insurance benefits paid out to claimants.

6 EXECUTED on this 14<sup>th</sup> day of July, 2020 in Olympia, Washington.

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DANIEL ZEITLIN