

**DOMESTIC PARTNER BENEFITS FOR FEDERAL
EMPLOYEES: FAIR POLICY AND GOOD BUSINESS**

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

—————
SEPTEMBER 24, 2008
—————

Available via <http://www.gpoaccess.gov/congress/index.html>

Printed for the use of the
Committee on Homeland Security and Governmental Affairs



U.S. GOVERNMENT PRINTING OFFICE

45-581 PDF

WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
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**DOMESTIC PARTNER BENEFITS
FOR FEDERAL EMPLOYEES:
FAIR POLICY AND GOOD BUSINESS**

WEDNESDAY, SEPTEMBER 24, 2008

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:08 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Akaka, and Collins.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. Good morning and thank you all for being here. This morning, our Committee will consider S. 2521, the Domestic Partnership Benefits and Obligations Act, which Senator Smith and I and more than 20 other Senators introduced last December.

Obviously, we are toward the end of this session of Congress so that it is too late for this measure to be adopted this year, but all of us who sponsored it consider it to be an important and serious proposal on which we need to begin the discussion. And I am looking forward to action on it, hopefully, in the next session of Congress. And that is what we hope to do this morning. We thank the witnesses that we have before us who will help us in that discussion.

Senator Smith and I, and the other cosponsors, introduced this bill because we believe it makes sense for the Federal Government as an employer and, of course, because we believe it is the fair and right thing to do. We are confident that it will help the Federal Government attract and retain the high-quality employees we need to carry out our responsibilities to the American people in the years ahead, particularly at a time when all the experts tell us there will be a generational change that will bring a very large percentage of Federal employees to retirement.

This legislation would provide employee benefit programs to the same-sex domestic partners of Federal employees. They would be eligible to participate in health benefits, long-term care, family and medical leave, Federal retirement benefits, and all other benefits for which married employees and their spouses are eligible. Federal employees and their domestic partners would also be subject to the same responsibilities that apply to married employees and their

spouses, such as anti-nepotism rules and financial disclosure requirements.

According to UCLA's Williams Institute, over 30,000 Federal workers live in committed relationships with same-sex partners who are not Federal employees. That these Federal workers receive fewer protections for their families than those who are married jeopardizes their continued ability to work for the Federal Government.

We often hear—and some of us have often said—that the government should be run more like a business. While the purposes of government and business are different, I believe that government does have a lot to learn from private sector business models, including in the matter before us. The fact is that a majority of the largest U.S. corporations—including more than half of all Fortune 500 companies—already offer benefits to domestic partners. Why? I presume, in part, because it is the fair thing to do, but also clearly because these businesses have decided that it helps their businesses succeed.

General Electric, IBM, Eastman Kodak, Dow Chemical, the Chubb Corporation, Lockheed Martin, and Duke Energy are among the major employers that have recognized the economic benefit of providing benefits for domestic partners. Overall, almost 10,000 private sector companies of all sizes provide benefits to domestic partners. The governments of 13 States, including my home State of Connecticut, about 145 local jurisdictions across our country, and some 300 colleges and universities also provide such benefits. They are not doing this just because it is the right thing to do, though I think it is. They are doing it because it is good employee-management policy.

Non-Federal employers have told analysts that they extend benefits to domestic partners to boost recruitment and retain quality employees—as well as to be fair. If we want the Federal Government to be able to compete for the best and the brightest, we are going to have to provide some of the same benefits job seekers can find elsewhere.

The experts tell us that 19 percent of an employee's compensation comes in the form of benefits, including benefits for family members. Employees who do not get benefits for their families are, therefore, not being paid equally. Now, of course, I and all of us understand that covering domestic partners will add to the total cost of providing Federal employee benefits. And, of course, we understand that particularly now is a time when we have to be careful about government spending and do rigorous cost-benefit analyses of all, not just new, but of all Federal expenditures. I have talked about what I believe are the benefits of this legislation. I would add that based on the experience of private companies and State and local governments, the Congressional Budget Office has estimated that extending benefits to same-sex domestic partners of Federal employees would increase the cost of these programs by less than one-half of 1 percent. The Office of Personnel Management says that the cost of health benefits for domestic partners over 10 years would be \$670 million. And remember that our Federal budget now—now, not 10 years from now—is at \$3 trillion, and, I would say this week, rising every day.

We will hear from our witnesses this morning about the impact that the lack of domestic partner benefits has on people. But I would like to take the liberty of quoting from, unfortunately, the resignation speech of Michael Guest, who was Ambassador to Romania and also Dean of the Foreign Service Institute. I think it makes a very moving and eloquent case for extending benefits to same-sex partners.

I believe Ambassador Guest was the first publicly gay man to be confirmed for an ambassadorship from the United States. When he resigned the Foreign Service in 2007, he said, and I quote from his farewell address to his colleagues, “I have felt compelled to choose between obligations to my partner—who is my family—and service to my country. That anyone should have to make that choice is a stain on the Secretary’s leadership and a shame for this institution and our country.”

Those are very moving and, I would say, compelling words from a talented and loyal public servant—who once described the Foreign Service as the career he was “born for . . . what I was always meant to do.” And, of course, it is a great loss that he felt compelled to leave the Foreign Service—particularly now at a time when our Nation so desperately needs talented diplomats to help meet the challenges we face—in large part because his Federal employee benefits would not enable him to adequately care for the needs of his family.

The Domestic Partners Benefits and Obligations Act makes good economic sense. It is sound policy, and I believe it is the right thing to do. So I look forward to this morning’s discussion of this proposal.

Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. That was a very moving statement indeed.

Today the Committee considers legislation that would extend Federal employee benefits to same-sex domestic partners. The Federal Government needs to have good benefits that help attract the most qualified and capable employees, and this legislation would help to advance that goal. I am, therefore, pleased to commend the Chairman for taking the lead on a national issue of fairness, equality, tolerance, and equal treatment.

As the Chairman has explained, the Domestic Partnership Benefits and Obligations Act provides that a Federal employee and his or her domestic partner would have the same benefits that apply to a married Federal employee and his or her spouse. There are many practical reasons for doing this. The Federal Government faces a huge challenge in attracting and retaining talented and dedicated employees, both because of competition from private employers and because of the wave of potential retirements in the years ahead. Adapting Federal benefits policy to reflect the common practice among Fortune 500 companies will help us meet these challenges.

Equally important, the principles supporting this change are a matter of simple fairness. As long as the partners in the household have established a personal relationship based on an affirmed com-

mitment, I see no public purpose to be served by denying their eligibility for Federal benefits.

There is, however, one issue that the Committee may wish to consider. My colleagues should look at how my home State of Maine has addressed this issue. It addresses the issue more broadly than this bill. Since 2004, Maine has operated a domestic partner registry that allows Maine-domiciled, committed adults to register for legal recognition as domestic partners to secure rights such as next-of-kin status and medical decision-making power. This registry does not, however, restrict these benefits to same-sex partners. Partners in committed relationships of different genders can also register. Similarly, Maine health insurance law requires that any insurer offering health insurance or contracts subject to State regulation offer the same coverages and rates for registered domestic partners that it offers to the spouses of insured individuals. And, again, the law does not distinguish between same-sex and opposite-sex relationships. So I want to hear our witnesses discuss that issue this morning.

Again, let me emphasize that, regardless of that broader issue—and there are legitimate issues for expanding this definition and for not doing so—many experts predict that the Federal Government is about to experience a huge retirement wave. Indeed, some estimate that approximately 60 percent of the Federal workforce will be eligible for retirement over the next decade. According to the Human Rights Campaign, 56 percent of the Fortune 500 companies, including some of our top Federal contractors, extend spousal benefits to domestic partners. It seems to me that if the Federal Government is going to compete with the private sector for some of the most talented workforce, we need to use some of the same incentives to attract and, as the Chairman's statement indicated, to keep qualified individuals in the public sector.

So I thank you, Mr. Chairman, for having this hearing today. It is an important issue in terms of our ability to ensure that the Federal Government has the best qualified workforce possible.

Thank you.

Chairman LIEBERMAN. Thanks, Senator Collins, for that very thoughtful statement. Again, I thank the witnesses. We have got a very good panel before us to discuss the issue, and we will begin with the Hon. Howard Weizmann, who is the Deputy Director of the U.S. Office of Personnel Management. Thanks for being here.

**TESTIMONY OF HON. HOWARD C. WEIZMANN,¹ DEPUTY
DIRECTOR, U.S. OFFICE OF PERSONNEL MANAGEMENT**

Mr. WEIZMANN. Thank you, Chairman Lieberman and Ranking Member Collins. I want to thank all the Members of the Committee for discussing this important issue.

Thank you for the opportunity to come today before you to provide technical comments on S. 2521 which, if enacted, would provide Federal benefits to the same-sex domestic partners of Federal employees.

The Federal Government offers a competitive and comprehensive package of employer-sponsored benefits for Federal employees and

¹The prepared statement of Mr. Weizmann appears in the Appendix on page 31.

their families. Federal employees may elect insurance coverage under the Federal Employees Health Benefits Program (FEHB), the Federal Employees Dental and Vision Insurance Program, the Federal Employees' Group Life Insurance Program, and the Federal Long Term Care Insurance Program, including benefits for family members. In addition, Federal employees are eligible for employer-sponsored retirement and leave benefits. In pursuit of our mission to ensure the Federal Government has an adequate and effective civilian workforce, the Office of Personnel Management (OPM) has primary responsibility with respect to the administration of these benefits, as incorporated in Title 5 of the United States Code.

Mr. Chairman, as you know, your bill, S. 2521, would provide benefits for the same-sex domestic partners of employees like the benefits currently available to married employees. The bill defines domestic partner as "an adult unmarried person living with another adult unmarried person of the same sex in a committed, intimate relationship." The bill includes coverage under Title 5 insurance benefit programs, retirement and disability benefits, the Family and Medical Leave Act (FMLA), and the Federal Worker's Compensation Act, among others.

As background, domestic partners of Federal employees are not included as eligible family members under Title 5 for any of these Federal programs. Therefore, the same-sex domestic partners are not entitled to benefits. Opposite-sex domestic partners are similarly not entitled to these benefits. Same-sex marriages are not recognized for benefit entitlement purposes under any of the Federal benefit programs. Public Law 104-199, the Defense of Marriage Act, signed on September 21, 1996, created a new Section 7 to Title 1 of the United States Code, providing that in the interpretation of any law enacted by the Congress, "the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife." This definition applies in "any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States."

As for technical comments, the bill itself provides that, first, benefits programs described in Title 5 refer to coverage for both Federal employees and Federal annuitants. However, a strict interpretation of the bill, as currently drafted, raises questions as to whether benefits would be available to same-sex domestic partners once an employee retires.

Second, the bill provides that affidavits pertaining to the eligibility of domestic partners for Federal benefits be filed with OPM. Human resource functions are conducted at each of the Federal agencies, including benefits enrollment and payroll deductions, on behalf of agency employees. OPM does not serve as a central clearinghouse for all Federal employees and, therefore, would not have the records nor resources to collect and maintain such affidavits.

Third, OPM has concerns with the administration of benefits for a domestic partnership. Currently, spousal benefits are based on the documentation of a State-sanctioned marriage. The bill under consideration would provide benefits to those in domestic partnerships or relationships which are certified by affidavit. OPM be-

believes this process could lead to fraud and abuse in the programs we administer. Spousal equity benefit determinations frequently rely on State court orders awarding annuity and insurance benefits coverage. There is no analogous provision in the proposed legislation. For example, the bill specifically provides that in the event “a domestic partnership dissolves by method other than death of the employee or domestic partner of the employee, the former domestic partner shall be entitled to benefits available to, and shall be subject to obligations imposed upon, a former spouse.” The provision lacks the specificity needed to determine eligibility and amount of benefits for a separated domestic partner.

OPM also notes that the estimated cost of these additional beneficiaries to the current system of active and retired Federal employees would increase outlays. As the Chairman noted, we estimate the FEHB Program government costs would be \$41 million for 2010 and approximately \$670 million for the period of 2010 through 2019. We estimate the cost of the legislation for survivor benefits would increase the total present value of benefits by about \$50 million—\$37 million for non-Postal and \$13 million for Postal workers. Retirement costs for this group would initially decrease because their retiree annuities would be reduced to provide for the survivor annuity, while few survivor benefits would be paid to domestic partners initially.

This concludes my statement, and I would be happy to answer questions as the hearing proceeds.

Chairman LIEBERMAN. Thanks, Mr. Weizmann. Interesting questions, which we will get back to during the later part of the hearing.

Our next witness is Dr. Yvette Burton, who is a Business Development Executive with IBM. It is a pleasure to have you here, and thanks for your testimony.

TESTIMONY OF YVETTE C. BURTON, PH.D.,¹ GLOBAL BUSINESS DEVELOPMENT EXECUTIVE FOR GAY, LESBIAN, BISEXUAL, TRANSGENDER (GLBT) AND HUMAN CAPITAL MARKET SEGMENTS, IBM CORPORATION

Ms. BURTON. Thank you, Mr. Chairman. Good morning. Senator Lieberman, Senator Collins, and Members of the Committee for Homeland Security and Governmental Affairs, my name is Yvette Burton, and I am the Global Business Development Executive for Gay, Lesbian, Bisexual, Transgender (GLBT), and Human Capital Market Segments at IBM, and in that role I have responsibility for providing strategic advisement and consultation to our customers in that space as they embark on organizational transformation around the world. I have submitted my testimony for the record.

In my testimony, I will share IBM’s point of view as one of the growing number of Fortune 500 companies implementing domestic partner benefits. In addition, I will address IBM’s job market perspective on the utilization of domestic partner benefits as a strategy for competitive talent management.

Senator Lieberman, Senator Collins, and other Committee Members, IBM has over 356,000 employees in 74 countries. IBM unites

¹The prepared statement of Ms. Burton appears in the Appendix on page 34.

different cultures, languages, professions, and perspectives in one globally integrated enterprise. This unique combination of viewpoints fuels IBM technologies, products, services, and our commitment to our clients' success.

As a leader on GLBT issues, IBM can be proud of the progress it has made in empowering GLBT employees around the world and in the IBM workplace.

For example, IBM maintains a 100-percent ranking on the Human Rights Campaign (HRC) Corporate Equality Index for the United States. In 1999, IBM was named one of the best companies to work for, for gays and lesbians by HRC.

In 2002, IBM became the first "Gold Corporate Sponsor" of the Atlanta Executive Network (AEN), the largest GLBT professional networking organization in the United States.

Advocate magazine names IBM one of the "Top Companies to Work for Today."

As a business-to-business company, corporations and institutions come to IBM for leadership and as a model on how to build and leverage a diverse workforce and how to drive that towards our clients' success. In essence, we provide the answer to the question "Why Does IBM Work?" Undoubtedly, programs like domestic partnership benefits are a critical component to our success.

So let's examine how domestic partner benefits actually benefit business. IBM has become a globally integrated enterprise. As our economy becomes more globally integrated and competition for skilled employees becomes even more intense, the ability to attract, retain, and develop world-class talent is crucial.

For over a decade, IBM has used domestic partnership benefits as a differentiating and competitive method to attract employees. Increased loyalty to the company and our history of non-discriminatory practices are some of the immediate advantages of implementing programs like this. But domestic partner benefits do not only attract GLBT employees. Like IBM, many companies report that the implementation of domestic partner benefits helped to attract and retain crucial talent segments of non-GLBT employees. These particular candidates have reported that the existence of domestic partnership benefit policies like that at IBM demonstrate that the company truly values and respects all employees, that they protect all employees. It also shows IBM's commitment to including diverse perspectives. This trend is especially prevalent among younger candidates of the workforce—a segment crucial to the future demographics of any sector.

Domestic partnership benefits serve as a vital talent development opportunity at the leadership level. As organizations effectively integrate domestic partnership benefits into practice, it provides a valuable framework for leaders to clarify the organization's commitment to eliminating those attitudes and behaviors that negatively impact on business results. In a nutshell, it can improve low productivity and morale caused by inequitable workplace practices, thereby creating a positive work environment.

Unfortunately, many GLBT employees spend a good deal of their workdays concealing their orientation from co-workers for fear of backlash and adverse impact to career advancement. The absence of domestic partnership benefits contributes to this problem by sig-

ning to all employees that GLBT employees are not equally valued in the workplace. This disconnect in the commitment to equitable treatment of the workforce can become a breeding ground for inconsistent employment and human resource conditions for GLBT employees in general.

Providing domestic partnership benefits can help an organization develop a stronger and industrious workforce. How? Strong development opportunities have been evident in the results of GLBT employees who take great personal risks in discussing their families with their managers. In these examples, we see key business skills—skills like strategic risk taking, decision-making, and the demonstration of trust and responsibility in all relationships. These leadership skills are key to advancing a company's business objectives. In the end, manager-employee conversations prove to be an invaluable growth opportunity for both the employees and the organization.

Last, domestic partnership benefits create a sense of loyalty to the company, a bond between the employee and the organization, as well as a balance of work and home. In a competitive market and difficult and uncertain times, the commitment by our employees has proved enduring.

A related issue I would also like to address is IBM's support for the Tax Equity for Domestic Partner and Health Plan Beneficiaries Act, S. 1556. As many of you know, gay and lesbian employees who receive domestic partnership benefits have to pay taxes on their employers' contribution for health insurance benefits and employers must pay payroll taxes on their employees' taxable income. This legislation would eliminate these taxes and allow those who cannot afford the extra taxes to offer health care coverage for their loved ones.

In conclusion, IBM, much like the Federal Government, has a long history of establishing equilibrium in the workplace. And IBM, much like the Federal Government, has worked to eliminate the gap between the promise and the practice of workplace equality. These actions have proven to be very successful for IBM on many levels. Specifically, IBM's triumph in creating an open and welcoming environment—regardless of sexual orientation, gender identity, and gender expression—has truly allowed us to attract and retain talent to advance our business.

Senator Lieberman, thank you.

Chairman LIEBERMAN. Thanks very much, Dr. Burton. That was very interesting, very helpful.

Next we have Colleen Kelley, National President of the National Treasury Employees Union. Welcome.

**TESTIMONY OF COLLEEN M. KELLEY,¹ NATIONAL PRESIDENT,
NATIONAL TREASURY EMPLOYEES UNION**

Ms. KELLEY. Thank you very much, Chairman Lieberman and Ranking Member Collins.

For over 70 years, the National Treasury Employees Union (NTEU) has been in the forefront of defending and advancing better pay, benefits, and working conditions for Federal employees. I

¹The prepared statement of Ms. Kelley appears in the Appendix on page 41.

have had the honor of testifying before this Committee many times in the past, and I thank you for this invitation today.

Under the legislation that you have introduced, Mr. Chairman, Federal workers with domestic partners would be able to participate in employee benefit programs similar to the options allowed for married couples. The legislation would also require Federal employees and their domestic partners to be subject to the same duties, obligations, and ethics requirements that married employees are mandated to follow. And as you noted, and I would emphasize, this bill proposes both benefits and obligations.

There is a very sound principle embraced on a bipartisan basis that fair and comprehensive employee benefits in our society are best promoted by the Federal Government operating as a model employer. Then the private sector is encouraged but not mandated to adopt these benefits by the good example and the resulting market forces of the Nation's largest employer—the Federal Government. In this situation, however, we are seeing the reverse. The Federal Government is no longer in the forefront but is behind. With over 53 percent of Fortune 500 companies offering domestic partner benefits and many public employers, including the State of Connecticut, as you noted, Mr. Chairman, this sets up a situation where the very entities that we, in the Federal Government, are competing with for the recruitment of the best and brightest workers, they are offering domestic partner benefits. Market forces and the good example of the private sector now put this issue before the Federal sector.

As the exclusive bargaining representative for over 150,000 Federal employees, NTEU is the first to hear from those we represent about pay, benefits, and working conditions. Domestic partner benefits are a concern that our members raise frequently. We have discussed and debated the issue at our National Conventions and passed resolutions in support at every NTEU National Convention going back more than a decade.

Just recently, I heard from a worker at the IRS Service Center in Ogden, Utah, a Customs and Border Protection officer serving on the Canadian border in Maine, and a Social Security Administration employee in Cleveland, Ohio, all of whom have asked the union to work on having domestic partner benefits extended to the Federal sector.

There is another reason why Congress should move favorably on this legislation. This Committee has been very attentive to the coming human capital crisis in the Federal sector. I have testified and we all know that more than half of the Federal Government's employees will become eligible for retirement in the next 10 years, and approximately 40 percent of the Federal workforce is expected to retire in that period. In the next 5 years alone, it could be 30 percent of the workforce, over 600,000 individuals.

I have testified that OPM needs to step up its marketing and its outreach. I have also testified that the looming crisis is not just a matter where the response can be moving those next in line up the food chain and stepping up entry-level hires. The Federal Government did very little hiring in the 1990s, while at the same time, the Federal workforce was reduced by about 400,000 workers. We are not only losing the senior layer of the workforce in the next 10

years, there is also no one behind them to do the jobs. Mid-career and mid-level candidates need to be attracted to Federal service, including those who are part of a domestic partner couple.

Given this reality, it is simply unacceptable that the Federal Government does not offer benefits equal to or better than the private firms the government is competing with for talent. Most obviously, it is a desirable recruitment tool for an employee with a partner not in the labor force or in a job that does not offer health insurance. When asking applicants to relocate, it is a tough sell for a married couple, but at least the agency can offer relocation and related expenses and at least the non-Federal spouse can participate in the health insurance plan while searching for a new job in the new location. To ask a highly qualified candidate to relocate, and to expect the candidate's domestic partner to leave his or her employment and employer-sponsored health insurance to move to a new city, could cause the Federal Government to miss out on some of the best and the most able candidates.

And to your question, Senator Collins, NTEU would not object to expansion of the legislation to include domestic partner coverage as you described in Maine.

Mr. Chairman, I thank you again for the opportunity to testify in support of this legislation, and I would be happy to answer any questions that you have.

Chairman LIEBERMAN. Thanks very much, Ms. Kelley. I appreciate the testimony, and I have some questions for you afterward.

Next we have Sherri Bracey, Program Manager for Women's and Fair Practices Department of the American Federation of Government Employees. So we have the two employee groups represented here who represent the largest numbers of our Federal workforce.

Thank you for being here.

**TESTIMONY OF SHERRI BRACEY,¹ PROGRAM MANAGER,
WOMEN'S AND FAIR PRACTICES DEPARTMENT, AMERICAN
FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

Ms. BRACEY. Thank you. Mr. Chairman and Members of the Committee, my name is Sherri Bracey, and I am the Program Manager of the Women's and Fair Practices Department of the American Federation of Government Employees (AFGE). Our union represents more than 600,000 Federal and District of Columbia workers, and today I testify on their behalf in support of S. 2521, the Domestic Partnership Benefits and Obligations Act of 2008, a bill which would provide the same-gender domestic partners of Federal employees the same benefits available to spouses of married Federal employees.

This legislation is about equity—the type of equity that assures that Federal agencies are capable of recruiting and retaining the brightest and the best workers, and the type of equity that personifies civil service protections. S. 2521 would result in the equalization of benefits such as health insurance, retirement benefits, Family and Medical Leave Act benefits, life insurance, workers' compensation, death and disability benefits, and even reimbursement benefits for relocation, travel, and related expenses.

¹The prepared statement of Ms. Bracey appears in the Appendix on page 48.

Under S. 2521, biological and adopted children of domestic partners will be treated the same as step-children of married Federal workers. Same-gender domestic partners would be subject to the same anti-nepotism and financial rules and obligations as married Federal workers. These benefits and obligations are the norm for what workers, especially those in the Federal workplace, reasonably expect to receive from employers.

To become eligible for equitable treatment, Federal employees in same-sex domestic partnerships would be required to file legal affidavits of eligibility with the Office of Personnel Management to certify that they share a home and financial responsibilities, affirm that they have the intention to remain in the domestic partnership indefinitely, and notify OPM within 30 days if the partnership is dissolved.

It is important to note that OPM readily accepts affidavits in support of FMLA benefits for all Federal workers and that the agency has not expressed undue concern with fraud in the administration of that program.

The practice of treating married employees and those in committed same-sex partnerships equitably with regard to health insurance and retirement benefits is now well established in the private sector, and in many State and local governments. Clearly, these private and public employers offer such benefits not only because it is fair and appropriate, but also because the labor market has made such policies an imperative in the competition to attract and retain excellent employees.

Fortune 500 firms, the best comparison for the Federal Government as the Nation's largest employer, extend equal benefits to spouses and same-sex domestic partnerships. The Federal Government should do no less. The Federal Government should be a model employer that strives to attain the highest level of fairness for its employees with additional duty to all taxpayers to adopt employment policies that facilitate the hiring and retention of a workforce of the highest quality.

Top wages, top benefits, and top work environments attract the top talent. The economic value of family coverage for health insurance, survivor benefits for retirement, disability, workers' compensation, life insurance, and full family coverage of relocation costs are substantial to workers and have extremely modest costs for the government. Non-cash Federal benefits make up almost a third of a typical Federal worker's compensation and become even more important to workers because the salary gap between Federal and non-Federal jobs has actually grown in recent years so that it now stands at 22.97 percent, on average, nationwide.

To add to the challenge, continuing to discriminate against workers in same-gender domestic partnerships is as irrational as it is unfair. Imagine the perspective of a high-performing Federal employee who happens to have a domestic partner and two kids and who works in a job that the Federal Government admits it has trouble recruiting for, such as a certified registered nurse anesthetist in the Veterans Administration, or a Defense Department information technology specialist with a high security classification. If that Federal worker has a coworker with identical job responsibilities and performance who happens to be married with two

kids, the worker with the domestic partner and kids would only be eligible for single coverage from FEHBP while married workers would enjoy subsidized family coverage from FEHBP, worth approximately \$8,561.80 per year, and that subsidy is not taxed.

If a married Federal employee with two kids dies early, his or her survivors will receive benefits ranging from \$12,432 to \$38,628 per year depending on his or her salary. In identical circumstances, a surviving domestic partner and children of that Federal worker are left with nothing.

The single largest component of compensation after salary and their own annuity for the vast majority of Federal employees who earn a full retirement annuity after a career on Federal service is the financial value of survivor benefits. This inequity in the treatment of a Federal employee's survivor is the most severe and the most indefensible. It is impossible to square these facts with the merit system principle of equal pay for substantially equal work.

The injury to Federal workers in domestic partnerships and their families is real and severe. Federal GLOBE, an advocacy group of Federal workers whose purpose is to eliminate prejudice and discrimination in the Federal Government based on sexual orientation, provided this telling narrative from a member discussing the impact of second-class benefits for first-class work on their family:

"My partner and I had to incur the significant expense of individual health insurance for her because she was not eligible to receive coverage through my employment. During this time, she was working as an independent consultant. My married colleagues were able to provide their partners with health benefits which were more extensive than my partner's individual insurance and partially subsidized by the government. I did not see my relationship with my partner as any less legitimate or permanent than my colleagues' marriages. We are in a long-term relationship, 14 years, which is no more or less permanent than a legal marriage. We completely share our finances, so denial of health insurance for her is a denial of benefits to me. I really see the inequities in health insurance benefits coverage as discrimination based on both material status and sexual orientation."

The Congressional Budget Office has calculated that enactment of S. 2521 would add less than one-half of 1 percent to the existing costs of this program. Therefore, cost cannot serve as a valid rationale for failure to pass this legislation and is far outweighed by the cost of turnover, retirement, and training when experienced Federal workers leave Federal service because of inequities in benefits suffered by workers in domestic partnerships. The format of a family, all families, is a happy occasion and should be supported by the U.S. Government.

This concludes my statement. I would be happy to answer any questions Members of the Committee may have.

Chairman LIEBERMAN. Thank you very much for your testimony, Ms. Bracey.

And, finally, we have Frank Hartigan, who is Deputy Regional Director of the Federal Deposit Insurance Corporation. Thanks for being here.

Maybe we should ask you first, how is the FDIC doing this week?
[Laughter.]

Mr. HARTIGAN. All right.

Chairman LIEBERMAN. You are all right. And we are OK, right?

Mr. HARTIGAN. We are OK.

TESTIMONY OF FRANK A. HARTIGAN,¹ DEPUTY REGIONAL DIRECTOR, SAN FRANCISCO OFFICE, FEDERAL DEPOSIT INSURANCE CORPORATION

Mr. HARTIGAN. Chairman Lieberman, Ranking Member Collins, and Members of the Committee, I am happy to be here today to testify on behalf of domestic partner benefits for Federal employees.

My name is Frank Hartigan, and I am an executive manager at the Federal Deposit Insurance Corporation. I have worked for the FDIC for 24 years and am currently a Deputy Regional Director in the Division of Supervision and Consumer Protection.

I am here to tell you about my experience and unique perspective as a gay executive in the Federal Government. I am testifying on my own behalf, and I am not speaking for the FDIC.

The lack of domestic partner benefits is a fairness issue that negatively impacts employees during their entire career and into retirement. The lack of domestic partner benefits is in direct contradiction to the best practices of workplace fairness.

Gay and lesbian employees have to deal with inequities in the workplace every day when it comes to benefits. They face financial and emotional hardships when their partner does not have adequate health, dental, and vision insurance. They often feel at a disadvantage when applying for other Federal jobs or advancement opportunities that involve relocation, as relocation benefits are not the same for domestic partnerships as they are for heterosexual married employees. And gay and lesbian employees are at a disadvantage when they compare their retirement benefits to their coworkers.

Some Federal agencies, like the Federal banking regulators, have recognized these inequities and have implemented limited forms of domestic partner benefits. I am proud to say that the FDIC, under the leadership of Chairman Bair, is also beginning to do the same. While this is a step in the right direction, these attempts to equalize benefits fall short of achieving actual equality. In plain words, the total compensation package for gay and lesbian Federal employees is not equal to their coworkers in the same job.

As a result, the lack of domestic partner benefits puts the government at a disadvantage when trying to attract and retain a qualified workforce. More than half of the Fortune 500 companies and almost 10,000 other employers provide domestic partner benefits. Also, many State and local governments plus colleges and universities provide domestic partner benefits to their employees.

Young gay and lesbian employees certainly consider domestic partner benefits when deciding between potential jobs and employers. They are much more enlightened to the issue of domestic partner benefits than I was when I entered the Federal workforce. In retrospect, I have asked myself, "If I were starting out in today's job market, would I take a job with the Federal Government know-

¹The prepared statement of Mr. Hartigan appears in the Appendix on page 53.

ing what I know about domestic partner benefits?" I believe I would look elsewhere.

Being competitive in attracting new talent is especially important when you look at the number of people eligible to retire in the coming years. As has already been testified, the numbers are significant. Given the large loss of talent, the Federal Government will need to ensure that it is viewed as an employer of choice by prospective employees.

Potential new employees consider domestic partner benefits not only as part of a total compensation package, but they also look at them as an indication of a fair and respectful workplace.

Perhaps the most obvious and ongoing disparity in employee benefits is in the insurance coverage offered to family members of Federal employees. Domestic partners of gay and lesbian employees cannot be covered by the Federal health insurance programs. This is also true for vision, dental, and life insurance coverage. The lack of insurance can cost a family a great deal of money.

One of my colleagues has worked for the Federal Government for 28 years and is in a long-term relationship. He and his partner are raising three adopted children. Since the employee cannot provide health insurance to his partner under the family plan, they pay roughly \$9,000 a year for a separate policy. The quality of the insurance coverage does not compare to that offered by the Federal Employees Health Benefit program. It carries high deductibles and premiums that are an additional burden to the family's budget.

His partner needed two surgeries that required significant out-of-pocket expense. They are now postponing further needed surgery simply because they cannot afford it. All this comes at a time when they are preparing to send two children off to college.

Another colleague left the government for private sector employment specifically because of the lack of domestic partner benefits. She took with her training and expertise that was paid for by the agency to the private sector that offers domestic partner benefits. We lost a very smart, valuable, and talented employee.

A close friend and colleague who has been with her partner for over 18 years and with the government for 25 years recently paid more than \$10,000 for dental work for her partner. Under our family dental insurance program, she would have received about 60 or 70 percent of those expenses in reimbursement.

Gay and lesbian employees in domestic partnerships are also treated substantially different than married couples when it comes to relocation benefits. When an employee makes a geographic move for the benefit of the organization, agencies reimburse them for certain allowable expenses. If an employee is married, the relocation benefits extend to the spouse. However, if a gay or lesbian employee owns a home with a domestic partner, only the employee's portion of the residence, household goods, and vehicles are covered. Relocation benefits are essentially cut in half.

Gay and lesbian employees are also disadvantaged with retirement benefits. Retirement benefits for Federal employees with domestic partners are not equal to those provided to married employees. A married employee with a spouse can choose to provide a survivor annuity. This same option is not available to domestic partners.

And of course, the inequities in health insurance benefits extend into retirement. Health insurance for domestic partners cannot be provided in retirement, but an opposite-sex spouse has the right to health insurance coverage.

I recently attended a 3-day seminar on retirement benefits sponsored by my agency. Throughout the 3 days, there was extensive talk about benefits available to the spouses of heterosexual employees and the need to “protect your spouse” in the event of the employee’s death. There was absolutely no discussion of similar benefits for my partner because they do not exist.

Last, I would like to address the issue of “presenteeism.” This is where an employee shows up for work but because of distractions their mind is elsewhere. Family problems can certainly impact any employee. However, due to the lack of domestic partner benefits, gay and lesbian employees have added stress and burden. For instance, in all of the examples I have talked about today, the gay or lesbian employee was under additional stress, had more distractions, and was not able to focus 100 percent on their job. Whether the employee was worrying about the health or well-being of an uninsured partner, trying to figure out how to cover the additional expense of higher insurance costs and medical expenses, feeling as if they are limited in opportunities for career advancement because of inequities in relocation benefits, or being anxious about providing for their family in retirement, all of this significantly affects an employee’s level of presenteeism.

In closing, I would like to say that today’s hearing regarding the Domestic Partnership Benefits and Obligations Act gives many great hope that the U.S. Government recognizes and is willing to correct the grave inequities that exist by requiring departments and agencies to offer a full complement of domestic partner benefits, including health, dental, vision, and life insurance, as well as relocation and retirement benefits. The Federal Government strongly espouses the principle, both for itself and private employers, of equal pay for equal work. Yet it knowingly has tolerated a system in which gay and lesbian employees have less total compensation than non-gay coworkers doing exactly the same job.

Domestic partner benefits are necessary for the Federal Government to compete for the most qualified employees and to ensure that all of its public servants receive fair and equitable treatment. It makes good economic and policy sense, and it is the right thing to do.

Thank you for the opportunity to testify today. I would be happy to answer any questions of the Committee.

Chairman LIEBERMAN. Thanks very much, Mr. Hartigan. Thanks for your testimony. The real life stories you tell, I think, present some of the strongest evidence for the benefits that we are attempting under this legislation to provide. And I thank you for teaching us a new word: “presenteeism.” I will immediately notify William Safire that you have done that.

Let’s start with 7-minute rounds of questions.

Let me start, Dr. Burton, with you just by way of a summary question. It is implicit in everything you said, but, as I indicated in my opening statement, these are benefits that we would like to provide—if I speak for myself and the other sponsors. But we un-

derstand that we have to subject these, notwithstanding our belief that they are fair and right, to a cost-benefit analysis.

I assume that IBM has concluded that the benefits of providing the range of domestic partner benefits that we have talked about significantly outweighs the cost. Is that correct?

Ms. BURTON. Yes, Senator Lieberman, that is correct. Conversely, when we considered those variables that were mentioned by the last witness—those distractions that detract from performance and delivery of business results, we see that easily those types of attitudes and behaviors in areas like that can take away up to 20 percent of our ability to deliver the bottom-line results for the company.

So we take quite seriously being able to not only implement programs like domestic partner benefits, but then to support it with the infrastructure to deliver, monitor, and ensure that we have the processes to make them effective.

Chairman LIEBERMAN. Thanks.

Mr. Weizmann, let me ask a few points of you. I must say that Senator Collins and I talked about this. We note, as we listen to your testimony on behalf of OPM, that you neither endorse nor oppose the legislation. You describe the legal context. You raise some questions, which are appropriate questions, about its implementation. And you reported on some of the estimates of cost. So I suppose I take that as an encouraging sign. Am I reading you correctly on behalf of OPM?

Mr. WEIZMANN. We have taken no position on this bill.

Chairman LIEBERMAN. Yes. Well, I appreciate that at this point in the discussion. Let me ask you this question based on what you know, and, again, I am not asking you to take a position on the legislation because you are not authorized to do that. But do you think, from the arguments that we have heard today, that it would help the Federal Government in its competition for top talent to offer domestic partner benefits?

Mr. WEIZMANN. Well, it is an interesting benefit, and I guess what I would think is that when I look at the take-up rates of these benefits where they are offered, they are generally around one percent for all employees who take those benefits.

Chairman LIEBERMAN. Yes.

Mr. WEIZMANN. And it seems to me when you talk about solving the retirement wave crisis, we proceed from a very small specific to a very large general using this benefit.

Chairman LIEBERMAN. So you would say it would help, if I hear you, but it is not going to solve our human capital management.

Mr. WEIZMANN. I am not in a position to say whether it would help or not. There is really nothing other than anecdotal evidence as to whether this is useful in an attraction and retention mode. At least we could not find any surveys that really indicated that these benefits either attracted people or retained people.

Now, clearly there are anecdotal situations that people can cite, but there are also the same kinds of anecdotal situations for married employees within the Federal Government.

Chairman LIEBERMAN. I suppose from my point of view, the provision of benefits for same-sex partners would naturally be an inducement for some people to come to work for the Federal Govern-

ment as opposed to private employers who offered such benefits. I wonder if any of the other witnesses want to comment on that other than anecdotally. I do not know whether there have been any studies done on that. Again, it would seem to be common sense that this would be an effective inducement to employment. Anybody else want to join in that? Ms. Kelley.

Ms. KELLEY. I am not aware of any studies either, Chairman Lieberman, but what I do believe is that as a model employer, there is a wide range of things that the Federal Government needs to look at and be implementing in order to increase the chances of recruiting and retaining top talent, both today and into the future. And I do not see this legislation as any suggestion that it is the one thing that would fix the recruiting and retention problems. It is one of many things. And if this is the way we need to go about them, one at a time, then on its merits and the fact that it is fair, appropriate, and affordable, it sends a message not only to those who might elect to take the coverage, but to the kind of workforce that the Federal Government wants to have, and how they value and respect the total Federal workforce then, it is certainly worth doing.

Chairman LIEBERMAN. I was interested in Dr. Burton's comments about the feeling that IBM has that the provision of same-sex partner benefits is an inducement to people who are not in same-sex relationships because of what it says about the work climate overall.

Look, I suppose without a specific study—one market-based indicator here is that more than half of the Fortune 500 companies offer these benefits, presumably not just because they have decided they are right, because after all, these are businesses, and not because they have been compelled by law in most cases to do it, but because they think it is good for business. So that leads me to think it would be good for the Federal Government, certainly in terms of attracting and retaining.

Mr. Weizmann, let me ask you one more question in the time I have on this round. I want to ask you to elaborate a bit on the practical question you raised, the concern about the potential for fraud. You expressed concern that the reliance on affidavits lacks the specificity needed to determine eligibility and benefits for a separated domestic partner. And I want to ask whether, generally, do you believe that the provisions in our legislation involving affidavits should be tightened up? Or do you believe that any reliance on affidavits to determine eligibility will bring problems that will be difficult to fix?

Mr. WEIZMANN. I think there are two points regarding the tracking. The first is when an employee signs up for domestic partner benefits under this legislation. Simply providing a self-verification of an existing relationship itself is pretty thin in terms of an evidentiary matter. There are places that require, quite frankly, more in terms of joint financial investments and those kinds of things. So, I think that is part of the problem.

The other problem, which is perhaps more significant, is what we do on the dissolution of that relationship. I know in the private sector, for example, long-term disability is a huge issue for most employers who, in fact, have trouble tracking down people who are

still and remain eligible for long-term disability. When you come to the Federal Government, we have some 4 million active employees and retirees covered under FEHB, and 8 million in total in terms of beneficiaries. The size of our system and also our fiduciary responsibility to ensure that people who are receiving benefits are, in fact, eligible for benefits makes this a huge administrative burden for us. And, quite frankly, to rely on an affidavit that is filed once at one point in life and then some requirement even to report when the relationship dissolves, when you consider the self-interest that would be involved in people who would like to continue those benefits, it is a pretty weak thread to build a fabric of legislation here.

Chairman LIEBERMAN. I am going to ask Senator Collins' indulgence just to ask one follow-up question of Dr. Burton, since you represent a large employer who has offered these benefits to their employees. Just take a moment to describe both the eligibility procedure at IBM and also the extent to which you have either confronted or worry about fraud.

Ms. BURTON. Thank you, Senator. As the government goes through and tries to solidify the appropriate process that would serve as strategic control points, we would be happy to share best practices. And, again, I am speaking as a consultant, not as a benefits administrator, so bear with the level of detail.

The affidavits serve the same purpose, or a remedy for the lack of legal certificates, that a marriage certificate would provide. But most corporations do not rely on the affidavit to serve as the panacea for the absence of processes. What they do is make that affidavit analogous to the purpose that a marriage certificate would serve. So at IBM, what that looks like is just as my married colleagues would be advised to have their marriage certificates at the ready should a benefits administrator need to draw on that license, in the event of my death for my partner to receive benefits or should I retire, there is a document that certifies the date and nature of our relationship that is referenceable and is at the ready. And, likewise, the corporation advises that if I live in a State, let's say, like California, where marriage is an option, so not only just the affidavit but in the description of what the domestic partnership is. There are avenues if the option to marry becomes available. It also talks about not only the affidavit, but a legal certified document, a marriage license, that is now available for same-gender couples.

So, again, it is being genuine to the purpose of that affidavit and how it serves to move the processing of benefits. And with regard to termination of benefits, there is also language in our domestic partnership guide that states an employee has to notify our employment center about the change in his or her relationship within 30 days, much like if the employee was married and divorced there would be an obligation to notify the corporation of a change in status. But as I have offered, if helpful to the Committee, I would be delighted to provide more detailed information on our processes.

Chairman LIEBERMAN. Thank you. That was helpful.

Mr. WEIZMANN. Senator Lieberman, may I correct something that I said before?

Chairman LIEBERMAN. Yes.

Mr. WEIZMANN. Because I was misinformed. We do oppose this bill and I am regretful.

Chairman LIEBERMAN. Oh, I am sorry to hear that. Probably I asked one too many questions.

Mr. WEIZMANN. Probably did. Maybe it changed during the course of this hearing. I am not sure.

Chairman LIEBERMAN. OK. Senator Collins.

Senator COLLINS. Mr. Weizmann, in view of what you said, I want to ask you some further questions. You had extensive experience in the private sector prior to coming to OPM. Did any of the companies for which you worked extend domestic partnership benefits?

Mr. WEIZMANN. Yes, we did.

Senator COLLINS. Were there any problems with those programs?

Mr. WEIZMANN. As I indicated, statistically we did not have very many people electing those benefits. At the same time, the program still was too new. We are not talking about a period of 10 or 15 years. We are talking about a period of months, really, when we adopted them from the time I was there.

Senator COLLINS. Well, in looking at the firms at which you worked, Aetna, for example, has domestic partnership benefits, and they have retained those benefits for a number of years. In the case of Aetna, it goes back a decade. If, in fact, these were not advantageous benefits for the private sector companies to have, don't you think they would have done away with those benefits?

Mr. WEIZMANN. Senator Collins, with all due respect, having worked in companies all my life and only having recently come to the Federal Government, companies adopt benefits for a whole bunch of reasons, and while we talk about the attraction and retention issue, in many instances for employers they look at this as a matter of either fairness or the kind of equity issues that have been discussed here. The fact that they retain those benefits and is at least as likely because they do not cost much and they have not proven administratively burdensome because they have relatively few people electing those benefits and is really not indicative of whether that benefit has been reviewed and whether they want to keep it or they do not keep it.

Senator COLLINS. Well, I think you just made the case for the benefit on another ground, which is fairness. Either these companies are viewing it as the right thing to do as a matter of fairness, or they are finding that it is advantageous to them in terms of attracting and retaining a high-quality workforce. Either way they have reached a decision to extend this benefit that to me is a compelling decision for the Federal Government to follow either as a matter of fairness or as a matter of retention and attraction.

Mr. WEIZMANN. Senator, corporate decision-making, as we know, as we have recently found out, is often imperfect. Having said that, when you look at the overall statistics of those employers that have elected same-sex domestic partner benefits, for all employers in total, it is 11 percent. It is not an overwhelming number. When you get to larger employers, yes, indeed, the statistics that Senator Lieberman quoted are accurate.

So, whether it is an equity issue or what those determinations are made, those are really specific to what the company's policies are. It is not something for me to discuss.

Senator COLLINS. Well, it seems to me that the parallel for the Federal Government is, in fact, large employers. That is what the Federal Government is, and that is what most of the firms who provide these benefits are, in the larger-firm category.

Let me go on to Dr. Burton because I am going to have to leave right after I conclude these questions. Dr. Burton, some have argued that the reason we should extend these benefits to same-sex partners but not unmarried heterosexual partners in a committed relationship is that same-sex partners in most parts of the country are unable to legalize their relationship through marriage. Yet we do not want to provide a disincentive to marriage for heterosexual partners.

On the other hand, if our goal is to increase the recruitment and retention of qualified employees, should there be a distinction between committed partnerships of different-sex partners versus committed partnerships of same-sex couples?

Ms. BURTON. Thank you, Senator Collins. I have served IBM and watched other institutions along their remarkable journeys and the laser sharpness in the intent of this policy decision. There are some companies that have expanded domestic partner benefits to opposite-sex partners, but most to same-sex partners because of the spirit of their intent is to create equilibrium. Many domestic partnership guides have verbiage like, if your partner was opposite sex, you would marry. Or, you would not be committed to more than one individual. The intent of the policy is clear in focus and what it is trying to exact.

And IBM has been phenomenal in participating in forums to discuss laws against gender or orientation, where we face execution, where we have customers and a commitment to serving through excellence in business, where we are mindful partners in advancing the conversation but do not break local laws.

Senator COLLINS. Thank you.

Mr. Weizmann, in your statement you outline some technical issues that I think are legitimate aside from the broader issue. But I would suggest that the answers to those technical concerns about affidavits, about the dissolving of a relationship, are found by looking at IBM's policies, by looking at the State of Maine's policies. There are answers to that. When we have 56 percent of the Fortune 500 companies having these policies, they have clearly worked through those kinds of technical issues.

So I, for one, am very willing to work with you to improve the language of the Chairman's bill to guard against fraud, to make sure that we address the procedural issues. But those are not difficult challenges because many of these businesses have already worked through them. The State of Maine has already worked through them and has a lot of safeguards built into State laws.

So I do not think that those legitimate concerns that you have raised about the specific drafting of the Chairman's bill should serve as a reason not to move forward with the legislation.

Mr. WEIZMANN. Senator, there are two things. In the first instance, I do not know and I am not sure that anyone in this room

necessarily knows the degree to which companies actually monitor relationships that go forward.

I do know that, as you cited before, in my own private experience, when benefits do not cost very much and they are not utilized very much, they do not get a lot of attention. There are other benefits that do. If I looked at the evidence of what private sector companies do in terms of whether they have had it long term or short term, I do not know whether that is dispositive or whether these issues have been resolved or are being addressed.

The second thing that I would like to say is the Federal Government, in terms of its provision of benefits, is much larger and also has a much stronger fiduciary obligation to the taxpayer in terms of ensuring that those benefits are delivered and delivered accurately. So I think that those are two distinguishing features. As I said in the first instance, I am not sure that there is evidence in the fact that the private sector has these benefits. And, two, I think that the Federal Government is different than private sector employers simply because it is so very large and it has such a strong fiduciary relationship with the taxpayers.

Senator COLLINS. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Senator Collins, thank you, and I know you have had other demands on your time on matters that are very important this morning, so I appreciate the time you spent here and the questions you asked.

Senator Akaka, good morning and welcome. Thank you for being here.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you. Good morning. Mr. Chairman, I am happy to be here. I want to thank Senator Collins for her views and the statements she just made in really looking at the future. We need to do that. And I want to say that I am so glad to be a cosponsor of the Chairman's bill. There is no question that if we need to work on it to make it better, we need to do that. That is the reason why we have these hearings, to hear from you, with the hope that we will have some advice that can improve our bills. And so, this is where we are.

Mr. Chairman, I would ask that my full statement be placed in the record.

Chairman LIEBERMAN. Without objection. Thanks, Senator Akaka. Thanks for your cosponsorship, too.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF SENATOR AKAKA

Mr. Chairman, I want to thank you for holding this important hearing on domestic partnership benefits for Federal employees and let you know how proud I am to be a cosponsor of your bill, S. 2521, the Domestic Partnership Benefits and Obligations Act.

I firmly believe that the Federal Government's most important asset is its employees. Yet, the Federal Government is not keeping pace with the changing demands of the modern workforce. Over the course of the past five years, I have worked with my colleagues to provide Federal agencies with the tools and resources to compete for talent and retain the highly skilled workforce. We have extended to Federal employees dental and vision care options, greater flexibility with the Thrift Savings Plan, and new compensatory time and leave provisions. However, more needs to be done.

Competition for talented employees in the global marketplace is fierce. Beginning in the early 1990s, large private employers like the Walt Disney Company began to recognize the need to offer competitive benefits packages that include domestic partners. Other large private and public employers soon followed suit. To date, eight of the Fortune 10 companies, over fifty percent of the Fortune 500 companies, hundreds of small businesses and non-profit organizations, and more than 200 State and local governments, including the State of Hawaii and City of Honolulu, provide domestic partnership benefits. This appears to be standard industry practice.

As the largest employer in the United States, the Federal Government should be the leader in providing benefits and options for its workforce. Other employers look to the Federal Government as the standard bearer for personnel policies. Unfortunately when it comes to domestic partnership benefits, the Federal Government needs to update its employment policies to catch up to the rest of the country.

The next generation of Federal employees wants to work for an employer that offers domestic partnership benefits. They value an employer who treats all employees equally whether they will use the benefits or not. This is a concept that we can support.

The Federal Government already must follow the merit system principles to create a work environment free from discrimination and cronyism. These principles require agencies to treat all employees equally and require that personnel decisions be made without discriminating based on age, sex, race, religion, ability, off-duty conduct, or marital status.

However, on the issue of sexual orientation, the Federal Government fails. Despite the fact that Office of Personnel Management believes that sexual orientation is protected from discrimination under current law, Special Counsel Scott Bloch, the individual responsible for enforcing the merit system principles, has an alternative interpretation that denies employees the protection from discrimination for sexual orientation. Extending domestic partnership benefits and clarifying that all Federal employees are protected from discrimination because of their sexual orientation would ensure that the Federal Government is complying with the principles of equality and non-discrimination.

As a matter of implementation of domestic partnership benefits, I understand that OPM is concerned about the potential cost of administering such benefits. I would ask OPM the question: what is the cost to the Federal Government on lost talent?

Through training, student loan repayment programs, relocation benefits, and professional development, Federal agencies invest in a lot of time and resources in the current workforce. In turn, the dedicated men and women of the Federal workforce keep America running. If we do not continue to provide competitive benefits packages that reflect the needs of Federal employees and their families, we will lose out on our investment. Domestic partnership benefits would help to ensure that the Federal Government is an employer of choice and help recruit and retain current and future Federal employees.

The dedicated men and women of the Federal workforce in domestic partnerships should no longer be asked to compromise their families for their service. As an employer, we should hold ourselves to a high standard of equality. Extending domestic partnership benefits to Federal employees brings us closer to that goal. I look forward to hearing from the witnesses. Thank you again, Mr. Chairman.

Senator AKAKA. I want to thank you for holding this very important hearing on domestic partnership benefits for Federal employees. This is a continuing process. The U.S. Government is the largest employer in America, and the Federal Government should be the leader, therefore, in providing benefits to its workforce.

To date, eight of the Fortune 10 companies, over 50 percent of the Fortune 500 companies, hundreds of small businesses and non-profit organizations, and more than 200 State and local governments, including the State of Hawaii and the city and county of Honolulu, provide domestic partnership benefits. This appears to be standard industry practice. Domestic partnership benefits would help to ensure that the Federal Government is an employer of choice and would help to recruit and retain current and future Federal employees.

Moreover, as an employer, we should hold ourselves to a higher standard of equality. The dedicated men and women of the Federal

workforce in domestic partnerships should not have to compromise their families for their service. Extending domestic partnership benefits to Federal employees brings us closer to that goal.

If I can, Mr. Chairman, I will proceed to my questions.

Chairman LIEBERMAN. Please.

Senator AKAKA. In your testimony, Mr. Weizmann, you claim that the Federal Government offers a competitive benefits package. However, in December of last year, former Ambassador Michael Guest retired from a distinguished career of Federal service largely because of the lack of domestic partnership benefits. Here is a direct case of a talented employee retiring because the Federal Government does not offer domestic partnership benefits.

In representing the agency responsible for addressing this personnel issue, do you want to comment on this?

Mr. WEIZMANN. I think, quite frankly, it speaks for itself. It is an issue where someone has left Federal employment for what they perceived to be a personal situation. We do have married spouses that we deal with all the time, people who are Federal employees, who leave Federal employment for similar reasons, be they in a domestic relationship or just simply married.

So it is very difficult to generalize from a specific case, even one where obviously this individual is very talented and we regret that person left, to say that, in fact, this is a very large retention issue. As I said, when we look at the take-up rates when the benefit is offered, it is very small. It is around one percent for those employers who do have it. So I am not sure how large a problem it is, and obviously that is a story that is regretful. But I am not sure it proves the more general conclusion.

Senator AKAKA. OPM interprets current law to protect a Federal employee from discrimination on the basis of sexual orientation. However, Special Counsel Scott Bloch has an alternative interpretation of current law and denies employees such protections. Should this bill be enacted, do you believe that additional protections are needed to ensure employees are free to apply for domestic partnership benefits? Ms. Kelley.

Ms. KELLEY. I believe if you have followed the actions of Scott Bloch over at the Office of Special Counsel, you will see the record is very clear that NTEU opposes his actions, the way he interprets things, the actions he has taken against employees who work there—or who previously worked there, since they no longer work there. And I think that the time is long overdue for it to be made clear to him what the laws are, and what the rules are, and what the obligation of the Federal Government is.

I would hate to think that legislation has to be passed or a new law written to enforce what is already in place and what, for whatever reason, he is not being held accountable for.

Senator AKAKA. I think you recall that I introduced a bill, S. 1345, which would clarify that Federal employees are protected from discrimination.

Ms. KELLEY. And, Senator Akaka, of course, you know that NTEU supports that legislation. I just do find it very frustrating that we need to keep passing laws to enforce laws that are already on the books that those appointed to these kinds of positions fail to follow.

Senator AKAKA. Ms. Bracey.

Ms. BRACEY. Thank you. I would echo what Ms. Kelley stated, that AFGE believes that Scott Bloch's interpretation is wrong, and we do oppose what he has stated, and again echo that this bill is very important to make sure that we secure rights for all Federal employees and that everyone is treated equally and fairly.

Senator AKAKA. Mr. Hartigan, good to have you before the Committee. You mentioned a number of anecdotes that highlight lower morale for employees because domestic partnership benefits are not offered to cover their families. As a senior manager, how do you deal with these morale issues without the authority to offer such benefits to those employees?

Mr. HARTIGAN. Senator, it becomes very difficult because you have people who come to the workplace that are not treated equally. And throughout my testimony, I talk of examples where people have actually had to pay substantial costs to close the gap when benefits are not provided. And it does not only impact the employee. It impacts the whole working group because when you have a disengaged employee, not only is he or she distracted, but they are not contributing to the group overall.

So the impact is much greater than just one individual. It really impacts the working group in total. It is very hard to deal with that.

Senator AKAKA. Let me ask Dr. Burton, what were IBM's biggest concerns with implementing domestic partnership benefits? And how did you address them?

Ms. BURTON. Thank you, Senator. I was not around and part of the internal team that actually implemented the first programs over 12 years ago, but I know that the concerns were not too dissimilar from any new institution that is embarking on the journey to make the programs relevant, to understand the implications of cost, to get information out to the employees in a timely and responsible way, to keep their employees safe and be entrusted with confidential information. So the questions that are being raised today are not new. This is why the ability to leverage those best practices are so important. And I extend the offer to share that information with you from both the private and public sectors' path in that space. Thank you.

Senator AKAKA. Thank you.

Will there be a second round, Mr. Chairman?

Chairman LIEBERMAN. Probably not, so go right ahead, Senator Akaka. I have just a few more questions, but please go ahead.

Senator AKAKA. Thank you, Mr. Chairman.

Mr. Weizmann, as a matter of recruitment, I have heard that college students at career fairs often raise the question of whether an employer offers domestic partnership benefits. It is not just gay and lesbian students raising this question, but students who value equality in the workplace.

Have you conducted any surveys to assess how important equality in benefits coverage is to recruits?

Mr. WEIZMANN. Excuse me, Senator. When you say equality in benefit coverage, are you referring specifically to same-sex domestic partner relationships or are you talking about equality in benefits across the board for anybody coming to the Federal Government?

Senator AKAKA. Well, let us say across the board.

Mr. WEIZMANN. OK. No. We do have surveys that we do continuously with regard to employee surveys that show that the Federal benefits compare quite favorably to the private sector. So there seems to be a general satisfaction among Federal employees with the level of benefits. But it does not deal directly with the notion that you are suggesting in terms of whether equity was an issue at the point of hiring.

Senator AKAKA. Now, what about in the cases of gay and lesbian recruits?

Mr. WEIZMANN. I am unaware of any surveys that we have done.

Senator AKAKA. Dr. Burton, have you been able to measure the impact of adding such benefits? And if so, what have been your findings?

Ms. BURTON. Yes, thank you. As you can imagine, IBM has an affinity for data, and so whether it be in our recruitment efforts where we are interviewing potential candidates, supporting our clients in their HR strategies and turning that anecdotal data into qualitative insights, or whether it be our exit interviews or the assessment of our leaders in really getting a hand on what to support in the climate that we are trying to create, what are those specific attitudes and behaviors that drive teaming behaviors? Again and again, it comes down to not only understanding how the GLBT employee experiences the workplace, but in a field like technology, where innovation, creativity, openness, and the ability to integrate diverse perspectives is at a premium, we must focus on understanding the relationship between domestic partnership benefits, having a culture where offering—and, again, it is not the monetary cost of how many folks sign up. And I think there is a risk in looking at how many folks sign up because there are other variables like the heavy tax burden that exists, so it may be cheaper for my partner to be covered on her own, or the social cost of me coming out to sign up and what it will mean in my colleagues' eyes to know, or the lack of infrastructure for my company to communicate the existence of benefits.

So you cannot really just look in isolation at a statistics of how many folks sign up. There are other variables that provide a great deal of insight into how these all work together. But at the end of the day, when you look at the large studies that look at risk since 1982 that span private and public sectors, the benefits severely outweigh the costs. And we would be happy to share that with you, if helpful.

Senator AKAKA. Mr. Chairman, I have just two questions.

Chairman LIEBERMAN. Yes, go right ahead.

Senator AKAKA. Ms. Kelley and Ms. Bracey, Mr. Weizmann mentioned OPM's concerns about how filing an affidavit to verify the status of the domestic partnership could lead to fraud because, to some degree, spousal benefits are based on State-sanctioned marriage. Have you had a chance to review this issue? And if so, what are your thoughts about that?

Ms. KELLEY. Well, NTEU has some concerns about the whole affidavit process. I realize there needs to be something in place, but as far as I know, married employees are not required to submit a marriage certificate. It is requested or needs to be made available

as Ms. Burton described when benefits are being claimed, perhaps. So, we are more than willing to work with the Committee and with OPM on what would be appropriate affidavit procedures.

And I think it is really unfair of OPM to suggest that there is some kind of an increased fraud risk element by adding this benefit. I do not see how there would be any more of a chance of fraud in this benefit than there is in the FEHB program that exists today for married couples and married couples with children. I am totally missing why that even would be thought of, much less stated as a risk.

Now, if there is a real risk, of course, every one of us here would be willing to work to ensure that the risk is eliminated in the current population of those benefiting or covered under Federal benefits, as well as any new populations. But I see nothing that would increase the risk and think that it is pretty unfair to even imply that.

Senator AKAKA. Thank you. Ms. Bracey.

Ms. BRACEY. Thank you. I believe affidavits have to be filed for FMLA, and I am not sure if OPM has expressed an issue with those being filed. And, again, we are not asking people to give up a marriage license and things like that in the same situation.

I do think it is unfair—I know that regulations have to be set, but I think that it is unfair to put that on the backs of Federal workers. This is a bill that is necessary. It is necessary for them, for people who do the same amount of work to receive the same benefits and equal pay and benefits. And I think that the burden of regulations should not be on the backs of Federal Government workers. I believe that we can work together and come up with regulations that are fair and beneficial for everyone.

Senator AKAKA. Thank you. Mr. Weizmann.

Mr. WEIZMANN. May I add to that? First of all, to suggest that we are being farfetched in the sense that these benefits are open to fraud and abuse, I would just simply—it is not an unrealistic concern. I would suggest even Hollywood has discussed this in a movie with Adam Sandler, which I think is “I Now Pronounce You Chuck and Larry,” which the subject of the movie, quite frankly, was insurance fraud along the lines of what we are discussing. This is not farfetched and it is not disingenuous to suggest such.

The second thing is, again, it comes back to the issue not only of granting those benefits, but also what happens after those benefits are granted and the dissolution of those benefits and how is that monitored. And for us, that is a very difficult problem. It is one thing to talk about the problem you are trying to address, but it is another thing to confuse that with the solution. And I think in this instance, we may be doing that.

Senator AKAKA. Thank you.

Finally, Dr. Burton, how has IBM dealt with the issue of preventing fraud and abuse in implementing domestic partnership benefits?

Ms. BURTON. Thank you, Senator. As I shared in my opening comments, out of about 365,000 employees and in the 74 countries in which we are supporting domestic partnership benefits, we do not have a high incidence of fraud. And in the experience of supporting our clients who are also implementing domestic partner

benefits, there is a similar level of not experiencing fraud. And so the risk studies since 1982 suggest that there is not fraud. There is greater fraud in marriage licenses being produced that are not valid than there are in affidavits.

So, again, internally—and it has been validated as recent as yesterday—that is not an issue for us, and we would be very happy to help facilitate any information that supports your decision-making.

Senator AKAKA. Thank you very much, and I thank you very much, Mr. Chairman, for your leadership.

Chairman LIEBERMAN. Thanks, Senator Akaka, for that excellent line of questions. I have two brief questions for Ms. Bracey and Mr. Hartigan, which get to this same point, which is the impact of the absence of same-sex benefits for Federal employees in a competitive environment.

I was interested, Ms. Bracey, that you made the point that private contractors who are competing for work now done by Federal employees, particularly as we think forward with the large number of retirements we expect, have an advantage here, because I gather from what you have said that many of the private contractors competing for this work do offer same-sex partnership benefits. Why don't you talk about that a little bit more?

Ms. BRACEY. Thank you. Yes, there is definitely fierce competition out there, and the Federal Government wants to attract the brightest and best employees that the United States has to offer. We want to be just as competitive as everyone else is, and because of the lack of domestic partnership benefits, we are not attracting everyone that would be interested in working for the Federal Government, especially in instances where we are trying to attract for specific positions where there are not as many people to fill those positions. We need to make sure that we are offering the best packages, the best benefits, to make sure that we are recruiting those employees.

We are going to have a huge retirement bloc that is going to be retiring in the near future, and we need to make sure that we are filling those positions with the most highly qualified people and that we are not losing them to Fortune 500 companies. The Federal Government is a model employer, and we should act as so. We should make sure that we are leading in offering the benefits, not lagging behind, basically.

Chairman LIEBERMAN. Right. Thanks.

Mr. Hartigan, similarly you testified that the FDIC is considering offering some form of domestic partner benefit but that, in fact, Federal Reserve banks and the Department of Treasury's Office of the Comptroller of the Currency have already implemented limited forms of domestic partner benefits. And I think you referenced—but I want to ask you to speak to this—whether part of what is going on in that interesting movement within the overall Federal Government human capital management system is that those Federal financial regulators are essentially competing for some of the same people with the private financial services sector, which to a great degree does already offer same-sex partnership benefits.

Mr. HARTIGAN. Yes, that is correct, Senator. Our people are highly trained, and typically for a bank examiner, it takes sometimes up to 3 years to get them fully up to speed. Once they have the expertise, they are highly sought after by the commercial banks that we regulate. So we are competing directly against them. We are not only seeing the top organizations offer domestic partner benefits, we are seeing community banks offer domestic partner benefits. So it is definitely an issue.

When you want to be recognized as an employer of choice or a great place to work, fairness is an issue. And it is important to attract the best people being recognized as the best employer. It definitely impacts our mission.

One other thing I was just going to say is on the relocation issue it is a major issue if we cannot get people to move around the country where we need them. It is a disincentive to them. It also can affect the mission of the agency.

Chairman LIEBERMAN. Yes, that was very interesting to me because I think it is a benefit that would not first come to the mind of most people thinking about this issue. We think naturally about health benefits or retirement benefits. But I can certainly see from both the point of view of the employee, but then longer term from the point of view of the Federal Government as the employer, that you could either lose some employees or find them resistant to being moved to where you would like to move them because of the absence of full relocation benefits. I thought that was an excellent point.

Let me ask, without objection, that several documents be included in the record of the hearing, which I think are quite impressive. First, there are five statements and letters in support of this legislation from groups that are not testifying directly before us: The American Postal Workers Union, the American Federation of State, County, and Municipal Employees, the Human Rights Campaign, Federal GLOBE, and a coalition of 15 organizations that support S. 2521, including a couple that are before us this morning.

Also, we have four letters and statements at some length from companies describing their favorable experience with programs to provide domestic partnership benefits to their employees, and that is from General Electric (I say as a matter of record, headquartered in Fairfield, Connecticut), the Chubb Corporation, TIAA-CREF, and Nike, Inc. Those are quite substantial corporations.¹

And, finally, we are grateful to have received two reports just released yesterday, I hope and believe coincident with this hearing. One is a very thoughtful and thorough assessment of the fiscal impact of S. 2521 prepared by the Williams Institute, a research institute at the University of California, Los Angeles, School of Law, which I really would recommend to both those who support and those who oppose the legislation as it is now, or even those who seem to be neutral, at least in testimony, because it is a good piece of work that I think advances the discussion.²

¹The letters and prepared statements appear in the Appendix on pages 75-156.

²The report from the Williams Institute appears in the Appendix on page 157.

And, finally, a report summarizing the experience of States that provide benefits to their employees' same-sex domestic partners prepared by the Center for American Progress.¹

I thank the witnesses. I thank my colleagues who have been here. I think this has been a very thoughtful discussion of what I take—and I know Senator Akaka, as a cosponsor, does—to be an important proposal, both in terms of equity, but in terms also of the capacity of the Federal Government to attract the best employees and retain them to carry out the important missions that we have.

I can tell you that Senator Smith and I, and I am sure Senator Akaka and others who have cosponsored this legislation, intend to introduce it again in the next session of Congress and hope to advance both the discussion and hopefully the passage of this legislation.

I will say for the record that the record will remain open for 15 days should any of the witnesses want to supplement their testimony, or some members of the Committee who could not be here today may submit questions for the record for you, which we ask you to answer in a timely fashion.

With that, I thank everyone who was here and officially declare the hearing to be adjourned.

[Whereupon, at 11:46 a.m., the Committee was adjourned.]

¹The report from the Center for American Progress appears in the Appendix on page 173.

A P P E N D I X

STATEMENT OF

THE HONORABLE HOWARD C. WEIZMANN
DEPUTY DIRECTOR
U.S. OFFICE OF PERSONNEL MANAGEMENT

before the

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

on

DOMESTIC PARTNER BENEFITS FOR FEDERAL EMPLOYEES

September 24, 2008

Chairman Lieberman, Ranking Member Collins, and Members of the Committee:

Thank you for the opportunity to come here today to provide technical comments on S. 2521 which, if enacted, would provide Federal benefits to same sex domestic partners of Federal employees.

The Federal Government offers a competitive and comprehensive package of employer-sponsored benefits for Federal employees and their families. Federal employees may elect insurance coverage under the Federal Employees Health Benefits Program (FEHB), the Federal Employees Dental and Vision Insurance Program, the Federal Employees' Group Life Insurance Program, and the Federal Long Term Care Insurance Program, including benefits for family members. In addition, Federal employees are eligible for employer-sponsored retirement and leave benefits. In pursuit of our mission to ensure the Federal government has an effective civilian workforce, the Office of Personnel Management (OPM) has primary responsibility with respect to the administration of these benefit programs as incorporated in Title 5 of the United States Code.

Mr. Chairman, as you know, your bill, S. 2521, would provide benefits for same sex domestic partners of employees like the benefits currently available to married employees. The bill defines domestic partner as "an adult unmarried person living with another adult unmarried person of the same sex in a committed, intimate relationship." The bill includes coverage under Title 5 insurance benefit programs, retirement and disability benefits, the Family and Medical Leave Act, and the Federal Worker's Compensation Act, among others.

Background

As background, domestic partners of Federal employees are not included as eligible family members under Title 5 for any of these Federal programs. Therefore, same sex domestic partners are not entitled to benefits. Opposite sex domestic partners are similarly not entitled to these benefits.

Same-sex marriages are not recognized for benefit entitlement purposes under any of the Federal benefit programs. Public Law 104-199, the Defense of Marriage Act, signed September 21, 1996, created a new section 7 to Title 1 of the United States Code, providing that in the interpretation of any law enacted by the Congress, “the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.” This definition applies in “any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States.”

Technical Comments

As for the bill, itself, we have reviewed the language of S. 2521 and have the following technical comments. First, benefits programs described in Title 5 refer to coverage for both Federal employees and Federal annuitants, however, a strict interpretation of the bill, as currently drafted, raises questions as to whether benefits would be available to same sex domestic partners once an employee retires.

Second, the bill provides that affidavits pertaining to the eligibility of domestic partners for Federal benefits be filed with OPM. Human resource functions are conducted at each of the Federal agencies, including benefits enrollment and payroll deductions, on behalf of agency employees. OPM does not serve as a central clearinghouse for all Federal employees and therefore would not be have the records nor resources to collect and maintain such affidavits.

Third, OPM has concerns with the administration of benefits for a domestic partnership. Currently, spousal benefits are based on the documentation of a state-sanctioned marriage. The bill under consideration would provide benefits to those in domestic partnerships or relationships which are certified by affidavit. OPM believes this process could lead to fraud and abuse in the programs we administer. Spouse equity benefit determinations frequently rely on state court orders awarding annuity and insurance benefits coverage. There is no analogous provision in the proposed legislation. For example, the bill specifically provides that in the event “a domestic partnership dissolves by method other than death of the employee or domestic partner of the employee, the former domestic partner shall be entitled to benefits available to, and shall be subject to obligations imposed upon, a former spouse.” This provision lacks the specificity needed to determine eligibility and amount of benefits for a separated domestic partner.

OPM also notes that the estimated cost of including these additional beneficiaries to the current system of active and retired Federal employees would increase outlays. We

estimate the FEHB Program (government) costs would be \$41 million for 2010 and approximately \$670 million for 2010 through 2019. We also estimate the cost of the legislation for survivor benefits would increase the total present value of benefits by about \$50 million (\$37 million for non-Postal and \$13 million for Postal). Retirement costs for this group would initially decrease because their retiree annuities would be reduced to provide for the survivor annuity, while few survivor benefits would be paid to domestic partners initially.

Conclusion

This concludes my statement and I would be happy to answer any questions you may have.

Testimony of

Yvette C. Burton, Ph.D.

Global Business Development Executive

GLBT and Human Capital Management Segments

IBM

Homeland Security and Governmental Affairs Committee

U.S. Senate

Wednesday, September 24, 2008

Senator Lieberman, Senator Collins, and members of the Committee for Homeland Security and Governmental Affairs, my name is Yvette Burton and I am the Global Business Development Executive for Gay, Lesbian, Bisexual, Transgender (GLBT), and Human Capital Market Segments at IBM. I have submitted my testimony for the record.

In my testimony, I will share IBM's point of view as one of the growing number of Fortune 500 companies implementing domestic partner benefits. In addition, I will address IBM's job market perspective on the utilization of domestic partner benefits as a strategy for competitive talent management.

Senator Lieberman, Senator Collins, and other Committee Members, IBM has over 356,000 employees in 74 countries. IBM unites different cultures, languages, professions and perspectives in one globally integrated enterprise. This unique combination of viewpoints fuels IBM technologies, products, services and our commitment to client success.

As a leader on GLBT issues, IBM can be proud of the progress it has made in empowering GLBT people in the IBM workplace and around the world. For example:

- IBM maintains a 100% ranking on Human Rights Campaign (HRC) Corporate Equality Index for the United States.
- In 1999, IBM was named one of the best companies for gays and lesbians to work for by HRC.
- In 2002, IBM became the first “Gold Corporate Sponsor” of the Atlanta Executive Network (AEN), the largest GLBT professional networking organization in the U.S.
- “Advocate” magazine names IBM one of the “Top Companies to Work at Today.”

As a business-to-business company, corporations and institutions come to IBM for leadership and as a model to build and leverage a diverse workforce to drive client success. In essence, we provide the answer to the question - “**Why IBM Works?**” Undoubtedly, programs such as domestic partner benefits are a critical component to our success.

So, let's examine how domestic partner benefits actually benefit business.

IBM has become a globally integrated enterprise. As our economy becomes more globally integrated and competition for skilled employees becomes more intense, the ability to attract, retain, and develop world class talent is crucial.

For over a decade, IBM has used domestic partner benefits as a differentiating and competitive method to attract employees.

Increased loyalty to the company and our history of non-discrimination practices are some of the immediate advantages of this program. But, domestic partner benefits do not only attract GLBT employees. Like IBM, many companies report that the implementation of domestic partner benefits helps attract and retain critical talent from non-gay and lesbian talent. These particular candidates have reported that the existence of a domestic partner benefits policy at IBM shows the company values and truly believes in a workplace that respects and protects all employees. It also shows IBM's commitment to including diverse perspectives. This

trend is especially prevalent among younger candidates of the workforce -- a segment crucial to the future demographics of any sector.

Domestic partner benefits serve as a vital talent development opportunity at the leadership level. As organizations effectively integrate domestic partner benefits into practice, it provides a valuable framework for leaders to clarify the organization's commitment to eliminating attitudes and behaviors that may negatively impact business results. In a nutshell, it can improve low productivity and morale caused by inequitable workplace practices, thereby creating a positive work environment.

Unfortunately, many GLBT employees spend a good deal of their workdays concealing their orientation from co-workers for fear of backlash or adverse impact to career advancement. The absence of domestic partner benefits contributes to this problem by signaling to all employees that GLBT employees are not equally valued in the workplace. This disconnect in the commitment to equitable treatment of the workforce can become a breeding ground for inconsistent

employment and human resource conditions for GLBT employees in general.

Providing domestic partner benefits can help an organization develop a stronger and industrious workforce. How? Strong development opportunities have been evident in the results of GLBT employees who take personal risks to discuss their families with their managers. In these examples, we see key business skills -- skills like strategic risk taking, decision making, and trust/responsibility. These leadership skills are key to achieving a company's business objectives. In the end, manager-employee conversations prove to be a valuable growth opportunity for employees and the organization.

Lastly, domestic partner benefits create a sense of loyalty to the company, a bond between the employee and the organization, as well as a balance of work and home. In competitive markets and difficult or uncertain times, the commitment by our employees has proved enduring.

A related issue I'd also like to address is IBM's support for the Tax Equity for Domestic Partner and Health Plan Beneficiaries Act (S. 1556). As many of you know, gay and lesbian employees who receive domestic partner benefits have to pay taxes on their employers' contribution for health insurance benefits and employers must pay payroll taxes on their employees' taxable income. This legislation would eliminate these taxes and allow those who cannot afford the extra taxes to offer health coverage for their loved ones.

In conclusion, IBM, much like the federal government, has a long history of establishing equilibrium in the workplace. And IBM, much like the federal government, has worked to eliminate the gap between the promise and the practice of workplace equality. These actions have proven to be very successful for IBM on many levels.

Specifically, IBM's triumph in creating an open and welcoming environment – regardless of sexual orientation, gender identity and gender expression – has truly allowed us to attract and retain talent to advance our business.

Thank you.

STATEMENT OF COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION
September 24, 2008
to the
Committee on Homeland Security and Governmental Affairs
United States Senate
on
S. 2521, the Domestic Partner Benefits and Obligations Act

Good morning Chairman Lieberman, Ranking Member Collins and members of the Senate Committee on Homeland Security and Governmental Affairs. My name is Colleen M. Kelley and I am National President of the National Treasury Employees Union (NTEU). NTEU is the nation's largest independent federal sector labor union, representing workers at 31 government agencies. For over 70 years our union has been in the forefront of defending and advancing better pay, benefits and working conditions for federal employees. I have had the honor of testifying before this Committee many times in the past on matters of concern to federal workers and I thank you for this most recent invitation.

NTEU commends you, Mr. Chairman, as well as Senator Smith and the co-sponsors for introducing this legislation. NTEU supports the Domestic Partnership Benefits and Obligations Act and urges the Committee to act quickly and favorably on it.

Mr. Chairman, under the legislation you introduced, NTEU members and all federal workers with domestic partners will be able to participate in employee benefit programs similar to the options allowed for married couples and will be subject to the same employment related obligations and duties that are imposed on married employees and their spouses. This includes the Federal Employees Health Benefits Program (FEHBP), retirement and disability plans, family, medical and emergency leave, Federal Group Life Insurance (FGLI), long term care insurance, Workers Compensation, death and disability benefits, and relocation, travel and related expenses.

The legislation would require federal employees and their domestic partners to be subject to the same duties, obligations and ethics requirements that married federal employees are mandated to follow such as anti-nepotism rules and financial disclosure requirements. The legislation would further allow counting both partners income for means tested, contractually negotiated child care subsidies offered by federal agencies. Mr. Chairman, I want to emphasize this point. This legislation proposes both benefits and obligations. The integrity of the civil service system demands not only that there be fairness in benefits but that nepotism and other abuses not be permitted because of an exemption of domestic partners.

The legislation would deem a person a domestic partner when the employee files an affidavit with the Office of Personnel Management (OPM) that certifies they have a common residence, share responsibility for each other's welfare and financial responsibilities, are not related by blood and are living together on an indefinite basis as each other's sole committed partner. This seems reasonable to us, given the only other likely alternative would be to defer to state law. The various states have such widely different definitions of domestic partners or civil unions, with two states having same sex marriage and several states having no partnership provisions at all, it would be unwieldy for the federal government to use state definitions given the lack of uniformity among the states.

Mr. Chairman, there has long been a very sound principle that has been embraced on a bipartisan basis. That principle is that fair and comprehensive employee benefits in our society are best promoted by the federal government operating as a model employer. Then, the private sector is encouraged but not mandated to adopt these benefits by the good example and the resulting market forces of the nation's largest employer. In this situation, we are seeing the reverse. The federal government is no longer in the forefront but is a laggard. Over 53% of Fortune 500 companies offer domestic partner benefits to their workers. Many other public employers offer domestic partner benefits, including, Mr. Chairman, your home state of Connecticut and 12 other states along with 201 local governments. In fact, tens of thousands of private companies, growing numbers of non-profit employers including colleges and universities, and the very entities that are competing with the federal government for the recruitment of the best and brightest of the

workforce are offering domestic partner benefits. Market forces and the good example of the private sector now put this issue before the federal sector.

As the exclusive bargaining representative for over 150,000 federal employees, NTEU is usually the first to hear from those we represent about pay, benefits and working conditions. NTEU union leaders across the country have been aware of the desire and need for these benefits by our members for many years. It is a concern that NTEU members raise frequently at union meetings, conferences and in direct inquires. We have discussed and debated this issue at our National Conventions, passing resolutions in support at every National NTEU Convention going back more than a decade. And increasingly, particularly among new hires, it is not only desire and need but there is an expectation of domestic partner benefits from NTEU members who have received these benefits in the private sector.

I want the members of the Committee to understand that the federal employee support for domestic partner benefits is broad and nationwide. Just in recent memory, I have heard from a National Park Service employee in West Virginia, an FDIC bank examiner in West Warwick, Rhode Island, a worker at the IRS Service Center in Ogden, Utah, a Customs and Border Protection officer serving on the Canadian border in Maine and a Social Security Administration employee in Cleveland, Ohio, all of whom have asked if the union can have domestic partner benefits extended to the federal sector. I also want to note that, with some very limited exceptions, domestic partner benefits are not something NTEU can negotiate in collective bargaining. To the degree we can,

NTEU is committed to do so. But we are generally in the situation of having to inform our members that this matter needs to be address legislatively. Congress must act and it must act promptly.

There is another reason why it is so important for Congress to move favorably and quickly on this legislation. This Committee has been most attentive to the coming human capital crisis in the federal government. Last May, one of your Committee's very able Subcommittee Chairmen, Senator Daniel Akaka (HI) of the Oversight of Government Management and the Federal Workforce Subcommittee, aided by Ranking Member George Voinovich (OH), held a hearing on this matter. I testified at that hearing. I and the other hearing witnesses responded to the report by the Office of Personnel Management that more than half of the federal government's employees will become eligible for retirement in the next ten years and approximately 40 percent of the federal workforce is expected to retire. In the next five years alone it will be 30% of the workforce – 600,000 individuals. This coming crisis is so severe, the Chief Human Capital Officers Council has taken up the matter and, working with Federal agencies, begun developing the best practice models for hiring and succession planning. I testified that OPM needs to step up its marketing and outreach particularly to younger workers. I also testified that the looming crisis is not just a matter of retiring senior employees where the response can be moving those next in line up the food chain and stepping up entry level hires. The federal government did very little hiring in the 1990's while at the same time, the federal workforce was reduced by about 400,000 workers. We're not only losing the senior layer of the workforce in the next 10 years. There is no one behind

them to do the jobs. Mid-career, mid-level candidates need to be attracted to federal service and many of the quality candidates for these positions are part of a settled domestic partner couple.

Given this reality, it is simply unacceptable that the federal government be unable to offer benefits as good or better than the private firms the government is competing with. It will lose the best candidates in many different circumstances. Most obviously, it is a desirable recruitment tool for an employee with a partner not in the labor force or in a job that does not offer health insurance. Also, with this huge need for recruitment coupled with the goal of not compromising on the quality of employees, this legislation is one obvious tool in casting the widest net possible to find the best candidates.

Particularly among jobs requiring highly skilled and specialized candidates, that means a national search and asking applicants to re-locate. It might mean persuading a trademark attorney at General Electric in Connecticut to come to the Patent and Trademark Office in Alexandria, Virginia or a chemist from Eli Lilly to take a job at the Food and Drug Administration laboratory in Cincinnati or Detroit. It might be a tough sell for a married couple but at least the agency can offer relocation and related expenses and at least the non-federal spouse can participate in the health insurance plan while searching for a new job in the new location. To ask a highly qualified candidate to re-locate and to expect the candidate's domestic partner to leave his or her employment and employer sponsored health insurance to move to a new city is simply a recipe to miss out on the best and most able candidates.

In summary, Mr. Chairman, the Committee has before it a bill that represents fairness and equality for gay and lesbian employees, is desired and even demanded by federal employees, is a recruiting tool for agencies in the looming retirement crisis in the federal sector and will extend health care and other benefits to Americans currently uncovered. I can not see why the Committee would not act favorably and quickly. I urge that you do.

I would be happy to answer any questions you or other members of the Committee may have.

STATEMENT BY

**SHERRI BRACEY, PROGRAM MANAGER
WOMEN'S AND FAIR PRACTICES DEPARTMENTS
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

BEFORE THE

**SENATE COMMITTEE
ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

ON

**DOMESTIC PARTNER BENEFITS FOR FEDERAL EMPLOYEES:
FAIR POLICY AND GOOD BUSINESS**

SEPTEMBER 24, 2008

Mr. Chairman and Members of the Committee: My name is Sherri Bracey and I am the Program Manager of the Women's and Fair Practices Department of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the members of our union, which represents more than 600,000 federal employees, I thank you for the opportunity to testify today regarding S. 2521, the Domestic Partnership Benefits and Obligations Act of 2007, which would provide the same-gender domestic partners of federal employees the same benefits available to spouses of married federal employees. AFGE strongly supports the measure.

This legislation is about equity. It is not, as its opponents try to argue, about providing any form of special preference or extra benefit for federal employees who have formalized their exclusive relationships with a same-gender domestic partner as compared with those who marry a person of a different gender. The equalization of benefits would extend to health insurance under the Federal Employees Health Benefits Program (FEHBP), retirement benefits, rights under the Family and Medical Leave Act (FMLA), life insurance under the Federal Employees Group Life Insurance (FEGLI) plan, workers' compensation, death and disability benefits, and reimbursement benefits for relocation, travel, and related expenses. Further, the biological and adopted children of the domestic partner would be treated just like step-children of married federal employees under the benefits listed. Finally, under the legislation, same-gender domestic partners would be subject to the same anti-nepotism and financial rules and obligations as those that apply to married federal employees.

To become eligible for the equitable treatment provided for in the legislation, federal employees would be required to file legal affidavits of eligibility with the Office of Personnel Management (OPM) to certify that they share a home, and financial responsibilities. The employee must affirm the intention to remain in the domestic partnership indefinitely, and must notify OPM within thirty days if the partnership is dissolved. The provisions of the legislation would apply only to same-sex domestic partnerships.

The practice of treating married employees and those in committed same-sex partnerships equitably with regard to health insurance and retirement benefits is well-established in the private sector and in many state and local governments. More than half of the Fortune 500 firms extend equal benefits to spouses and same-sex domestic partnerships. They do so not only because it is fair and appropriate, but also because the market has made such policies an imperative in the competition to attract and retain excellent employees. The federal government should do no less. It should strive to attain the highest level of fairness for its employees, and it has a duty to all taxpayers to adopt employment policies that facilitate the hiring and retention of a workforce of the highest possible quality.

As you know, the impending retirement of the baby boom generation of federal employees has occasioned an enormous amount of hang-wringing among administration officials and career agency managers. Private contractors have been eager to win for themselves as much as possible of the work that has been performed by retiring federal employees, and they are free to offer domestic partner benefits. A central question at the heart of all this anxiety is whether the federal government will be able to recruit the next generation, or whether the most desirable candidates for federal jobs will be lost to the private sector.

Putting aside for a moment the still-enormous pay gap between the federal and non-federal sectors and the fact that FEHBP is poorly run and as a result costs both taxpayers and federal employees more than it should, there is the issue of equitable treatment of GLBT (gay, lesbian, bisexual and transgender) people. When the Human Rights Campaign released its 2006 study of the employment practices of Fortune 500 companies with respect to domestic partners, its president, Joe Solmonese, summarized the findings as follows: "Companies do it (provide equitable benefits to domestic partners) because it's good for business. American corporations understand that a welcoming environment attracts the best talent."¹

Refusal to provide equitable treatment with regard to the provision of employee benefits is a violation of the merit system principle that promises equal pay for substantially equal work. The economic value of family coverage for health insurance, survivor benefits for retirement, disability, workers' compensation, and life insurance; and full family coverage of relocation costs are substantial to a worker and would have extremely modest costs for the government. The equal pay principle has historically been understood to include all financial compensation, not just salary. Non-cash federal benefits make up almost a third of a typical federal employee's compensation. In many metropolitan areas, the salary gap between federal and non-federal jobs has actually grown in recent years so that it now stands at 22.97 percent on average nationwide. In the Washington-Baltimore locality, the remaining federal pay gap measured by the Bureau of Labor Statistics (BLS) is 36.6 percent. To exacerbate the challenge this poses to efforts by federal agencies to hire the next generation of federal employees by continuing to discriminate between married employees, and those in domestic partnerships is as irrational as it is unfair.

Imagine the perspective of a high-performing federal employee in a job that the federal government admits it has trouble recruiting for, who happens to have a domestic partner and two kids. Perhaps the worker is a Certified Registered Nurse Anesthetist in the VA, or a Defense Department Information Technology specialist with a high security classification, or an experienced DHS contract administrator with the proven ability to identify fraud on the part of contractors, or a skilled electrician who works on repair of highly complex weapons, or a

¹ "Majority of Large Firms Offer Employees Domestic Partner Benefits" by Amy Joyce, June 30, 2006, *The Washington Post*.

Corrections Officer who puts his life on the line every day to keep us and his fellow officers safe from dangerous inmates in federal prisons. Consider that he or she might have a co-worker with identical job responsibilities and performance who happens to have a spouse and a couple of kids.

Because S. 2125 is not yet law, the two workers will receive vastly different compensation in return for their work for the federal government. One would enjoy subsidized family coverage from FEHBP, worth approximately \$8,561.80 per year, and that subsidy is not taxed. The employee with the domestic partner and kids, in contrast, is eligible for only single coverage from FEHBP. As of 2008, the difference between what the government pays for FEHBP for family versus single coverage is \$4,790.76 per year. To obtain similar insurance for his family, the employee in the domestic partnership would have to pay at least the same \$4,790.76 per year in the open market, and the money spent on the premium would be tax deductible, but not tax free.

A married federal employee with two children who dies early leaves his or her survivors with benefits ranging from \$12,432 to \$38,628 per year depending upon his or her salary. In identical circumstances, the survivors of a federal employee with a domestic partner and two children are left with nothing. If an employee in a domestic partnership becomes disabled, the worker is eligible for anywhere from \$7,932 to \$21,852 depending on age, earnings, and the severity of the disability. But if the employee were married with children and had the exact same age, earnings, and severity of disability, his or her disability eligibility would range from \$11,640 to \$32,964.

The difference between the retirement annuities of employees with and without survivor designations vary widely on the basis of length of service, age at retirement, high-three salary, and retirement system. The two major federal retirement systems, the Civil Service Retirement System (CSRS), and the Federal Employees Retirement System (FERS) both allow married federal employees to ensure that their survivors continue to receive benefits after they die. The employee is required to take a reduction in the amount of his or her annuity in order to "buy" this survivor protection, but in most cases, taking the survivor option costs the employee about half of the value of benefits received by the survivor.

FERS provides two options for survivor annuities, either one half or one fourth of the value of the annuity. CSRS is a bit more complicated, allowing 55 percent of anything from the full annuity to 55 percent of one dollar of annuity. CSRS and FERS also allow survivor annuities to be paid to more than one former spouse at a time, as well as a widow or widower. (It is therefore difficult to argue that current law is based upon a religious concept of marriage or a view that marriages are more stable than domestic partnerships). The important point is that the financial value of survivor annuity benefits is substantial, and is, for the vast majority of federal employees who earn a full retirement annuity after a

career of federal service, the single largest component of compensation after salary and their own annuity. This inequity in the treatment of a federal employee's survivors is the most severe and the most indefensible. After all, even the most ardent opponent of equality might feel shame at depriving an elderly surviving domestic partner the survivor benefits available to an elderly surviving husband or wife.

How can anyone square these facts with the merit system principle of equal pay for substantially equal work?

The answer is that one cannot justify discriminating against federal employees who are in domestic partnerships versus federal employees who are in conventional marriages. All else equal, sexual orientation should not form the basis of discrimination in compensation. But unless and until S. 2521 becomes law, discrimination in compensation will continue to occur in the federal government.

Of course, passage of S.2521 is not just a matter of fairness. It is also a matter of what is necessary for the federal government to succeed in recruiting the next generation of government employees, and to retain them once they form monogamous relationships and start families. There will be no reason to stay with the government when other employers, whose mission can be just as compelling as the government's, offer higher salaries and more comprehensive benefits.

Employees who do stay and are affected by the inequity will understandably feel the pain of this discrimination, and it will inevitably affect their morale and commitment to their agency's mission. They will know that they are receiving far less compensation for their work than their married coworkers, and have every reason to feel resentment at the inequity.

Cost cannot serve as a valid rationale for failure to pass this legislation, as the Congressional Budget Office (CBO) has calculated that enactment would add less than one half of one percent to the existing costs of these programs. That estimate excludes the cost of turnover, recruitment, and training when experienced federal employees leave federal service because of this inequity. The cost should be viewed as if it were simply the case that larger numbers of federal employees began to marry. Surely the Congress would not respond to this by abolishing the benefits currently extended to spouses and families. As such, no one should argue that the happy occasion of the formation and maintenance of families is unaffordable or insupportable for the United States government.

This concludes my statement. I would be happy to answer any questions Members of the Committee may have.

Statement of Frank A. Hartigan

Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business

U.S. Senate Committee on Homeland Security and Governmental Affairs

September 24, 2008

342 Dirksen Senate Office Building

Chairman Lieberman, Ranking Member Collins, and members of the Committee.

I appreciate the opportunity to testify in favor of domestic partner benefits for federal employees.

My name is Frank Hartigan and I am an executive manager at the Federal Deposit Insurance Corporation (FDIC). I have worked for the FDIC for 24 years and have advanced through the ranks, starting as a bank examiner trainee and progressing to my current position as Deputy Regional Director of the Division of Supervision and Consumer Protection's San Francisco Office.

I am here to tell you about my experience and unique perspective as a gay executive in the federal government. I am testifying on my own behalf. I am not speaking for the FDIC. In preparing for this hearing, I reached out to many of my colleagues and asked them how the lack of domestic partner benefits has impacted their lives and careers. I have incorporated some of their responses throughout my remarks.

The lack of domestic partner benefits is a fairness issue and negatively impacts employees during their entire careers and into retirement. The lack of domestic partner benefits is in direct contradiction of equal employment opportunity policies and best practices for workplace fairness.

Gay and lesbian government employees have to deal with inequities in the workplace every day when it comes to benefits. They face financial and emotional hardships when their partner does not have adequate health, dental, and vision insurance. They often feel at a disadvantage when applying for other federal jobs or advancement opportunities that involve relocation, as relocation benefits are not the same for employees in domestic partnerships as they are for heterosexual married employees. Finally, gay and lesbian employees know that they are disadvantaged when they compare their retirement benefits to their co-workers.

Some federal agencies, like the federal banking regulators, have recognized these inequities and have implemented limited forms of domestic partner benefits. I am proud to say that the FDIC, under the leadership of Chairman Sheila C. Bair, is also beginning to do the same. While this is a step in the right direction, these attempts to equalize benefits fall short of achieving actual equality. In plain words, the total compensation package for gay and lesbian federal employees is not equal to that of their co-workers in the very same jobs.

Attracting and Retaining Employees

Young gay and lesbian individuals certainly consider domestic partner benefits when deciding between potential jobs and employers. They are much more enlightened to the issue of domestic partner benefits than I was when I entered the federal workforce. They consider which employers offer domestic partnership benefits and which do not. In retrospect, I have asked myself, if I were just starting out in today's job market, would I take a job with the federal government knowing what I now know about domestic partner benefits? I believe I would look elsewhere.

The lack of domestic partner benefits puts the government at a distinct disadvantage when trying to attract and retain a qualified workforce. More than half of Fortune 500 companies and almost 10,000 other companies provide benefits to domestic partners. Also, many state and local governments and colleges and universities provide benefits to domestic partners of their employees.

Being competitive in attracting new talent is especially important when you look at the number of people eligible to retire in the coming years. The U.S. Office of Personnel Management's (OPM) Workforce Information and Planning group has predicted future retirement probabilities from 2007 through 2016 for federal employees. OPM predicts that nearly 61 percent of full-time permanent employees on-board as of October 1, 2006, will be eligible to retire by 2016.¹ Given this large loss of talent, the

¹ *An Analysis of Federal Employee Retirement Data: Predicting Future Retirements and Examining Factors Relevant to Retiring from the Federal Service*, prepared by the Office of Personnel Management's Division of Strategic Human

federal government will need to ensure that it is viewed as an employer of choice by prospective employees.

Potential new employees consider domestic partner benefits not only as part of a total compensation package, but they also look at them as an indication of a fair and respectful workplace culture. The federal government should strive to ensure that all of its public servants receive fair and equitable treatment. Rights and benefits should be awarded to all employees equally. The Domestic Partnership Benefits and Obligations Act of 2007 will help to correct these inequities.

Health, Vision, Dental and Life Insurance

Perhaps the most obvious and ongoing disparity in employee benefits is in insurance coverages offered to family members of federal employees. Domestic partners of gay and lesbian employees cannot be covered by federal health insurance programs. This is also true for vision, dental and life insurance coverage. This lack of insurance can cost the employee's family a great deal of money.

One of my colleagues has a domestic partner who is self employed. He has worked for the government for nearly 28 years and is in a long-term relationship. He and his partner are raising three adopted children. Since the employee cannot provide health insurance to his partner under "family" coverage, they are paying roughly \$740.00 per

Resources Policy, the Center for Workforce Information and Systems Requirements, and the Workforce Information and Planning Group, March 2008, pg. 4.

month for the partner to be covered by Blue Cross Blue Shield. That is roughly \$8,880.00 per year and \$100,000.00 over the span of their relationship. Moreover, the quality of the insurance coverage that they have to pay for separately is less than desirable in comparison to Federal Employees Health Benefits (FEHB) plans. It carries high deductibles and premiums that are an additional burden to their monthly family budget.

His partner needed two surgeries that required significant out-of-pocket expenses. They are now postponing further needed surgery because they simply cannot afford it. My colleague told me, "If my partner were covered under my plan there would be nothing to consider." He would not be forced to delay needed healthcare. All this comes at the time when they are funding private school educations for three children; two of whom will be college bound within three years.

Another manager recently told me about a woman who left the government for private-sector employment, specifically because of the lack of domestic partner benefits. The employee left the FDIC, taking the training and expertise that was paid for by the agency to a private-sector company that offers domestic partner benefits. The federal government lost a very smart and valuable employee in this situation.

Another colleague and his partner have been together for approximately ten years and have two adopted children. One of them wanted to stay at home with the children until they were of school age. They decided that the non-government employee would be

the “stay-at-home” dad.

Because they lacked domestic partner benefits, they had to purchase health insurance for the non-working partner on their own. They could not afford to purchase the same level of health, dental, prescription, vision, and life insurance for the partner that a married opposite-sex spouse would receive under FEHB family coverage. So, like many, they opted to purchase basic, catastrophic medical insurance with a high deductible. Basically, the policy would keep them from going bankrupt in the event that the stay-at-home partner was seriously ill or injured. The policy does not cover preventative care like routine vaccinations, physicals, or checkups.

Because of the situation, this couple lived with additional stress in their lives and incurred significant expenses. The stress stemmed from the fear that if the stay-at-home partner were to become ill, they would incur out-of-pocket expenses including a \$1,500 deductible per visit, and other medical expenses. In addition, if a medical condition warranted an expensive prescription, they would have had to pay for it entirely out-of-pocket since the insurance policy did not include prescriptions. The partner often ignored aches and pains and put off routine physical examinations. The employee told me, “The inequity of this situation gave me the feeling of being treated like a ‘second class citizen’ compared to my co-workers.”

Finally, another colleague shared her story about how the lack of dental insurance for her partner impacted them. This employee has been with the government for 25 years

and with her partner for 18 years. Her partner needed to have significant dental work while she was not working. The cost was more than \$10,000. The FDIC's family dental insurance, provided to non-gay, married employees would have paid 60 to 70 percent of those expenses.

Relocation Benefits

Another area where gay and lesbian employees in domestic partnerships are treated substantially different from non-gay, married couples has to do with relocation benefits. When an employee makes a geographic move for the benefit of the organization, the FDIC reimburses them for certain allowable expenses related to the relocation. These include things like shipping household goods and personal vehicles, assistance with real estate sales and purchase expenses, and the use of a home sale program intended to assist relocating employees in selling a qualified residence at the former official station so that the employee can move more quickly to purchase a home at the new official station.

If an employee is married and has a family, the relocation benefits extend to the spouse. However, if a gay or lesbian employee owns a home with a domestic partner, only the employee's portion of the residence, household goods, and vehicles are covered. Relocation benefits are essentially cut in half.

One of my colleagues shared his story with me. This employee has been

consistently praised by his supervisors for exceptional work. He recently accepted a promotion, which required him to relocate. Virtually every relocation benefit that he received was significantly reduced as compared to what he would have received if he and his partner were a married opposite-sex couple. This potentially translates into tens of thousands of dollars that employees have to come up with out-of-pocket. This employee is lucky that he and his partner have the personal financial resources to relocate despite this significant inequity. However, this is not the case for many individuals who own a home jointly with their same-sex partner and would not be able to sell it because the FDIC-paid selling costs are prorated.

Another employee in a long-term domestic partnership told me that, in 2001, he took a significant downgrade as a result of a formal Reduction in Force. While at the lower grade level, he routinely reviewed federal career opportunities. He purposely did not apply for numerous job openings because he did not want to take the gamble with unequal relocation benefits. His family could not afford to move unless he received the same relocation package as other employees. It has taken since 2001 for this employee to find a position in which he could be promoted without relocating. There were definitely missed opportunities and salary loss during these seven years. When employees feel they should not take a job because they would not receive the same benefits as their peers, it is not equitable. It is just plain wrong.

Another colleague facing a similar situation explained to me that his partner actually offered several times to quit his job if there was a job involving relocation that

the FDIC employee strongly desired. However, given the lack of domestic partner health insurance benefits, this was never an option for them. Since the partner could not be covered by the FEHB insurance, they did not want to take the risk of the partner being unemployed and uninsured, if only for a short time during the relocation process. This employee believes he could have advanced to a higher position—benefiting both him and the FDIC—if he would have been able to take advantage of benefits awarded to other non-gay, married employees. I personally was faced with the risk of having my partner uninsured when we relocated for the benefit of the FDIC in the year 2000.

Retirement Benefits

Another area where gay and lesbian federal employees are disadvantaged is in retirement benefits. Retirement benefits for federal employees with domestic partners are not equal to those provided to non-gay, married employees. A married employee with a spouse can choose to provide a survivor annuity. That same option is not available to employees with domestic partners.

One of my colleagues said it well when he said, “there is no legitimate reason related to the value of my work versus the value of a non-gay co-worker’s work that justifies this.”

And of course, the inequity in health insurance benefits extends into retirement. The insurance an employee cannot provide to a same-sex spouse or domestic partner also

cannot be provided in retirement, while the opposite-sex spouse of an employee has the right to continue health insurance coverage.

I recently attended a three day retirement benefits seminar sponsored by my agency. Throughout the three days, there was extensive talk about benefits available to the spouses of heterosexual employees and the need to “protect your spouse” in the event of the employee’s death. There was absolutely no discussion of similar benefits for my partner – because frankly, they are virtually nonexistent.

Presenteeism

Next, I would like to address the issue of “presenteeism” where there is lost productivity due to employees actually showing up for work, but not being fully engaged because of other distractions. Family problems can impact any employee. However, due to the lack of domestic partner benefits, gay and lesbian employees have added stress and burden.

For instance, in all of the examples I have talked about today, the gay or lesbian government employee was under additional stress, had more distractions, and was not able to focus 100 percent on their job. Whether the employee was worrying about the health and well-being of an uninsured partner, trying to figure out how to cover the additional expense of higher insurance costs and medical expenses, feeling as if they are limited in opportunities for career advancement because of inequities in relocation

benefits, or being anxious about providing for their family in retirement, all of these things significantly affect an employee's level of presenteeism.

A colleague of mine who has been with the government for 23 years recently relocated. His partner of 18 years left his full-time position with benefits to relocate with him. This particular employee has moved several times for the agency to take positions of increasing authority and responsibility. However, during the most recent move, his partner experienced a medical crisis requiring emergency treatment and hospitalization. This occurred before the partner had found new employment and benefits. The medical bills resulting from the emergency totaled nearly \$30,000. Had the federal government offered domestic partner medical benefits, the employee would have purchased family coverage for his partner. This situation caused the employee severe mental distress at a time when he had just taken on a new and more challenging job. Needless to say, he was not able to give his all to the new position.

Perhaps the worst effect of the disparity is in how it can make the gay or lesbian employee feel about their employer, about their colleagues, and about themselves. One of my colleagues expressed it this way, "It is difficult for me to understand why I would be punished, when a married counterpart who was promoted at the same time as me, is receiving full relocation benefits." Do we really want productive government employees to feel punished?

Another career employee shared his feelings with me on this topic. He said that

he felt the federal government's lack of equal benefits most definitely has had a limiting effect on his career and caused him to resent his career choices. His partner of 21 years has a good job in the private-sector that provides compensation for full domestic partner benefits, including a gross up as needed to equalize the adverse tax implications. They analyzed the situation years ago when the FDIC employee had the opportunity to move for a promotion and realized that such a move would be too great a cost to their family.

This employee told me that he felt "effectively foreclosed from taking any job requiring relocation." Any such opportunity for him would cost much more than for others. He stated, "Initially, I was happy to make the choice of family over job, but as the years have gone by, I have grown to feel more and more unequal as co-workers have taken advantage of such opportunities and passed me on the career ladder." While it is true that there are potential sacrifices and inconveniences for any employee who relocates for work, the sacrifice and inconvenience is far greater for gay and lesbian employees and their families.

Conclusion

In closing, I would like to say that today's hearing on the Domestic Partnership Benefits and Obligations Act gives many great hope. Great hope that the U.S. government recognizes and is willing to correct the grave inequities that exist by requiring departments and agencies to offer a full complement of domestic partner benefits, including medical, dental, vision, and life insurance, as well as relocation and

retirement benefits. The federal government strongly espouses the principle, both for itself and private employers, of equal pay for equal work. Yet it knowingly has tolerated a system in which gay and lesbian employees have less total compensation than their non-gay co-workers who are doing the same work. It is time for the federal government to live up to the principles we espouse.

It is time for the federal government to catch up to the private sector. Domestic partner benefits are necessary for the federal government to compete for the most qualified employees and to ensure that all of its public servants receive fair and equitable treatment. It makes good economic and policy sense. And it is the right thing to do.

Thank you for the opportunity to testify. I would be happy to answer any questions the Committee might have.

110TH CONGRESS
1ST SESSION

S. 2521

To provide benefits to domestic partners of Federal employees.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2007

Mr. LIEBERMAN (for himself, Mr. SMITH, Mr. AKAKA, Mrs. BOXER, Mr. BROWN, Ms. CANTWELL, Mr. CARDIN, Mrs. CLINTON, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. MURRAY, Mr. OBAMA, Mr. SCHUMER, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide benefits to domestic partners of Federal employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Domestic Partnership
5 Benefits and Obligations Act of 2007”.

1 **SEC. 2. BENEFITS TO DOMESTIC PARTNERS OF FEDERAL**
2 **EMPLOYEES.**

3 (a) IN GENERAL.—An employee who has a domestic
4 partner and the domestic partner of the employee shall
5 be entitled to benefits available to, and shall be subject
6 to obligations imposed upon, a married employee and the
7 spouse of the employee.

8 (b) CERTIFICATION OF ELIGIBILITY.—In order to ob-
9 tain benefits and assume obligations under this Act, an
10 employee shall file an affidavit of eligibility for benefits
11 and obligations with the Office of Personnel Management
12 identifying the domestic partner of the employee and certi-
13 fying that the employee and the domestic partner of the
14 employee—

15 (1) are each other's sole domestic partner and
16 intend to remain so indefinitely;

17 (2) have a common residence, and intend to
18 continue the arrangement;

19 (3) are at least 18 years of age and mentally
20 competent to consent to contract;

21 (4) share responsibility for a significant meas-
22 ure of each other's common welfare and financial ob-
23 ligations;

24 (5) are not married to or domestic partners
25 with anyone else;

1 (6) are same sex domestic partners, and not re-
2 lated in a way that, if the 2 were of opposite sex,
3 would prohibit legal marriage in the State in which
4 they reside; and

5 (7) understand that willful falsification of infor-
6 mation within the affidavit may lead to disciplinary
7 action and the recovery of the cost of benefits re-
8 ceived related to such falsification and may con-
9 stitute a criminal violation.

10 (c) DISSOLUTION OF PARTNERSHIP.—

11 (1) IN GENERAL.—An employee or domestic
12 partner of an employee who obtains benefits under
13 this Act shall file a statement of dissolution of the
14 domestic partnership with the Office of Personnel
15 Management not later than 30 days after the death
16 of the employee or the domestic partner or the date
17 of dissolution of the domestic partnership.

18 (2) DEATH OF EMPLOYEE.—In a case in which
19 an employee dies, the domestic partner of the em-
20 ployee at the time of death shall receive under this
21 Act such benefits as would be received by the widow
22 or widower of an employee.

23 (3) OTHER DISSOLUTION OF PARTNERSHIP.—

24 (A) IN GENERAL.—In a case in which a
25 domestic partnership dissolves by a method

1 other than death of the employee or domestic
2 partner of the employee, any benefits received
3 by the domestic partner as a result of this Act
4 shall terminate.

5 (B) EXCEPTION.—In a case in which a do-
6 mestic partnership dissolves by a method other
7 than death of the employee or domestic partner
8 of the employee, the former domestic partner of
9 the employee shall be entitled to benefits avail-
10 able to, and shall be subject to obligations im-
11 posed upon, a former spouse.

12 (d) STEPCHILDREN.—For purposes of affording ben-
13 efits under this Act, any natural or adopted child of a do-
14 mestic partner of an employee shall be deemed a stepchild
15 of the employee.

16 (e) CONFIDENTIALITY.—Any information submitted
17 to the Office of Personnel Management under subsection
18 (b) shall be used solely for the purpose of certifying an
19 individual's eligibility for benefits under subsection (a).

20 (f) REGULATIONS AND ORDERS.—

21 (1) OFFICE OF PERSONNEL MANAGEMENT.—
22 Not later than 6 months after the date of enactment
23 of this Act, the Office of Personnel Management
24 shall promulgate regulations to implement section 2
25 (b) and (e).

1 (2) OTHER EXECUTIVE BRANCH REGULA-
2 TIONS.—Not later than 6 months after the date of
3 enactment of this Act, the President or designees of
4 the President shall promulgate regulations to imple-
5 ment this Act with respect to benefits and obliga-
6 tions administered by agencies or other entities of
7 the executive branch.

8 (3) OTHER REGULATIONS AND ORDERS.—Not
9 later than 6 months after the date of enactment of
10 this Act, each agency or other entity or official not
11 within the executive branch that administers a pro-
12 gram providing benefits or imposing obligations shall
13 promulgate regulations or orders to implement this
14 Act with respect to the program.

15 (4) PROCEDURE.—Regulations and orders re-
16 quired under this subsection shall be promulgated
17 after notice to interested persons and an opportunity
18 for comment.

19 (g) DEFINITIONS.—In this Act:

20 (1) BENEFITS.—The term “benefits” means—
21 (A) health insurance and enhanced dental
22 and vision benefits, as provided under chapters
23 89, 89A, and 89B of title 5, United States
24 Code;

1 (B) retirement and disability benefits and
2 plans, as provided under—

3 (i) chapters 83 and 84 of title 5,
4 United States Code;

5 (ii) chapter 8 of the Foreign Service
6 Act of 1980 (22 U.S.C. 4041 et seq.); and

7 (iii) the Central Intelligence Agency
8 Retirement Act of 1964 for Certain Em-
9 ployees (50 U.S.C. chapter 38);

10 (C) family, medical, and emergency leave,
11 as provided under—

12 (i) subchapters III, IV, and V of
13 chapter 63 of title 5, United States Code;

14 (ii) the Family and Medical Leave Act
15 of 1993 (29 U.S.C. 2601 et seq.), insofar
16 as that Act applies to the Government Ac-
17 countability Office and the Library of Con-
18 gress;

19 (iii) section 202 of the Congressional
20 Accountability Act of 1995 (2 U.S.C.
21 1312); and

22 (iv) section 412 of title 3, United
23 States Code;

1 (D) Federal group life insurance, as pro-
2 vided under chapter 87 of title 5, United States
3 Code;

4 (E) long-term care insurance, as provided
5 under chapter 90 of title 5, United States Code;

6 (F) compensation for work injuries, as pro-
7 vided under chapter 81 of title 5, United States
8 Code;

9 (G) benefits for disability, death, or cap-
10 tivity, as provided under—

11 (i) sections 5569 and 5570 of title 5,
12 United States Code;

13 (ii) section 413 of the Foreign Service
14 Act of 1980 (22 U.S.C. 3973); and

15 (iii) part L of title I of the Omnibus
16 Crime Control and Safe Streets Act of
17 1968 (42 U.S.C. 3796 et seq.), insofar as
18 that part applies to any employee;

19 (H) travel, transportation, and related pay-
20 ments and benefits, as provided under—

21 (i) chapter 57 of title 5, United States
22 Code;

23 (ii) chapter 9 of the Foreign Service
24 Act of 1980 (22 U.S.C. 4081 et seq.); and

1 (iii) section 1599b of title 10, United
2 States Code; and

3 (I) any other benefit similar to a benefit
4 described under subparagraphs (A) through (II)
5 provided by or on behalf of the United States
6 to any employee.

7 (2) DOMESTIC PARTNER.—The term “domestic
8 partner” means an adult unmarried person living
9 with another adult unmarried person of the same
10 sex in a committed, intimate relationship.

11 (3) EMPLOYEE.—The term “employee”—

12 (A) means an officer or employee of the
13 United States or of any department, agency, or
14 other entity of the United States, including the
15 President of the United States, the Vice Presi-
16 dent of the United States, a Member of Con-
17 gress, or a Federal judge; and

18 (B) shall not include a member of the uni-
19 formed services.

20 (4) OBLIGATIONS.—The term “obligations”
21 means any duties or responsibilities with respect to
22 Federal employment that would be incurred by a
23 married employee or by the spouse of an employee.

1 (5) UNIFORMED SERVICES.—The term “uni-
2 formed services” has the meaning given under sec-
3 tion 2101(3) of title 5, United States Code.

4 **SEC. 3. EFFECTIVE DATE.**

5 This Act including the amendments made by this Act
6 shall—

7 (1) with respect to the provision of benefits and
8 obligations, take effect 6 months after the date of
9 enactment of this Act; and

10 (2) apply to any individual who is employed as
11 an employee on or after the date of enactment of
12 this Act.

○



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

September 17, 2008

William Burrus
President
(202) 842-4246

National Executive Board
William Burrus
President

Cliff "C.J." Guffey
Executive Vice President

Terry R. Stapleton
Secretary-Treasurer

Greg Bell
Industrial Relations Director

James "Jim" McCarthy
Director, Clerk Division

Steven G. "Steve" Raymer
Director, Maintenance Division

Robert C. "Bob" Pritzward
Director, MVS Division

Sheryn M. Stone
Coordinator, Central Region

Mike Gallagher
Coordinator, Eastern Region

Elizabeth "Liz" Powell
Coordinator, Northeast Region

William E. "Bill" Sullivan
Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

Honorable Joe Lieberman, Chair
Senate Committee on Homeland Security and Government Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Honorable Susan Collins, Ranking Member
Senate Committee on Homeland Security and Government Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator:

On behalf of the 300,000 members of the American Postal Workers Union, I write to express support for S.2521, the "Domestic Partnership Benefits and Obligations Act of 2007."

Under the Act, as introduced, postal and federal employees who have same-sex domestic partners will be entitled to the same employment benefits that are available to married postal and federal employees and their spouses.

Postal and federal employees are eligible for retirement and disability benefits under either the Civil Service Retirement (CSRS) or the Federal Employees Retirement System (FERS). Both CSRS and FERS provide survivor benefits for the spouse and dependent children of a deceased federal employee or retiree.

Because postal and federal employee retirement benefits under both CSRS and FERS are subject to the statutory interpretation required by the Defense of Marriage Act in determining eligibility for survivor or dependent benefits under CSRS or FERS, "the word 'Spouse' refers only to a person of the opposite sex who is a husband or a wife."



Honorable Joe Lieberman, Chair
Honorable Susan Collins, Ranking Member
September 17, 2008
Page-TWO

If S.2521 were to become law, employees and their domestic partners will have the same benefits as married employees and their spouses.

During the most recent national convention of the APWU, delegates considered, and voted overwhelmingly to support Resolution 186-C, which supports the recognition of civil unions of postal and federal employees. We feel that passage of S.2521 would comply with the intent and interest of APWU members.

We thank you for your introduction of this important bill and pledge our support of its passage.

Sincerely,

A handwritten signature in black ink that reads "William Burrus". The signature is written in a cursive, slightly slanted style.

William Burrus,
President

cc: Senator Gordon Smith



Gerald W. McEneaney
President

William Lucy
Secretary-Treasurer

Vice Presidents

Ken Allen
Portland, OR

Henry L. Bayer
Chicago, IL

George Boncoraglio
New York, NY

Anthony Ciso
Boston, MA

Greg Devereux
Olympia, WA

Danny Donahue
Albany, NY

David R. Eilman
Harrisburg, PA

Michael Fox
Harrisburg, PA

Albert Garrett
Dulles, MD

Ragun George Jr.
New York, NY

Sherry Gordon
Trenton, NJ

Lakisha Harrison
Oakland, CA

Danny J. Holman
Oak Village, IL

Salvatore Luciano
New Britain, CT

John A. Lyall
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Gerald S. Middleton Sr.
Baltimore, MD

Veronica Montgomery Costa
New York, NY

Doug Moore
San Diego, CA

Michael D. Murphy
Arlington, WI

Henry Nicholas
Philadelphia, PA

Eddie L. Parks
Westerville, OH

Randy Pereira
Harrisburg, PA

George E. Poprask
Oakland, CA

Greg Powell
Austin, TX

Eddie Rodrigues
New York, NY

Joseph P. Rugola
Columbus, OH

Kathy J. Sackman
Pomona, CA

Eliot Seide
South St. Paul, MN

Mary E. Sullivan
Albany, NY

Braulio Torres
San Juan, PR

David Varrick
Indianapolis, IN

Jeanette D. Weyant
Tallahassee, FL

September 19, 2008

Members of the Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator:

On behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME), I would like to express our support for the Domestic Partnership Benefits and Obligations Act of 2007 (S. 2521). The bill will provide federal employees who have same-sex domestic partners the same employment benefits that are available to married federal employees and their spouses.

The typical American family has changed. In 1960, married couples with children comprised almost three-quarters of all U.S. households. Today, they account for only one in every four households. Households now include same-sex couples, unmarried opposite-sex couples and single parents. As the family make-up shifts, eligibility for federal employment benefits should be updated.

Most employers provide health and dental benefits, such as health, dental, vision, life insurance, and pension coverage, and offer optional coverage for spouses and children. In recent years, employers, including the majority of Fortune 500 companies, have extended benefits to the domestic partners of employees and their children. We believe the federal government should also provide these benefits.

Across the country, AFSCME has successfully negotiated for domestic partner benefits in collective bargaining agreements. The benefit of our success has extended beyond our membership. For example:

- In 2007, the Executive Council of the Iowa Department of Administrative Services voted to extend the domestic partner benefits bargained for by AFSCME Council 61 to all employees.
- 37,000 AFSCME state government workers in Illinois received same-sex domestic partner health benefits when their contract was ratified in 2004. Two years later, Governor Rod Blagojevich filed an administrative order extending health benefits to same-sex domestic partners of all state employees in agencies directly within the Governor's jurisdiction.
- AFSCME Council 47, Philadelphia, began offering domestic partner health benefits to its members through the union's health and welfare trust fund in the early 1990s. The Council's experience led to city legislation, passed in 1998, that extended health and pension benefits to same-sex domestic partners.

American Federation of State, County and Municipal Employees, AFL-CIO

TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

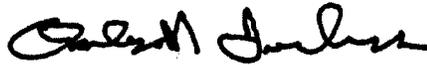
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Our success at the bargaining table is due in part to the recruitment and retention benefit domestic partnership benefits provide. Public and private employers are well aware that benefits packages attract employees and offering such benefits can give them a recruitment edge.

As the number of retirement-eligible employees increases, the federal government will continue to lose leadership personnel and institutional knowledge at all agencies and all levels. Recruitment of talented individuals with the necessary skills and knowledge will become increasingly imperative. The federal government will have to compete with the private sector for the best and brightest. Unfortunately, lengthy hiring procedures and uncompetitive salaries may pose recruitment challenges. Offering domestic partnership benefits could help the federal government attract new talent and retain existing employees.

For the foregoing reasons, AFSCME strongly supports S. 2521 and hopes the federal government will offer our members the same benefit many of our state and local employee members already receive.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles M. Loveless".

Charles M. Loveless
Director of Legislation

CML:azd/b

Written Statement of
Joe Solmonese
President
Human Rights Campaign

To the

Committee on Homeland Security and Governmental Affairs
United States Senate

September 24, 2008

On behalf of the Human Rights Campaign and our over 700,000 members and supporters nationwide, I thank Senator Lieberman and Senator Collins for holding today's hearing on S. 2521, the Domestic Partnership Benefits and Obligations Act (DPBO). As the nation's largest civil rights organization advocating for the Lesbian, Gay, Bisexual, and Transgender (LGBT) community, the Human Rights Campaign strongly supports this legislation, which would ensure that gay and lesbian federal employees receive equal compensation for their service to our nation.

The DPBO would provide equal family benefits and obligations—including retirement benefits, health insurance, relocation expenses, and many more—to federal civilian employees with same-sex partners. This legislation, which is long overdue, would bring the federal government up to the standards of America's leading employers, who provide these benefits in order to recruit and retain the most talented workforce possible.

According to the Bureau of Labor Statistics, nearly 13 percent of employees' compensation comes in the form of insurance and retirement benefits, which generally cover family members and dependents, and 7 percent in the form of paid leave, which

makes it possible for workers to accommodate work and family obligations.

Increasingly, America's leading employers — including 56% of Fortune 500 companies, 15 states and 330 cities and counties — provide equal family benefits for their lesbian and gay workers.

The federal government—the nation's largest civilian employer with 2.7 million employees—does not provide health, retirement, bereavement, family and medical leave, or relocation expenses for the same-sex partners of its employees. As a result, a lesbian or gay civilian employee doing the same job as her married heterosexual counterpart, in the same pay grade, will receive significantly lower compensation. Furthermore, because many companies that provide services to the government — such as top federal contractors Bechtel, Boeing, EDS, General Electric, Honeywell, Lockheed Martin, McKesson, Northrop Grumman, Raytheon and SAIC — offer equal family benefits to their lesbian and gay employees, qualified lesbian or gay applicants have a strong incentive to choose the private sector over government work even where the positions are similar.

Recently former ambassador to Romania, Michael Guest, cited the lack of family benefits as his reason for retiring early and leaving a distinguished career in the Foreign Service. Other benefits are also denied to same-sex partners of foreign service officers such as: access to anti-terrorism training; language training; and evacuation services. Ambassador Guest served this country honorably, but as an employer, the federal government failed him. His service simply was not rewarded with the same compensation that his colleagues in different-sex marriages received.

Equal pay for equal work is a value fundamental to American opportunity. The federal government should be the standard bearer for fair workplace practices. As long it denies gay and lesbian employees the comprehensive family benefits that their heterosexual colleagues receive, the federal government will fall short of that standard, and continue to lag behind the nation's top employers.

On behalf of the Human Rights Campaign, I encourage you to position the federal government to compete for the nation's top talent by advancing this legislation to ensure equality in the workplace for all civilian employees.



HUMAN
RIGHTS
CAMPAIGN®

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Fortune 500 Companies with Domestic Partner Benefits

Company	Rank Fortune 500	Number of Employees	State	Domestic Partner Benefits	Year Added
Avnet Inc.	163	11700	AZ	Y	2000
US Airways Group Inc.	228	37000	AZ	Y	2001
PetSmart Inc.	489	32000	AZ	Y	2003
Chevron Corp.	3	65000	CA	Y	1998
Hewlett-Packard Co.	14	172000	CA	Y	1997
McKesson Corp.	18	32000	CA	Y	2000
Wells Fargo & Co.	41	158000	CA	Y	1998
Intel Corp.	60	50343	CA	Y	1997
Walt Disney Co.	67	76500	CA	Y	1995
Cisco Systems Inc.	71	34315	CA	Y	1994
Northrop Grumman Corp.	76	120000	CA	Y	2003
Apple Inc.	103	21600	CA	Y	1993
Countrywide Financial Corp.	104	50600	CA	Y	2003
Oracle Corp.	137	56133	CA	Y	1993
Google Inc.	150	11015	CA	Y	2004
Gap Inc.	162	26890	CA	Y	1995
Amgen Inc.	173	17450	CA	Y	1999
Health Net Inc.	179	9897	CA	Y	1997
Sun Microsystems Inc.	184	35000	CA	Y	1993
PG&E Corp.	200	20300	CA	Y	1996
Edison International	205	17275	CA	Y	1998
Sempra Energy	232	13724	CA	Y	1996
Applied Materials Inc.	270	6730	CA	Y	1999
Science Applications International Corp.	289	43800	CA	Y	2000
QUALCOMM Inc.	297	12800	CA	Y	1998
Jacobs Engineering Group Inc.	308	32900	CA	Y	2000
Calpine Corp.	318	2080	CA	Y	1999
eBay Inc.	326	15300	CA	Y	2003
KB Home	340	3100	CA	Y	2005
Yahoo! Inc.	353	14300	CA	Y	1998

Source: Human Rights Campaign Foundation

Company	Rank Fortune 500	Number of Employees	State	Domestic Partner Benefits	Year Added
Dole Food Co. Inc.	354	66000	CA	Y	2001
Franklin Resources Inc.	389	4707	CA	Y	2004
Charles Schwab Corp., The	402	12500	CA	Y	1994
CB Richard Ellis Group Inc.	404	29000	CA	Y	
Advanced Micro Devices Inc.	406	16420	CA	Y	1994
Mattel Inc.	413	4400	CA	Y	1998
Western Digital Corp.	439	29572	CA	Y	
Agilent Technologies Inc.	443	7500	CA	Y	1997
URS Corp.	449	52700	CA	Y	1999
Pacific Mutual Holding Co.	452	3185	CA	Y	2006
DaVita Inc.	454	31000	CA	Y	
Symantec Corp.	461	17500	CA	Y	2001
Clorox Co.	474	5200	CA	Y	1999
Robert Half International Inc.	497	15300	CA	Y	2003
Qwest Communications International Inc.	187	35930	CO	Y	1995
Ball Corp.	336	15500	CO	Y	2004
Coors Brewing Co.	392	9550	CO	Y	1995
General Electric Co.	6	327000	CT	Y	2004
Aetna Inc.	85	35000	CT	Y	1998
Hartford Financial Services Co.	95	30000	CT	Y	1997
Xerox Corp.	144	57400	CT	Y	1997
Pitney Bowes Inc.	399	36165	CT	Y	2001
EMCOR Group Inc	407	29000	CT	Y	
Northeast Utilities	419	8728	CT	Y	1999
Fannie Mae	53	5820	DC	Y	1994
Pepco Holdings Inc.	279	5095	DC	Y	2007
DuPont (E.I. du Pont de Nemours)	81	59000	DE	Y	2005
Tech Data Corp.	105	2557	FL	Y	1996
Office Depot Inc.	164	36750	FL	Y	2005
CSX Corp.	261	35000	FL	Y	2006
Ryder System Inc.	371	20126	FL	Y	1999
Darden Restaurants	415	157000	FL	Y	2001
Home Depot Inc.	22	276385	GA	Y	2005
United Parcel Service Inc. (UPS)	46	425300	GA	Y	2004
Coca-Cola Co., The	83	9332	GA	Y	2001
Coca-Cola Enterprises Inc.	118	67680	GA	Y	2003
Delta Air Lines Inc.	129	55044	GA	Y	2001
SunTrust Banks Inc.	193	35003	GA	Y	2003
Mohawk Industries Inc.	328	36200	GA	Y	2003
Newell Rubbermaid Inc.	378	15236	GA	Y	2007
Principal Financial Group	242	12841	IA	Y	1993
Boeing Co.	27	154000	IL	Y	2001
Walgreen Co.	40	223000	IL	Y	2003
Sears Holdings Corp.	45	352000	IL	Y	2003

Company	Rank Fortune 500	Number of Employees	State	Domestic Partner Benefits	Year Added
Kraft Foods Inc.	63	46607	IL	Y	2000
Allstate Corp., The	64	35610	IL	Y	2001
Motorola Inc.	65	66000	IL	Y	2000
Abbott Laboratories	96	32115	IL	Y	2002
McDonald's Corp.	106	465000	IL	Y	2005
UAL Corp. (United Airlines)	124	55000	IL	Y	2000
Exelon Corp.	131	19168	IL	Y	2000
Sara Lee Corp.	203	27000	IL	Y	2003
Baxter International Inc.	236	46500	IL	Y	2006
Aon Corp.	263	43100	IL	Y	2001
Smurfit-Stone Container Corp.	334	22700	IL	Y	2005
Northern Trust Corp.	447	7651	IL	Y	1997
Wm. Wrigley Jr. Co.	448	16400	IL	Y	
Tribune Co.	467	19600	IL	Y	2001
WellPoint Inc.	33	42000	IN	Y	1999
Eli Lilly & Co.	133	40600	IN	Y	2004
Cummins Inc.	206	17000	IN	Y	2000
Sprint PCS Group	58	60000	KS	Y	2005
Humana Inc.	98	27000	KY	Y	2005
Yum! Brands Inc.	253	107684	KY	Y	2006
Ashland Inc.	322	11700	KY	Y	2004
Lexmark International Inc.	470	13000	KY	Y	2003
Entergy Corp.	231	14314	LA	Y	2007
Liberty Mutual Group	94	40000	MA	Y	2005
Massachusetts Mutual Life Insurance Co.	99	9522	MA	Y	1997
Raytheon Co.	112	72000	MA	Y	2002
Staples Inc.	128	50738	MA	Y	2004
TJX Companies, Inc., The	132	127000	MA	Y	2007
EMC Corp.	201	37700	MA	Y	
State Street Corp.	225	17944	MA	Y	1997
Thermo Fisher Scientific Inc	269	33400	MA	Y	
Boston Scientific Corp.	310	27500	MA	Y	2003
Lockheed Martin Corp.	57	140000	MD	Y	2003
Constellation Energy Group Inc.	117	10668	MD	Y	2005
Marriott International Inc.	197	107674	MD	Y	1999
Black & Decker Corp., The	372	7500	MD	Y	2007
Host Hotels & Resorts	440	243	MD	Y	2003
General Motors Corp.	4	115681	MI	Y	2000
Ford Motor Co.	7	80210	MI	Y	2000
Dow Chemical Co.	42	42578	MI	Y	2002
Delphi Corp.	92	169500	MI	Y	2000
Whirlpool Corp.	127	73682	MI	Y	2003
TRW Automotive Holdings Corp.	174	66300	MI	Y	2001
Kellogg Co.	227	26500	MI	Y	2006

Company	Rank Fortune 500	Number of Employees	State	Domestic Partner Benefits	Year Added
Visteon Corp.	234	2482	MI	Y	2000
DTE Energy Co.	273	10262	MI	Y	2001
ArvinMeritor Inc.	301	18000	MI	Y	2008
UnitedHealth Group Inc.	25	75000	MN	Y	2005
Target Corp.	31	352000	MN	Y	1999
Supervalu Inc.	62	75840	MN	Y	2006
Best Buy Co. Inc.	66	140000	MN	Y	2003
Travelers Companies Inc., The	93	33300	MN	Y	1995
3M Co.	100	34138	MN	Y	2006
U.S. Bancorp	122	53134	MN	Y	2000
Northwest Airlines Corp.	213	30000	MN	Y	2000
General Mills Inc.	214	17090	MN	Y	1999
Medtronic Inc.	217	37000	MN	Y	2000
Xcel Energy	260	10917	MN	Y	1990
Land O'Lakes	294	8709	MN	Y	1999
Ameriprise Financial Inc.	296	9990	MN	Y	1997
Ecolab Inc.	438	26052	MN	Y	2006
Express Scripts Inc.	135	11820	MO	Y	2003
Anheuser-Busch Companies Inc.	149	30849	MO	Y	2003
Monsanto Co.	305	10000	MO	Y	
Graybar Electric Company, Inc.	455	8600	MO	Y	2001
Bank of America Corp.	9	155021	NC	Y	1998
Wachovia Corp.	38	110382	NC	Y	2000
Lowe's Companies, Inc.	48	188000	NC	Y	2006
Duke Energy Corp.	204	17800	NC	Y	2006
Progress Energy Inc.	248	11000	NC	Y	2007
Reynolds American Inc.	290	5428	NC	Y	2002
Goodrich Corp.	375	23400	NC	Y	2002
Union Pacific Corp.	154	50089	NE	Y	2005
ConAgra Foods Inc.	210	25000	NE	Y	2007
Johnson & Johnson	35	42903	NJ	Y	2003
Medco Health Solutions	51	20350	NJ	Y	2005
Honeywell International Inc.	73	122000	NJ	Y	1998
Prudential Financial Inc.	74	19697	NJ	Y	2000
Merck & Co. Inc.	101	61693	NJ	Y	2003
Wyeth	113	22939	NJ	Y	2004
Chubb Corp.	180	8100	NJ	Y	1996
Toys 'R' Us Inc.	189	45000	NJ	Y	2000
Public Service Enterprise Group	198	9905	NJ	Y	2005
Schering-Plough Corp.	212	14362	NJ	Y	2003
Automatic Data Processing Inc.	281	33000	NJ	Y	2006
Campbell Soup Co.	320	11000	NJ	Y	1999
Quest Diagnostics Inc.	365	45000	NJ	Y	2000
Becton, Dickinson and Co.	380	28018	NJ	Y	

Company	Rank Fortune 500	Number of Employees	State	Domestic Partner Benefits	Year Added
Avis Budget Group Inc.	411	25000	NJ	Y	1999
Realogy Corp.	414	12726	NJ	Y	2006
Harrah's Entertainment Inc.	244	100000	NV	Y	2006
MGM Mirage	323	66000	NV	Y	2004
Citigroup Inc.	8	160000	NY	Y	2000
J.P. Morgan Chase & Co.	12	183482	NY	Y	1997
American International Group Inc.	13	51807	NY	Y	2003
International Business Machines Corp. (IBM)	15	355766	NY	Y	1997
Verizon Communications Inc.	17	234971	NY	Y	1996
Goldman Sachs Group Inc., The	20	14023	NY	Y	2000
Morgan Stanley	21	29999	NY	Y	1999
Merrill Lynch & Co.	30	64200	NY	Y	1999
Lehman Brothers Holdings Inc.	37	26189	NY	Y	2000
MetLife Inc.	43	32961	NY	Y	2002
Pfizer Inc.	47	40000	NY	Y	2002
Time Warner Inc.	49	87000	NY	Y	1994
PepsiCo Inc.	59	66000	NY	Y	2003
American Express Co.	75	30071	NY	Y	1997
Alcoa Inc.	80	97000	NY	Y	2008
New York Life Insurance Co.	82	14141	NY	Y	2005
News Corp.	84	53000	NY	Y	1999
Teachers Insurance and Annuity Association - College Retirement Equities Fund	86	7700	NY	Y	2004
Bristol-Myers Squibb Co.	125	43000	NY	Y	1998
Loews Corp.	139	21700	NY	Y	2003
Bear Stearns Companies Inc., The	156	14153	NY	Y	2001
Bank of New York Co.	172	42100	NY	Y	2000
CBS Corp.	181	23970	NY	Y	2000
Colgate-Palmolive Co.	186	34700	NY	Y	2000
Pepsi Bottling Group Inc., The	190	33500	NY	Y	2003
Viacom Inc.	191	10600	NY	Y	1990
Consolidated Edison Co.	195	15116	NY	Y	2001
Omnicom Group	211	27000	NY	Y	2006
Marsh & McLennan Companies Inc.	220	56700	NY	Y	1999
Eastman Kodak Co.	238	17327	NY	Y	1997
Avon Products Inc.	265	42000	NY	Y	1998
ITT Industries Inc.	285	23000	NY	Y	2005
CIT Group Inc.	306	6700	NY	Y	
Estee Lauder Companies	349	11471	NY	Y	1998
McGraw-Hill Companies Inc., The	362	12798	NY	Y	1998
InterActiveCorp	370	19000	NY	Y	2002
Interpublic Group of Companies Inc.	373	43000	NY	Y	2001
Cablevision Systems Corp.	374	18703	NY	Y	2001

Company	Rank Fortune 500	Number of Employees	State	Domestic Partner Benefits	Year Added
Starwood Hotels & Resorts Worldwide	396	145000	NY	Y	1999
Corning Inc.	417	10600	NY	Y	2002
Barnes & Noble Inc.	446	39700	NY	Y	1995
Liz Claiborne Inc.	479	11768	NY	Y	1999
Cardinal Health	19	28769	OH	Y	2003
Procter & Gamble Co.	23	138000	OH	Y	2002
Kroger Co., The	26	320000	OH	Y	2008
Macy's Inc.	91	184859	OH	Y	1997
Nationwide	108	35000	OH	Y	2000
Progressive Corp., The	175	26827	OH	Y	2001
Eaton Corp.	207	64000	OH	Y	2003
National City Corp.	226	27296	OH	Y	2008
Limited Brands Inc.	257	76795	OH	Y	1999
Fifth Third Bancorp	307	21362	OH	Y	2007
KeyCorp	321	18459	OH	Y	2001
NCR Corp.	391	20083	OH	Y	1998
Owens Corning	431	17500	OH	Y	2004
Nike Inc.	153	11395	OR	Y	1994
AmerisourceBergen Corp.	28	10750	PA	Y	2000
Comcast Corp.	79	100000	PA	Y	2003
CIGNA Corp.	141	23300	PA	Y	2001
Rite Aid Corp.	142	53669	PA	Y	2005
Aramark Corp.	216	182000	PA	Y	2004
Lincoln National Corp.	246	10870	PA	Y	1997
PNC Financial Services Group Inc.	264	26653	PA	Y	2002
H.J. Heinz Co.	293	33000	PA	Y	2008
Rohm and Haas Co.	295	8485	PA	Y	2008
Unisys Corp.	429	30000	PA	Y	1999
UGI Corporation	437	9500	PA	Y	
Sovereign Bancorp Inc.	469	11976	PA	Y	2000
SunGard Data Systems Inc.	472	17900	PA	Y	
Erie Insurance Group	488	4100	PA	Y	
CVS Corp.	24	190000	RI	Y	2001
Textron Inc.	202	44000	RI	Y	2005
HCA - Hospital Corporation of America	89	161000	TN	Y	2004
International Paper Co.	114	51500	TN	Y	2003
Unum Group	251	9350	TN	Y	1996
ConocoPhillips	5	38400	TX	Y	2006
AT&T Inc.	10	303738	TX	Y	2001
Valero Energy Corp.	16	21651	TX	Y	
Dell Inc.	34	88292	TX	Y	2001
AMR Corp. (American Airlines)	109	83385	TX	Y	2000
Electronic Data Systems Corp.	115	48799	TX	Y	1998
J.C. Penney Co. Inc.	126	75853	TX	Y	2005

Company	Rank Fortune 500	Number of Employees	State	Domestic Partner Benefits	Year Added
Kimberly-Clark Corp.	136	15623	TX	Y	2005
Continental Airlines Inc.	178	35609	TX	Y	2000
Texas Instruments Inc.	185	13850	TX	Y	2001
Waste Management Inc.	199	47400	TX	Y	2005
Dean Foods Co.	224	25585	TX	Y	2005
Reliant Energy Inc.	237	3759	TX	Y	2008
Southwest Airlines Co.	267	33895	TX	Y	2001
Tenet Healthcare	280	61323	TX	Y	2005
Clear Channel Communications Inc.	339	20693	TX	Y	2006
GameStop Corp.	348	21795	TX	Y	2000
Whole Foods Market Inc.	369	46073	TX	Y	1996
Affiliated Computer Services	423	43927	TX	Y	2004
Blockbuster Inc.	434	59643	TX	Y	1997
El Paso Corp	486	4992	TX	Y	2002
Freddie Mac	54	5385	VA	Y	1998
Altria Group, Inc.	61	84000	VA	Y	2001
Capital One Financial Corp.	130	27000	VA	Y	1998
Dominion Resources Inc.	161	17467	VA	Y	2005
Circuit City Stores Inc.	215	46082	VA	Y	2005
SLM Corp. (Sallie Mae)	286	11000	VA	Y	2002
Gannett Co. Inc.	332	46100	VA	Y	2002
Carmax Inc.	333	16359	VA	Y	2005
MeadWestvaco Corp.	356	14000	VA	Y	2005
Owens & Minor Inc.	360	4600	VA	Y	2007
Costco Wholesale Corp.	29	91071	WA	Y	1998
Microsoft Corp.	44	52440	WA	Y	1993
Washington Mutual Inc.	97	45880	WA	Y	1999
Weyerhaeuser Co.	147	37000	WA	Y	2001
Amazon.com Inc.	171	17000	WA	Y	1996
Starbucks Corp.	277	155211	WA	Y	1993
Nordstrom Inc.	299	27291	WA	Y	1998
SAFECO Corp.	388	7057	WA	Y	1999
Johnson Controls Inc.	72	140000	WI	Y	
Northwestern Mutual Life Insurance	110	4973	WI	Y	2005
American Family Insurance Group	352	8211	WI	Y	2003



HUMAN
RIGHTS
CAMPAIGN®

1640 Rhode Island Ave., N.W.
Washington, D.C. 20036
web: www.hrc.org
phone: 202/572-8950

States with Domestic Partner Benefits

State	Year Effective
Alaska	2006
Arizona	Scheduled to be effective 10/08
California	1999
Connecticut	2000
DC	2002
Hawaii	1997
Illinois	2006
Iowa	2003
Maine	2001
Montana	2005
New Jersey	2004
New Mexico	2003
New York	1995
Oregon	1998
Rhode Island	2001
Vermont	1994
Washington	2001



HUMAN
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DOMESTIC PARTNER BENEFITS & OBLIGATIONS ACT (DPBO)

1640 Rhode Island Ave., N.W.
Washington, DC 20036
web <http://www.hrc.org>
phone 202 628 4160
fax 202 347 5323

S. 2521
H.R. 4838

Background

The Human Rights Campaign (HRC), the nation's largest gay, lesbian, bisexual and transgender political organization, strongly supports the Domestic Partnership Benefits and Obligations Act. In the 110th Congress the Senate bill, S. 2521, was introduced by Senators Lieberman (D-CT) and Smith (R-OR). In the House, Representatives Baldwin (D-WI), Waxman (D-CA), Davis, T. (R-VA), and Shays (R-CT) introduced H.R. 4838.

The Domestic Partnership Benefits and Obligations Act would provide domestic partnership benefits to all federal civilian employees on the same basis as spousal benefits. These benefits, available for both same- and opposite-sex domestic partners of federal employees, would include participation in applicable retirement programs, compensation for work injuries, and life and health insurance benefits.

Corporate America is Leading the Way

By offering health benefits to the domestic partners of federal employees, this bill will bring employment practices in the federal government in line with those of America's largest and most successful corporations. Fifty-six percent of Fortune 500 companies provide domestic partner benefits to their employees. Many of America's leading companies, including the "Big Three" automakers, defense giant Raytheon, IBM, Microsoft, Shell Oil, Walt Disney, Fannie Mae, Citigroup, Xerox, AOL Time Warner, and United and American Airlines offer these benefits. In addition, 16 states and over 200 local governments offer their public employees domestic partnership benefits. These include cities in every part of the country, from Los Angeles to New York City, to Madison, Wisconsin and Iowa City.

Equal Pay for Equal Work

In addition, by offering domestic partnership benefits, the federal government would not only improve the quality of its workforce, but also demonstrate its commitment to fairness and equality for all Americans. Benefits comprise a significant portion of all employee compensation. By not offering domestic partnership benefits to its employees, the federal government is not providing equal pay for the equal work of these employees. The legislation would also require domestic partners to have the same obligations under federal law.

Majority Support from the American Public

A May 2000 poll conducted by the Associated Press found that a majority of Americans favor the extension of health insurance coverage to same-sex partners. In addition, this legislation has been endorsed by the American

Federation of Government Employees, the American Federation of State, County and Municipal Employees, Harvard University, the National Treasury Employees Union, and the United Church of Christ.

What is the Current Status of the Bill?

Senator Joe Lieberman (D-CT) introduced The Domestic Partnership Benefits and Obligations Act in the Senate, the bill currently has 22 cosponsors. The bill has been referred to the Committee on Homeland Security and Government Affairs, which will hold a hearing on September 24, 2008. Representative Tammy Baldwin (D-WI) introduced the bill in the House, that measure currently has 90 cosponsors. It has been referred to the Subcommittee on Federal Workforce, Post Office, and the District of Columbia.

Conclusion

It is time for the federal government to have the ability to retain the best employees, through giving equal treatment to its gay, lesbian, and other unmarried employees in committed relationships.



Federal GLOBE: Gay, Lesbian, Bisexual, Transgender Employees of the Federal Government
 PO Box 23922 Washington,
 D.C. 20026-3922

Federal GLOBE: Gay, Lesbian, Bisexual, Transgender Employees of the Federal Government, is a 501(c)(3) not-for-profit employee resource group for all government employees. It was founded in 1992 to provide voice and guidance to lesbian, gay, bisexual and transgender (LGBT) employees who faced harassment and discrimination on the job and in many areas of employment from initial hiring through promotions and transfers. The good news is that in the years since its founding, the amount and level of harassment and discrimination which LGBT government workers face has decreased in amount and form. This is based on the work of the many department and agency GLOBE organizations, leadership within and without the government and the overall increasing understanding within American society of the principles of equity which Federal GLOBE and its allies have been working towards.

In 1992, the major issue facing LGBT Federal employees was legal discrimination during security clearance procedures. Federal GLOBE worked with departments and agencies from then onwards to evaluate their practices and procedures and to eliminate this and other overt discriminatory practices, based on the rights which Federal employees have under the 1978 Civil Service Reform Act to be free from personnel actions which are based on "non-merit" factors. President Clinton, in issuing his 1998 Executive Order 13087 (which amends E.O. 11478), reiterated and made clear that there would be a uniform policy throughout the whole government, that discrimination based on sexual orientation, would not be tolerated. Many on this Committee, in the House Committee, and in our allied organizations such as the Human Rights Campaign worked hard to get that Executive Order through and in both the Clinton and Bush administrations, it has been the law of the United States of America.

In 2008, the major issue facing LGBT Federal employees is the lack of benefits for their families and the additional costs which this imposes. The Domestic Partnership Benefits and Obligations Act addresses this major concern and we strongly support its swift adoption. From daily concerns on health benefits for our families, to concerns about the retirement benefits we can leave to our loved ones, this standing inequality not only impacts our daily lives, but our ability to recruit and retain the best and the brightest for Federal employment. In this time of economic uncertainty it is even more important for this bill to pass and to provide loyal, hard-working government employees these benefits so their families can be more secure and enabled to work bringing the United States out of its problems and again be in the forefront of the world in innovation, entrepreneurship and leadership. This is not a new issue—Federal GLOBE, OPM GLOBE and many individual federal workers have requested benefit changes and additions for many years.

"I am certainly glad this is finally coming to pass. I have been calling OPM about this over and over and over again."

Federal GLOBE sent a questionnaire to our membership in August to gain increased insight into their benefit concerns. We would like to share some of the findings with you which reflect on the importance of this bill and their concerns. The themes we heard repeatedly were that LGBT employees were looking to Congress to treat us fairly and equally with other government employees. We heard that the lack of benefits were creating problems with retention of employees and with recruitment of new employees in this critical time when the baby boomers are retiring and the government needs well skilled, creative, and innovative employees. When we cannot compete with the private sector or many state and municipal governments, we cannot attract the best and the brightest.

We received over 750 responses. Over 2/3 reported they would be interested in receiving such benefits, and most would sign up in appropriate registries as stipulated in the bill (though some felt it was discriminatory as such affidavits are not requested of heterosexual unions). They are currently paying an average of \$1,800 additional for benefits since they cannot add their partners and families to the government plans.

Their interests are the interests of all Americans—access to affordable health care; benefits for their children, natural, adopted, and foster; retirement benefits to their families; and equal payment and support for job related expenses such as relocation expenses. Government workers in many agencies move cities and countries to do their jobs. However, many agencies believe they cannot support the movement of the whole household of LGBT families, creating increased problems and costs. As you will hear, the government will pay for the movement of an employee's family but not of their life partner. For our members in the foreign affairs agencies this is an enormous burden and increases not only costs for them but the danger to their families when they cannot get Embassy medical care, jobs, and, when necessary, evacuation in times of emergency.²

"I have had to turn down overseas assignments because my same sex partner could not obtain insurance to enable him to relocate with me."

We were struck with the number of comments we received from government employees that one negative impacts of not being able to provide benefits to their partners is that these hard-working

¹ All of the quotes in indented italic paragraphs are from the comments we received from LGBT federal employees and contractors from this questionnaire.

² Many of the foreign affairs agency employees also articulated their issues with getting appropriate legal status for their partners from other countries, which is not included in this bill but is in the United American Families Act (UAFA) which Federal GLOBE also strongly supports.

Americans had additional burdens if they wanted to be entrepreneurial—starting new businesses, ~~to~~ working for many not-for-profits, because these new or service organizations could not afford health care insurance packages. Providing benefits for LGBT government worker partners will enable increased development of small businesses and employment options for service organizations around the country and the world. As one person put it:

"My partner could not afford to take an exciting but risky position in a startup."

A majority of our respondents knew Federal employees who had left government service to be able to provide benefits for their families from private sector employers. Not only is this a matter of simple fairness, the government is well behind civil society in this regard and cannot compete effectively. As one long-term scientist put it:

"When I joined the federal government 30 years ago domestic partner benefits were unusual. Times have changed- now EVERY university and major biotech partner would offer my partner /same-sex spouse the same benefits as an opposite-sex partner/spouse. I would not join the government today; they are discriminating against me."

In order to remain competitive and continue to offer high quality service to the American people, the government needs to be able to attract the best Americans to fill the many jobs which are open and coming open within the federal government. All studies have shown that this will be an increasing problem in the coming years and providing domestic partner benefits fully will enable the Federal government better compete for excellent and caring employees. As one respondent said:

"Each year I help recruit individuals for the DOE, and at every session I am asked if there are Domestic Partner Benefits. I think if the Federal Government wants to be able to compete and retain quality individuals, they need to consider following industry standards in this regard."

All Americans, gay and straight, have the interest and need to protect their families and build lives of merit and caring. Government policy should not lead to irony, as stated so eloquently in this final quote we will use to illustrate the problems we face by not having the benefits which this bill would provide:

"Within the last year, my partner had to quit her federal position to be at home with our special needs child and we cannot afford private health insurance. She required emergency surgery a number of months ago and we now have over \$17,000 worth of medical bills. I think it is ironic that she cannot be on my health insurance policy but these doctors/hospitals want to hold me financially responsible for her debts since we have a house in both of our names. She cannot receive Medicare/Medicaid because I make too much money yet I cannot claim her as a dependent for tax purposes."

September 23, 2008

Dear Chairman Lieberman,

We, the undersigned organizations, write in support of the Domestic Partner Benefits and Obligations Act, S. 2521. The Domestic Partnership Benefits and Obligations Act would provide health care, retirement, and other benefits to all federal civilian employees with qualifying same-sex domestic partners on the same basis as spousal benefits. The Act also provides benefits for domestic partners' children, even if they are not the biological or adopted children of the employee.¹

Benefits currently afforded to married federal employees but denied same-sex domestic partners include:

- Access to FEHBP health insurance;
- Pension and retirement benefits;
- Family relocation assistance;
- Language training, evacuation services, health care, and anti-terrorism training for Foreign Service officers' families;
- Family and medical leave;
- Continued health coverage upon employee's termination (at own expense);

The Act also imposes equal obligations upon domestic partners, including the duty to disclose financial interests.

By offering full benefits to the domestic partners of federal employees, this bill will bring employment practices in the federal government in line with those of America's largest and most successful corporations. Fifty-three percent of Fortune 500 companies provide domestic partner benefits to their employees. Many of America's leading companies, including the "Big Three" automakers, defense giant Raytheon, IBM, Microsoft, Shell Oil, Walt Disney, Fannie Mae, Citigroup, Xerox, AOL Time Warner, and United and American Airlines offer these benefits. In addition, 16 states, the District of Columbia and over 200 local governments offer their public employees domestic partnership benefits. These include cities in every part of the country, from Los Angeles to New York City, to Madison, Wisconsin and Iowa City.

In addition, by offering domestic partnership benefits, the federal government would not only improve the quality of its workforce, but also demonstrate its commitment to fairness and equality for all Americans. Benefits comprise a significant portion of all employee compensation. By not offering domestic partnership benefits to its employees, the federal government is not providing equal pay for the equal work of these employees. The legislation would also require domestic partners to have the same obligations under federal law.

¹ In most states, second-parent adoption is not available, and as a result many children of same-sex couples cannot become legal children of both parents. The Act would provide coverage for these children on the same basis as stepchildren of married employees.

It is time for the federal government to have the ability to retain the best employees, through giving equal treatment to its gay and lesbian employees in committed relationships. We therefore support the Domestic Partnership Benefits and Obligations Act.

Sincerely,

American Federation of Government Employees
American Federation of State, County and Municipal Employees (AFSCME)
Center for American Progress
Coalition for LGBT Health
Family Equality Council
Federal GLOBE
Gays and Lesbians in Foreign Affairs Agencies (GLIFAA)
GLSEN - the Gay, Lesbian and Straight Education Network
Human Rights Campaign
Immigration Equality
Leadership Conference on Civil Rights
National Air Traffic Controllers Association
National Partnership for Women & Families
National Treasury Employees Union (NTEU)
Parents, Families and Friends of Lesbians and Gays (PFLAG) National



HUMAN
RIGHTS
CAMPAIGN

Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and
Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

October 10, 2008

Dear Chairman Lieberman,

The Human Rights Campaign is submitting the attached information for inclusion in the record for the Senate Homeland Security and Governmental Affairs hearing, "Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business," held on September 24, 2008.

These materials include a detailed summary about existing domestic partner benefits offered to state employees. The other supporting documents are provided in response to concerns which were either raised by the Senators via questions or highlighted in testimony by the witnesses.

On the issue of fraud, a question was posed about whether there has been fraud in the provision of employee benefits, either among domestic partners or married heterosexual couples. An extensive search was conducted to identify any instances of fraud, as it relates to benefits, involving governmental employees.

- The result of that review was a December 2006 article in *The Oregonian* referencing city employees in Portland, Oregon. Accompanying the article is a letter from the City of Portland's Director of the Department of Human Resources, dated May 24, 2006, advising city employees of their responsibility to provide accurate benefit information.

Requiring documentation of domestic partnership is a means to prevent fraud and one that is utilized by a number of the Fortune 500 companies which offer domestic partner benefits.

- There was an interest in seeing a corporate affidavit for benefits. The domestic partner affidavit currently used at Eastman Kodak is provided, along with details of the documentation required of employees at AT&T.
- Related to this point, an article from *Forbes* magazine highlights the trend among American companies to require proof of relationship status to address fraud and to help rein in health care costs.

While corporations have been leaders in providing domestic partner benefits, it was suggested that the private sector may not be the right model for the federal government.

WORKING FOR LESBIAN, GAY, BISEXUAL, AND TRANSGENDER EQUAL RIGHTS

1640 RHODE ISLAND AVENUE, NW WASHINGTON, D.C. 20036
PHONE (202) 628 4160 FAX (202) 347 5323 E-MAIL HRC@HRC.ORG

- If that is true, it may be instructive to look to states like New Jersey and California as role models. In both of these states, employees are required to provide documentation of their relationship in order to obtain benefits for their spouse or domestic partner.

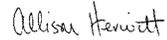
Finally, regarding the issue of penalties, the federal government has strict penalties relating to fraud.

- The enrollment form for the Federal Employee Health Benefits Program highlights such penalties and an employee must acknowledge that any willful misrepresentations could result in a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both.

We hope that this information will be useful in completing the hearing record. If you have any questions, please feel free to contact me.

Thank you.

Sincerely,



Allison Herwitt
Legislative Director

WORKING FOR LESBIAN, GAY, BISEXUAL, AND TRANSGENDER EQUAL RIGHTS

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PHONE (202) 628 4160 FAX (202) 347 5323 E-MAIL HRC@HRC.ORG

Domestic Partners Letters, Notices and Affidavits

Introduction When an employee wants to enroll a domestic partner (DP), they call the BDEC and speak with a representative. The BDEC representative explains the process, including the resulting imputed income. If the employee wants more information before enrolling the DP, the representative can request the DP Information as a fulfillment item on the Mail Support screen. If the employee is ready to enroll the DP, the representative processes the transaction and the employee will receive the DP Information with their confirmation letter.

To terminate coverage for a DP, the employee calls the BDEC and asks to have the partner removed from coverage. The representative processes the transaction. The Termination Affidavit is enclosed with the employee's confirmation letter.

What's in the DP information? A cover letter
An affidavit
An affidavit notice
A notice of 1999 monthly imputed income

What's in the Termination Information? A cover letter
An affidavit

When is the DP information mailed? The DP information is mailed either:

- before enrollment of a domestic partner if the employee has questions, or
- after enrollment of a domestic partner with the confirmation letter

When is the Termination affidavit mailed? The Termination information is mailed after the domestic partner has been removed from coverage with the confirmation letter.

Are the signed affidavits returned? The affidavits are not returned. The signed and notarized affidavits are to be kept with the employee's important papers. The exception to this is if the terminated domestic partner wants to continue coverage through COBRA, he/she may need to provide a copy of the Termination affidavit.

Forbes.com - Magazine Article



OutFront

Your Marriage License, Please

David Whelan 09.15.08, 12:00 AM ET

Is your health insurance one of your least favorite products? Here's another reason to stew about it

By the end of the year 12,000 people could be dropped unceremoniously from General Motors' health plan. The automaker just finished auditing 80,000 salaried employees and the 125,000 family members listed as their dependents. The firm doing the audit estimates 10% of these ostensible dependents could be claiming benefits to which they were not entitled. Now GM is taking a close look at 350,000 dependents claimed by 215,000 current and retired union workers. When the dust clears GM's savings from bouncing ineligible health claimants could be up to \$100 million a year.

It's hardball time. Checking health plan eligibility is a good way to pinch pennies, since the stakes are large. Often employers find themselves footing health care costs for employees' ex-spouses and adult children who aren't in school. AT&T will save \$40 million this year by cutting loose 10,000 people who don't qualify for the coverage they've been receiving. Chrysler has clawed back an estimated \$50 million in paid benefits from employees who defrauded its health care plan in recent years.

American Airlines finished an audit in 2006 that resulted in almost 10,000 ineligible people losing their coverage. Employees were offered a free pass if they came clean. A handful who appeared to be defrauding the plan were terminated. "We let the employees know we were serious," says spokesman Timothy Smith.

Rooting out ineligible dependents is nasty work. Employees must share tax forms, birth certificates and marriage licenses to make auditors happy. (One frustrated employee sent an auditor a wedding ring to prove he was married.) As many as 15% of dependents can be bounced because the employee is divorced or because minors, including stepchildren, nephews and nieces, are 18 or older and not full-time students. A third of those employees are committing fraud, says David Chojnacki, vice president of Budco Health Service Solutions of Highland Park, Mich., which performs many of these audits.

Some firms assume they are paying to cover people who are ineligible but choose not to pry into employees' lives. General Mills decided an outside health audit would hurt its family-friendly climate, says Chojnacki. (The company says it did its own audit and that family image wasn't the issue.)

Other companies are at pains not to make too many enemies. Denver telecom Qwest tossed 8,000 dependents off its health plan in 2006, shaving \$25 million off its \$750 million in annual health care costs. It made the audit less hostile by allowing appeals. "The process was challenging," says Erik Ammidown, director of benefits. "But health care keeps getting more expensive."

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CITY OF PORTLAND

OFFICE OF MANAGEMENT AND FINANCE

 Tom Potter, Mayor
 Timothy Grewe, Chief Administrative Officer

Bureau of Human Resources
Yvonne L. Deckard, Director
 1120 SW Fifth Ave., Room 404
 Portland, Oregon 97204
 (503) 823-3572
 FAX (503) 823-4156

May 24, 2006

TO: All City of Portland Health Plan Enrollees

FROM: Yvonne L. Deckard
 Director, Bureau of Human Resources

RE: City of Portland Health Plan Enrollees' Responsibility for Accurate Benefit Information

The City of Portland is committed to providing affordable quality health plans for its employees, their spouses, domestic partners and dependents. In conjunction with the City's efforts to reduce claims and premium costs associated with the City of Portland's health plans, the Bureau of Human Resources' Benefits Office is undertaking a review of all health plans' current enrollees to ensure that only employees and their eligible spouses, domestic partners and dependents are covered by the plans.

Over the past few weeks, it was brought to our attention that there are participants in the plans who do not meet the plans' eligibility criteria because they are no longer a spouse, domestic partner or dependent of a City employee. This increases the costs of health benefits for all City enrollees. The purpose of this letter and accompanying form is to verify and ensure that only eligible spouses, domestic partners and dependents are enrolled in the plans. Additionally, providing false and/or incomplete information is a misappropriation of public funds. Please carefully review your enrollment information and sign and return the form acknowledging your obligations to accurately report your dependents and coverage elections to the City's Benefits Office. Failure to return the form by June 15, 2006, may result in a loss of coverage under the plans as of July 1, 2006.

It is important that you review the enclosed outline of dependent eligibility criteria and notification provisions required when you have a change in your family status.

Consequences of Providing False Information

The City is committed to reducing the numbers of erroneously enrolled participants in the plans, and auditing the plans to ensure that there is no misappropriation of public funds by ceasing the payment of premiums and/or claims for ineligible participants. Toward that end, providing false and/or incomplete information on enrollment materials will require repayment of premiums or claims paid, may result in disciplinary action including possible discharge and may further result in a criminal prosecution. In the interest of encouraging employees to return the attached form expeditiously, no criminal prosecution will result from any false and/or incomplete information provided to the City prior to June 15, 2006. However, repayment of premiums or claims will be required and other disciplinary action may result.

May 24, 2006
Page 2

The requirement that your benefit enrollment information is accurate and up-to-date is your responsibility. Because the City has no way of knowing when certain change in status events occur, it is your obligation to notify the City Benefits Office within 60 days of any change in status event as defined in the plans and Employee Handbook which results in a loss of coverage (e.g., divorce, cessation of dependent status, etc.). Failure to provide such a notice will result in re-payment of claims and premiums erroneously paid and may result in disciplinary action up to and including termination of employment and may further result in criminal prosecution.

Cc: Tom Potter, Mayor
Linda Meng, City Attorney
Ken McGair, Deputy City Attorney
Peggy Anet, Benefits Manager



The Oregonian

Portland workers misuse benefits

Health coverage - The city investigates listings of 24 former spouses or partners as dependents

Monday, December 04, 2006

MAXINE BERNSTEIN
The Oregonian

It began innocently enough when a Portland police officer's girlfriend, also a city employee, called human resources last year to take a life insurance policy out on the officer.

That prompted the city to check the officer's own paperwork. When human resource workers discovered the officer already listed a spouse as a dependent for his city benefits, they started to ask questions.

"Either you have a spouse or you have a domestic partner, but you don't get to have both," said Yvonne Deckard, director of Portland's Bureau of Human Resources.

The discovery that Officer Arthur B. Jones had kept his former spouse listed as a dependent on his health care coverage for six years after their divorce was final, in violation of the city's benefit plan, led to his firing Feb. 7.

Since then, the city has identified 24 city workers who kept ex-spouses or former partners listed as their dependents, causing the city to pay out at least \$50,000 in health-care benefits for people who should not have been covered. In addition to firing one officer, Portland has launched a criminal investigation of another employee and is considering discipline for others.

City rules require an employee who goes through a divorce or legal separation to notify the city within 60 days. The ex-spouse's or partner's coverage is supposed to end on the last day of the month in which the divorce, legal separation or the domestic partnership's end becomes final.

"We have a fiduciary responsibility to the plan and to the public's resources to make sure the people who we are covering on our health plan are the people we ought to be covering," Deckard said.

The 24 employees who misstated their dependents are from various city bureaus, including police, fire, parks, water, transportation, development services and environmental services. The Portland Police Bureau is conducting an internal investigation into two or three Portland officers.

Deckard said her office is still reviewing the total cost of benefits that have been paid out to people who are not eligible dependents. She estimated that the city is seeking to recoup \$46,500 in payments from 17 employees. The fired Portland officer's ex-wife already repaid close to \$3,000.

Deckard said the city has paid out between \$900 to \$20,000 a person for dependents who should not have received health coverage. The city is requiring the employees to pay back premiums and to reimburse the city for medical care that should not have been covered.

"Whether it was intentional or not, the mayor felt the money should be paid back to the city," said Austin Raglione, Mayor Tom Potter's deputy chief of staff.

City officials said they picked up on the problem only after Jones' case.

After his girlfriend made the life insurance inquiry, human resource officials discovered that Jones' ex-wife was listed as his dependent, although their divorce became final six years earlier, on Dec. 16, 1999, according to court documents.

"The only way I know if something is wrong is if the employee comes in to make a change," Deckard said.

An employee is required to provide legal documentation to verify changes in marital status.

"If we see a document that shows you were divorced three years ago," she said, "and you're just coming in to take your ex-spouse off, then I know something is wrong."

A short time later, three or four more cases came to the attention of the Human Resources Bureau when employees suddenly sought to replace an ex-spouse as a dependent with a new spouse or domestic partner.

With the handful of cases popping up, the bureau decided to take a closer look.

"We had to figure out who's making honest mistakes," Deckard said, "versus intentionally misrepresenting their benefits and family status."

In May, city officials consulted the Multnomah County district attorney's office on whether any of the cases warranted prosecution.

Nom Frink, a chief deputy district attorney, said a theft charge could be raised but prosecutors would have to consider whether a case fell within the statute of limitations (three years for felony theft) and whether prosecutors could prove criminal intent.

No formal investigation has been presented to the district attorney's office for review, Frink said last week.

The city's human resources director says her office is investigating the discoveries case by case. A criminal investigation was launched into Jones' case last year but never got as far as the district attorney's office.

Former Chief Derrick Foxworth and Mayor Tom Potter proposed firing Jones in a letter dated June 29, 2005, citing untruthfulness and past transgressions, and he was terminated eight months later.

Jones, 53, who started with the transit police in 1982 and then joined the Portland Police Bureau in 1989, said what he did was a mistake. He said his ex-wife paid the city back \$2,917.

"I take responsibility for it," he said. "It was an oversight on my part. I screwed up."

But he contends he was singled out because the city holds police officers to higher standards and because of his past discipline history for such things as not documenting traffic stops or not getting approval to take a sister-in-law on a police ride-along.

He said he's frustrated that other high-ranking officers who he argues have committed more severe infractions have not faced equal penalties. He cites Dorothy Elmore, who threatened to kill her husband and slashed his tires and was later promoted to assistant chief, and Foxworth, who racked up more than \$6,900 in cell phone calls — some to a mistress who he claimed was an informant — and then was allowed to pay some of the money back and got promoted to chief.

"They were gunning for me," Jones said, "and they got me."

Deckard said terminating Jones was appropriate for his falsifying a city document and violating the city's benefit plan. Jones' past discipline history also was a big factor, Deckard said.

David Ignatius, director of Premera Blue Cross insurance company's special investigation unit outside Seattle and a former national anti-fraud director for BlueCross BlueShield Association, said private insurance industries conduct occasional audits of members' plans, but usually come across such abuses from callers' tips. On notices that go out explaining benefits, his company urges people to report any fraud to a hot line.

"I've seen a lot of cases over the years of this type," he said. "Unfortunately this does happen."

An updated 2006-07 Portland benefits plan now says in bold type that failure to make the 60-day notification of a change in dependents may subject an employee to discipline, up to and including termination.

To prevent future abuses, Deckard also sent a letter last spring to all city employees before the annual open enrollment for health care coverage. In the May 24 letter, she asked each employee to sign a form to verify that the people they signed up for city health care are eligible under the city plan. To encourage employees to be forthright, she said none would face criminal prosecution for any false or incomplete information provided to the city before June 15. They could still face discipline and would be ordered to repay premiums or medical claims.

As a result of that process, the city learned of more people who had listed dependents who were ineligible for coverage. The one worker now under criminal investigation came to the city's attention before the letter went out, Deckard said.

"Clearly in some cases, it was just outright fraud. In other cases, there may have been a misunderstanding or people just not paying attention," Raglione said. "The mayor was very clear that if in fact city employees were knowingly placing ineligible beneficiaries on their insurance, that that was wrong and should be stopped. In some cases, punished. It was unfair to the taxpayers to be paying for employees' relatives who aren't eligible."

Maxine Bernstein: 503-221-8212; maxinebernstein@news.oregonian.com

Affidavit of Dependency Instructions**When must an Affidavit of Dependency be filed?**

- For all stepchildren (must live with the employee), foster children, guardianship cases (including grandchildren, nieces, nephews, etc.) and wards when first listed for coverage.
- For newly adopted children when added to existing employee coverage.
- When the last name of the child differs from the last name of the employee.
- On parent-child(ren) contracts when the employee is divorced or single.

When must legal papers or court documentation be provided with the Affidavit of Dependency?

- For all adopted children, foster children, guardianship cases and wards.
- When the dependent child(ren) does (do) not live with the employee.

What constitutes acceptable documentation?

- A copy of the court decree that establishes the relationship between the employee and the dependent. In the case of a divorce, the copy need only contain those pages of the decree that identify the court, the employee and the dependent, the requirement for support, and the signature page.
- A copy of the custody agreement (the document placing the child in your home) from the placement agency.

What should I do with this form?

- If your situation requires an Affidavit of Dependency, complete the form and have your signature notarized.
- If legal documentation is required, attach a copy to the completed Affidavit.
- If you are an active employee, deliver the Affidavit and any legal documentation **to your employer**. If you are a retiree or on COBRA, return the form to the Division of Pensions and Benefits at the following address:

State of New Jersey
Division of Pensions and Benefits
Health Benefits Bureau
PO Box 299
Trenton, NJ 08625-0299



This information is for: Active Member, Public Agency Employee

[Member Information](#) > [Health Benefits Program](#) > [Eligibility & Enrollment](#) > **Enrolling Family Members**

Enrolling Family Members

Whether you cover yourself alone or include your family members in the CalPERS Health Program is up to you. But if you decide to cover your family members, you must cover all eligible family members as a single group.

Our guidelines for enrolling family members are as follows.

- Your spouse or domestic partner can be added to your health plan if done within 60 days after the date of your marriage or registration of your domestic partnership. A copy of your marriage certificate or Declaration of Domestic Partnership and your spouse's or domestic partner's Social Security number are required. (Be sure to review our online information on [domestic partners](#) to see specific requirements for enrollment.) Former spouses and former domestic partners are not eligible.
- Your children, adopted children, or stepchildren must be under age 23 and never married - regardless of whether or not they are living with you.
- A child over age 23, who has never married and is incapable of self support due to a mental or physical condition that existed prior to age 23, may be included when you first enroll. A Questionnaire for the [CalPERS Disabled Dependent Benefit Form \(HBD-98\)](#) and [Medical Report for the CalPERS Disabled Dependent Benefit Form \(HBD-34\)](#) must be approved by CalPERS prior to enrollment and must be updated upon request.
- Another person's child under age 23 who has never married may be eligible for coverage if you have been granted custody or joint custody by a court or the child resides with you. An [Affidavit of Eligibility of Economically-Dependent Children Form \(HBD-35\)](#) must be filed prior to enrollment and must be updated upon request.

You can add the following family members either at the time of enrollment or at a later date:

- A spouse or registered domestic partner not living in your home
- Children age 18 or older
- Eligible children who are not in your custody
- Dependents in the military, when they return to civilian life

<http://www.calpers.ca.gov/index.jsp?bc=/member/health/elig-enroll/enrollfamilymembers.xml>

Split Enrollments

Members who are married or in a registered domestic partnership who both work, or worked, for agencies in the CalPERS Health Program can enroll separately. If you and your spouse or domestic partner enroll separately, you must enroll all eligible family members, regardless of the relationship, under only one of you. Dependents cannot be split between parents.

For example, if a CalPERS member with children marries or registers a domestic partnership with another CalPERS member with children and each member has their own enrollment in the CalPERS Health Program, all children must be enrolled under one parent.

The effective date of coverage will be the first of the month following the date of marriage or domestic partnership registration. If split enrollments are discovered, they will be retroactively corrected. You will be responsible for all costs incurred from the date the split enrollment began.

Dual Coverage

You cannot be enrolled in a CalPERS health plan as a member and a dependent or as a dependent on two enrollments. This is called dual coverage and it is against the law. When dual coverage is discovered the coverage will be retroactively canceled. You may have to pay for all costs incurred from the date the dual coverage began.

Family Changes**Divorce or Termination of Domestic Partnership**

If you divorce or terminate your domestic partnership and your former spouse or former domestic partner does not work for a CalPERS employer, your former spouse or former domestic partner is no longer eligible, even if the court orders you to provide health coverage for them. The coverage terminates on the last day of the month in which the final decree of divorce is granted. Former spouses may be eligible for coverage under a COBRA or an Individual Conversion Policy. You must submit a copy of your final divorce decree or Notice of Termination of Domestic Partnership form to your Personnel Office (if working) or CalPERS (if retired).

Newborn or Newly Adopted Child

Your newborn child is covered from the date of birth. Adopted children are covered beginning the date formal adoption takes place.

Death of A Member

In the event of a retired member's death it's very important that you contact us at **888 CalPERS** (or **888-225-7377**). If the member was still employed, contact the members employer.

Surviving family members may be eligible for health coverage, as long as they:

- Qualify for a monthly survivor check from CalPERS
- Were enrolled or were eligible to enroll as dependents at the time of the member's death
- Continue to qualify as eligible family members

<http://www.calpers.ca.gov/index.jsp?bc=/member/health/elig-enroll/enrollfamilymembers.xml>

Death of A Dependent

If you have lost a family member, notify your employer or CalPERS (if you are retired) as soon as possible.

Additional Resources

[Enrolling Domestic Partners](#)

Dated: 06-12-2007

EASTMAN KODAK COMPANY
AFFIDAVIT OF DOMESTIC PARTNERSHIP

I. Declaration

We, _____, "Employee" (print) and _____, "Partner" (print) certify that we are domestic partners in accordance with the following criteria (hereafter a "Domestic Partner"), have continually been so under such criteria during the immediately preceding twelve (12) months and are eligible for benefits coverage as Domestic Partners under Eastman Kodak Company's benefits program:

II. Domestic Partner Criteria

1. We live in a spouse-like relationship and intend to remain each other's Domestic Partner indefinitely.
2. We reside together in the same permanent residence.
3. We are emotionally committed to one another and we are jointly responsible for the common welfare and financial obligations of the household or the Partner is chiefly dependent upon the Employee for care and financial assistance.
4. Neither of us is legally married nor the Domestic Partner of anyone else.
5. We are not related by blood closer than would bar marriage under applicable law in effect where we reside.
6. We are both at least eighteen (18) years of age and are mentally competent to enter into a legal contract.

III. Change in Domestic Partner Status

We acknowledge that, in the event we no longer meet the criteria set forth in section II above, we will no longer be considered Domestic Partners, and the Partner will be no longer eligible for any Kodak benefits.

We agree to immediately notify Kodak or its agents if there is any change in our status as Domestic partners, as attested to in this affidavit, which would change our eligibility for Kodak benefits (for example, if we cease to maintain the same permanent residence or if we are no longer each other's sole Domestic Partner). We each agree to notify the other in writing if and when such a change in Domestic Partner status is reported to Kodak or to its agent. We understand that failure to notify Kodak will neither prevent nor delay the termination of eligibility for benefits based on the domestic partner.

IV. Kodak Benefits

We understand that this Affidavit must be filed in order for a Domestic Partner to be eligible for coverage under Kodak benefit plans and that filing this Affidavit does **not** enroll us for any benefits.

We acknowledge that filing this Affidavit enables and requires that any Pre-retirement Survivor Income Benefits (SIB) that may become payable under the terms of the Kodak Retirement Plan (KRIP) be paid to the surviving Partner. We acknowledge that this precludes any Pre-retirement Survivor Income Benefits from being paid to the Employee's dependent children or dependent parents, unless a court order to the contrary is in effect.

We acknowledge that filing this Affidavit does **not** automatically result in the naming of the Partner as beneficiary for the Employee's life insurance, Savings and Investment Plan (SIP), or any other Kodak employee benefit plan. The Employee **MUST** complete the appropriate beneficiary designation procedure in order for the Partner (or any other named beneficiary) to receive survivor benefits under KLife, SIP, or any other Kodak employee benefit plan. We understand that if the Employee dies and is not survived by a designated beneficiary, any survivor benefits payable under the terms of the respective benefits plans will be paid to the first of the following who survives the Employee:

- the Partner;
- the Employee's children and the Partner's children, in equal shares;
- the Employee's parents in equal shares;
- the Employee's estate.

We understand that we will need to complete other enrollment procedures in order to enroll a Domestic Partner in any Kodak benefit plan for which a Domestic Partner is eligible.

V. Other Acknowledgements

1. We certify that the information we have provided on this form is true and correct. Any statements on this form which are known to be false may be cause for disciplinary action, including loss of benefits or termination of employment.
2. We understand that any person/employee/company who suffers any loss due to any false statement contained in this Affidavit may bring a civil action against either or both of us to recover their losses, including reasonable attorney's fees.
3. We have provided the information in this Affidavit for use by Eastman Kodak Company or its agent for the sole purpose of determining our eligibility for Kodak benefits as Domestic Partners. No other parties shall have any rights under this Affidavit.
4. We understand that the Employee will be taxed on applicable imputed income from the premium paid by Eastman Kodak Company on behalf of the Partner, and the Partner's eligible covered children (if any), and the Employee will not be eligible to pay the portion of health care, dental and dependent accidental death insurance premiums attributable to the Partner on a pre-tax basis.
5. We affirm, under pain and penalty of perjury, that the assertions in this Affidavit are true to the best of our knowledge.

Important Note:
 You are urged to seek appropriate advice before signing this Affidavit. Please be advised that some courts have recognized non-marriage relationships as the equivalent of marriage for the purpose of establishing and dividing joint property. There may also be other implications to signing this document.

Employee Information

Signature _____

Name (Printed) _____

Address _____

City _____ State _____ Zip _____

Social Security Number _____

Insurance Number _____

Daytime Phone Number _____

Date Signed _____

Partner Information

Signature _____

Name (Printed) _____

Address _____

City _____ State _____ Zip _____

Social Security Number _____

Date of Birth _____

[] Male [] Female

Date Signed _____

State of _____) County of _____) City of _____) On this _____ day of _____, 19____ before me the subscriber, personally appeared, who by me being duly sworn did depose and say that he/she has read the foregoing statement and swears or affirms the truth of the contents therein.	State of _____) County of _____) City of _____) On this _____ day of _____, 19____ before me the subscriber, personally appeared, who by me being duly sworn did depose and say that he/she has read the foregoing statement and swears or affirms the truth of the contents therein.
Notary Public	Notary Public



Health Ben fits Election Form

Firm Approved:
OMB No. 3206-0160

Uses for Standard Form (SF) 2809

Use this form to:

- Enroll or reenroll in the FEHB Program; or
- Elect not to enroll in the FEHB Program (*employees only*); or
- Change your FEHB enrollment; or
- Cancel your FEHB enrollment; or
- Suspend your FEHB enrollment (*annuitants or former spouses only*).

Who May Use SF 2809

1. Employees eligible to enroll in or currently enrolled in the FEHB Program, including temporary employees eligible under 5 U.S.C. 8906a. *Employees automatically participate in premium conversion unless they waive it, see page 7.*
2. Annuitants (other than Civil Service Retirement System [CSRS] and Federal Employees Retirement System [FERS] annuitants) eligible to enroll in or currently enrolled in the FEHB Program, including individuals receiving monthly compensation from the Office of Workers' Compensation Programs (OWCP).

Note: Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) annuitants and former spouses and children of CSRS/FERS annuitants -- Do not use this form. Instead, call the Retirement Information Office toll-free at 1-888-767-6738. Customers within the local calling distance to Washington, DC, should call 202-696-0500.

3. Former spouses eligible to enroll in or currently enrolled in the FEHB Program under the Spouse Equity law or similar statutes.
4. Individuals eligible for Temporary Continuation of Coverage (TCC) under the FEHB Program, including:
 - Former employees (who separated from service);
 - Children who lose FEHB coverage; and
 - Former spouses who are not eligible for FEHB under item 3 above.

Instructions for Completing SF 2809

Type or Print Firmly. We have not provided instructions for those items that have an explanation on the form.

Part A — Enrollee and Family Member Information.
You must complete this part.

- Item 2. See the Privacy Act and Public Burden Statements on page 5.
- Item 5. If you are separated but not divorced, you are still married.
- Item 7. If you have Medicare, show which Parts you have. If you complete this form after November 15, 2005, also indicate whether you have prescription drug coverage under the Medicare Part D program.
- Item 8. TRICARE is a health care program for active duty and retired members of the uniformed services, their families, and survivors. This includes TRICARE for Life for members 65 and over.
- Item 9. If you have other group insurance (private, state, Medicaid, CHAMPVA), check the box.
- Item 10. Write the name of any other insurance you have.

Complete information for family members only if your enrollment is for Self and Family. (If you need extra space for additional family members, list them on a separate sheet and attach.)

- Item 13. Please provide Social Security Numbers for your dependents if available. If not available, leave blank; benefits will not be withheld. (See Privacy Act Statement on page 5.)
- Item 16. Provide the code which indicates the relationship of each eligible family member to you.

Code	Family Relationship
01	Spouse
19	Unmarried dependent child under age 22
09	Adopted Child
17	Stepchild
10	Foster Child
99	Unmarried disabled child over age 22 incapable of self support because of a physical or mental disability that began before age 22.

- Item 18. If a family member has Medicare, show which Parts he/she has on the line with his/her name. If you complete this form after November 15, 2005, also indicate whether you have prescription drug coverage under the Medicare Part D program.
- Item 19. If a family member has TRICARE, see item 8. Check the box.
- Item 20. If a family member has other group insurance (private, state, Medicaid), check the box.
- Item 21. Give the name of any other insurance this family member has.

Family Members Eligible for Coverage

Unless you are a former spouse or survivor annuitant, family members eligible for coverage under your Self and Family enrollment include your spouse and your unmarried dependent children under age 22. Eligible children include your legitimate or adopted children; and recognized children born out of wedlock, stepchildren or foster children, if they live with you in a regular parent-child relationship. A recognized child born out of wedlock also may be included if a judicial determination of support has been obtained or you show that you provide regular and substantial support for the child.

Other relatives (for example, your parents) are *not* eligible for coverage even if they live with you and are dependent upon you.

- If you are a former spouse or survivor annuitant, family members eligible for coverage under your Self and Family enrollment are the unmarried dependent natural or adopted children under age 22 of both you and your former or deceased spouse.
- Children whose marriage ends before they reach age 22 become eligible for coverage under your Self and Family enrollment from the date the marriage ends until they reach age 22.

In some cases, an unmarried, disabled child who is 22 years old or older is eligible for coverage under your Self and Family enrollment if you provide adequate medical certification of a mental or physical handicap that existed before his or her 22nd birthday and renders the child incapable of self-support.

Note: Your employing office can give you additional details about family member eligibility including any certification or documentation that may be required for coverage. "Employing office" means the office of an agency or retirement system that is responsible for health benefits actions for an employee, annuitant, former spouse eligible for coverage under the Spouse Equity provisions, or individual eligible for TCC.

Part B — Present Plan.

You must complete this part if you are changing, cancelling, or suspending your enrollment.

- Item 1. Enter the name of the plan you are enrolled in from the front cover of the plan brochure.
- Item 2. Enter your present enrollment code.

Part C — New Plan.

Complete this part to enroll or change your enrollment in the FEHB Program.

- Items 1 and 2. Enter the plan name and enrollment code from the front cover of the brochure of the plan you want to be enrolled in. The enrollment code shows the plan and option you are electing and whether you are enrolling for Self Only or Self and Family.

To enroll in a Health Maintenance Organization (HMO), you must live (or in some cases work) in a geographic area specified by the carrier.

To enroll in an employee organization plan, you must be or become a member of the plan's sponsoring organization, as specified by the carrier.

Your signature in Part H authorizes deductions from your salary, annuity, or compensation to cover your cost of the enrollment you elect in this item, unless you are required to make direct payments to the employing office.

Part D — Event Code.

- Item 1. Enter the event code that permits you to enroll, change, or cancel based on a qualifying life event (QLE) from the Table of Permissible Changes in Enrollment that applies to you.

Explanation of Table of Permissible Changes in Enrollment

The tables on pages 7 through 14 illustrate when: an employee who participates in premium conversion; annuitant; former spouse; person eligible for TCC; or employee who waived participation in premium conversion may enroll or change enrollment. The tables show those permissible events that are found in the regulations at 5 CFR Parts 890 and 892.

The tables have been organized by enrollee category. Each category is designated by a number, which identifies the enrollee group, as follows:

1. Employees who participate in premium conversion
2. Annuitants (other than CSRS/FERS annuitants), including individuals receiving monthly compensation from the Office of Workers' Compensation Programs
3. Former spouses eligible for coverage under the Spouse Equity provision of FEHB law
4. TCC enrollees
5. Employees who waived participation in premium conversion

Following each number is a letter, which identifies a specific permissible event; for example, the event code "1A" refers to the initial opportunity to enroll for an employee who elected to participate in premium conversion.

- Item 2. Enter the date of the permissible event using numbers to show month, day, and complete year; e.g., 06/30/2004. If you are electing to enroll, enter the date you became eligible to enroll (for example, the date your appointment began). If you are making an open season enrollment or change, enter the date on which the open season begins.

Part E — Election NOT to Enroll.

Place an "X" in the box provided only if you are an employee and you do NOT wish to enroll in the FEHB Program. **Be sure to read the information below in the paragraph titled Employees Who Elect Not to Enroll or Who Cancel Their Enrollment.**

Part F — Cancellation.

Place an "X" in the box provided only if you wish to cancel your FEHB enrollment. Also enter your present enrollment code in **Part B**. **Be sure to read the information below in the paragraph titled Employees Who Elect Not to Enroll or Who Cancel Their Enrollment.**

Note For Parts E and F. If you are not enrolling or cancelling your enrollment because you are covered as a spouse or child under another FEHB plan, please write the enrollee's name, social security number, and FEHB enrollment code in REMARKS.

Cancellation of Enrollment

Employees participating in premium conversion may cancel their FEHB enrollment only during the open season or when they experience a qualifying life event. Employees who waived participation in premium conversion, annuitants, former spouses, and individuals enrolled under TCC may cancel their enrollment at any time. However, if you cancel, neither you nor any family member covered by your enrollment are entitled to a 31-day temporary extension of coverage, or to convert to an individual, nongroup policy. Moreover, family members who lose coverage because of your cancellation are not eligible for TCC. Be sure to read the additional information below about cancelling your enrollment.

Employees Who Elect Not to Enroll or Who Cancel Their Enrollment

To be eligible for an FEHB enrollment after you retire, you must retire:

- Under a retirement system for Federal civilian employees, and
- On an immediate annuity.

In addition, you must be currently enrolled in a plan under the FEHB Program and must have been enrolled (or covered as a family member) in a plan under the Program for:

- The 5 years of service immediately before retirement (i.e., commencing date of annuity entitlement), or
- If fewer than 5 years, all service since your first opportunity to enroll. (Generally, your first opportunity to enroll is within 60 days after your first appointment [in your Federal career] to a position under which you are eligible to enroll under conditions that permit a Government contribution toward the enrollment.)

If you do not enroll at your first opportunity or if you cancel your enrollment, you may later enroll or reenroll only under the circumstances explained in the table beginning on page 7. Some employees delay their enrollment or reenrollment until they are nearing 5 years before retirement in order to qualify for FEHB coverage as a retiree; however, there is always the risk that they will retire earlier than expected and not be able to meet the 5-year requirement for continuing FEHB coverage into retirement. Please understand that when you elect not to enroll or cancel your enrollment **you are voluntarily accepting this risk**. An alternative would be to enroll in or change to a lower cost plan so that you meet the requirements for continuation of your FEHB enrollment after retirement.

Note for temporary [under 5 U.S.C. 8906a] employees eligible for FEHB without a Government contribution: Your decision not to enroll or to cancel your enrollment will not affect your future eligibility to continue FEHB enrollment after retirement.

Annuitants Who Cancel Their Enrollment

CSRS and FERS annuitants and their dependents should not use this form but call 1-888-767-6738, or 202-606-0500 within the Washington, D.C. area.

Generally, you cannot reenroll as an annuitant unless you are continuously covered as a family member under another person's enrollment in the FEHB Program during the period between your cancellation and reenrollment. Your employing office or retirement system can advise you on events that allow eligible annuitants to reenroll. If you cancel your enrollment because you are covered under another FEHB enrollment, you can reenroll from 31 days before through 60 days after you lose that coverage under the other enrollment.

If you cancel your enrollment for any other reason, you cannot later reenroll, and you and any family members covered by your enrollment are not entitled to a 31-day temporary extension of coverage or to convert to an individual policy.

Former Spouses (Spouse Equity) Who Cancel Their Enrollment

Generally, if you cancel your enrollment in the FEHB Program, you cannot reenroll as a former spouse. However, if you stop the enrollment because you acquire other FEHB coverage as a new spouse or employee, your right to FEHB coverage under the Spouse Equity provisions continues. You may reenroll as a former spouse from 31 days before through 60 days after you lose coverage under the other FEHB enrollment.

If you cancel your enrollment for any other reason, you cannot later reenroll, and you and any family members covered by your enrollment are not entitled to a 31-day temporary extension of coverage or to convert to an individual policy.

Temporary Continuation of Coverage Enrollees Who Cancel Their Enrollment

If you cancel your TCC enrollment, you cannot reenroll. Your family members who lose coverage because of your cancellation cannot enroll for TCC in their own right nor can they convert to a nongroup policy. However, family members who are Federal employees or annuitants may enroll in the FEHB Program when you cancel your coverage if they are eligible for FEHB coverage in their own right.

Note 1: If you become covered by a regular enrollment in the FEHB Program, either in your own right or under the enrollment of someone else, your TCC enrollment is suspended. You will need to send documentation of the new enrollment to the employing office maintaining your TCC enrollment so that they can stop the TCC enrollment. If your new FEHB coverage stops before the TCC enrollment would have expired, the TCC enrollment can be reinstated for the remainder of the original eligibility period (18 months for separated employees or 36 months for dependents who lose coverage).

Note 2: Former spouses (Spouse Equity) and TCC enrollees who fail to pay their premiums within specified timeframes are considered to have voluntarily cancelled their enrollment.

Part G — Suspension.

CSRS and FERS annuitants and their dependents should not use this form but call 1-888-767-6738, or 202-606-0500 within the Washington, D.C. area.

Place an "X" in the box only if you are an annuitant or former spouse and wish to suspend your FEHB enrollment. Also enter your present enrollment code in Part B.

You may suspend your FEHB enrollment because you are enrolling in one of the following programs:

- A Medicare HMO or Medicare Advantage plan,
- Medicaid or similar State-sponsored program of medical assistance for the needy,
- TRICARE (including Uniformed Services Family Health Plan or TRICARE for Life), or
- CHAMPVA

You can reenroll in the FEHB Program if your other coverage ends. If your coverage ends *involuntarily*, you can reenroll 31 days before through 60 days after loss of coverage. If your coverage ends *voluntarily* because you disenroll, you can reenroll during the next open season.

You must submit documentation of eligibility for coverage under the non-FEHB Program to the office that maintains your enrollment. That office must enter in REMARKS the reason for your suspension.

Part H — Signature.

Your agency, retirement system, or office maintaining your enrollment cannot process your request unless you complete this part.

If you are registering for someone else under a written authorization from him or her to do so, sign your name in Part H and attach the written authorization.

If you are registering for a former spouse eligible for coverage under the Spouse Equity provisions or for an individual eligible for TCC as his or her court-appointed guardian, sign your name in Part H and attach evidence of your court-appointed guardianship.

Part I - Agency or Retirement System Information and Remarks.

Leave this section blank as it is for agency or retirement system use only.

Guides to Federal Employees Health Benefits Plans (FEHB Guides) and Plan Brochures

FEHB Guides contain plan and rate information. Be sure you have the correct guide for your enrollment category since more than one guide is used.

FEHB Plan brochures contain detailed information about plan benefits and the contractual description of coverage.

Where to Obtain FEHB Guides and Brochures

FEHB Guides and plan brochures may be available from your employing office or the office that maintains your enrollment.

Your plan will send you its brochure before the beginning of each contract year. You may also get copies of plan brochures by contacting the plans directly at the telephone numbers shown in the FEHB Guide. The FEHB Guide also shows which plans have their own website.

The FEHB Guide, plan brochures, and other information, including links to plan websites, are available on the FEHB website at <http://www.opm.gov/insure/health>.

Electronic Enrollments

Many agencies use automated systems that allow their employees to make changes using a touch-tone telephone, or a computer instead of a form. This may be Employee Express or some other automated system. If you are not sure whether the electronic enrollment option is available to you, contact your employing office.

Dual Enrollment

Normally, you are not eligible to enroll if you are covered as a family member under someone else's enrollment in the FEHB Program. However, such dual enrollments may be permitted under certain circumstances in order to:

- Protect the interests of children who otherwise would lose coverage as family members, or
- Enable an employee who is under age 22 and covered under a parent's enrollment and becomes the parent of a child to enroll for Self and Family coverage.

No person (enrollee or family member) is entitled to receive benefits under more than one enrollment in the Program. Each enrollee must notify his or her plan of the names of the persons to be covered under his or her enrollment who are not covered under the other enrollment.

Temporary Continuation of Coverage (TCC)

The employing office must notify a former employee of his or her eligibility for TCC. The enrollee, child, former spouse, or their representative must notify the employing office when a child or former spouse becomes eligible.

- For the eligible child of an enrollee, the enrollee must notify the employing office within **60 days** after the qualifying event occurs; e.g., child reaches age 22.
- For the eligible former spouse of an enrollee, the enrollee or the former spouse must notify the employing office within **60 days** after the former spouse's change in status; e.g., the date of the divorce.

An individual eligible for TCC who wants to continue FEHB coverage may choose any plan for which he or she is eligible, option, and type of enrollment. The time limit for a former employee, child, or former spouse to enroll with the employing office is within **60 days** after the qualifying life event, or receiving notice of eligibility, whichever is later.

Note:

- *If someone other than the enrollee notifies the employing office of the child's eligibility for TCC within the specified time period, the child's opportunity to enroll ends 60 days after the qualifying event.*
- *If someone other than the enrollee or the former spouse notifies the employing office of the former spouse's eligibility for continued coverage within the specified time period, the former spouse's opportunity to enroll ends 60 days after the change in status.*

Effective Dates

Except for open season, most enrollments and changes of enrollment are effective on the first day of the pay period after the employing office receives this form and that follows a pay period during any part of which the employee is in pay status. Your employing office can give you the specific date on which your enrollment or enrollment change will take effect.

Note 1: If you are changing your enrollment from Self and Family to Self Only so that your spouse can enroll for Self Only, you should

coordinate the effective date of your spouse's enrollment with the effective date of your enrollment change to avoid a gap in your spouse's coverage.

Note 2: If you are cancelling your enrollment and intend to be covered under someone else's enrollment at the time you cancel, you should coordinate the effective date of your cancellation with the effective date of your new coverage to avoid a gap in your coverage.

Privacy Act Statement

The information you provide on this form is needed to document your enrollment in the Federal Employees Health Benefits Program (FEHB) under Chapter 89, title 5, U.S. Code. This information will be shared with the health insurance carrier you select so that it may (1) identify your enrollment in the plan, (2) verify your and/or your family's eligibility for payment of a claim for health benefits services or supplies, and (3) coordinate payment of claims with other carriers with whom you might also make a claim for payment of benefits. This information may be disclosed to other Federal agencies or Congressional offices which may have a need to know it in connection with your application for a job, license, grant, or other benefit. It may also be shared and is subject to verification, via paper, electronic media, or through the use of computer matching programs, with national, state, local, or other charitable or social security administrative agencies to determine and issue benefits under their programs or to obtain information necessary for determination or continuation of benefits under this program. In addition, to the extent this information indicates a possible violation of civil or criminal law, it may be shared and verified, as noted above, with an appropriate Federal, state, or local law enforcement agency.

While the law does not require you to supply all the information requested on this form, doing so will assist in the prompt processing of your enrollment.

We request that you provide your Social Security Number so that it may be used as your individual identifier in the FEHB Program. Executive Order 9397 (November 22, 1943) allows Federal agencies to use the Social Security Number as an individual identifier to distinguish between people with the same or similar names. Failure to furnish the requested information may result in the U.S. Office of Personnel Management's (OPM) inability to ensure the prompt payment of your and/or your family's claims for health benefits services or supplies.

Agencies other than the OPM may have further routine uses for disclosure of information from the records system in which they file copies of this form. If this is the case, they should provide you with any such uses which are applicable at the time they ask you to complete this form.

Public Burden Statement

We think this form takes an average of 30 minutes to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our time estimate or any other aspect of this form, including suggestions for reducing completion time, to the Office of Personnel Management, OPM Forms Officer, (3206-0160), Washington, D.C. 20415-7900. The OMB number, 3206-0160 is currently valid. OPM may not collect this information, and you are not required to respond, unless this number is displayed.

**Federal Employees Receiving Premium Conversion Tax Benefits
Table of Permissible Changes in FEHB Enrollment and Premium Conversion Election**

Premium Conversion allows employees who are eligible for FEHB the opportunity to pay for their share of FEHB premiums with pre-tax dollars. Premium conversion plans are governed by Section 125 of the Internal Revenue Code, and IRS rules govern when a participant may change his or her election outside of the annual open season. All employees who enroll in the FEHB Program automatically receive premium conversion tax benefits, unless they waive participation. When an employee experiences a qualifying life event (QLE) as described below, changes to the employee's FEHB coverage (including change to self only and cancellation) and premium conversion election may be permitted, so long as they are because of and consistent with the QLEs. For more information about premium conversion, please visit www.opm.gov/insure/health.

Code	Qualifying Life Events (QLEs) that May Permit Change in FEHB Enrollment or Premium Conversion Election	FEHB Enrollment Change that May Be Permitted				Premium Conversion Election Change that May Be Permitted		Time Limits in which Change May Be Permitted
		From Not Enrolled to Enrolled	From Self-Enrolled to Family and Family	From One Option to Another	Cancel or Change to Self-Only	Participate	Waive	
I	Employee electing to receive or receiving premium conversion tax benefits	Yes	Yes	Yes	Yes	Automatic/Unless Waived	Yes	Within 60 days after becoming eligible
IA	Initial opportunity to enroll, for example: <ul style="list-style-type: none"> New employee Change in included position Temporary employees who completes 1 year of service and is eligible to enroll under 5 USC 8906a 	Yes	Yes	Yes	Yes	Automatic/Unless Waived	Yes	As announced by OPM
IB	Open Season	Yes	Yes	Yes	Yes	Automatic/Unless Waived	Yes	As announced by OPM
IC	Change in family status that results in increase or decrease in number of eligible family members, for example: <ul style="list-style-type: none"> Marriage, divorce, annulment, legal separation Birth, adoption, acquiring foster child or stepchild, issuance of court order requiring employee to provide coverage for child Last surviving child reaches age 22 or marries, stepchild moves out of employee's home, disabled child becomes capable of self-support, child acquires other coverage by court order Death of spouse or dependent 	Yes	Yes	Yes	Yes	Automatic/Unless Waived	Yes	Within 60 days after change in family status
ID	Any change in employee's employment status that could result in entitlement to coverage, for example: <ul style="list-style-type: none"> Recruitment after a break in service of more than 3 days Return to pay status from nonpay status, or return to receiving pay sufficient to cover premium withholdings, if coverage terminated (if coverage did not terminate, see (G)) 	Yes	Yes	Yes	Yes	Automatic/Unless Waived	Yes	Within 60 days after change in employment status
IE	Any change in employee's employment status that could affect cost of insurance, including: <ul style="list-style-type: none"> Change from temporary appointment with eligibility for coverage under 5 USC 8906a to appointment that permits receipt of government contribution Change from full time to part-time career or the reverse 	Yes	Yes	Yes	Yes	Automatic/Unless Waived	Yes	Within 60 days after return to civilian position
IF	Employee restored to civilian position after serving in uniformed services, ²	Yes	Yes	Yes	Yes	Automatic/Unless Waived	Yes	Within 60 days after return to civilian position

Code	Qualifying Life Events (QLEs) that May Permit Change in FEHB Enrollment or Premium Conversion Election	FEHB Enrollment Change that May Be Permitted			Premium Conversion Election Change that May Be Permitted		Time Limits in which Change May Be Permitted
		From Not Enrolled	From Self Only, Self and Family	From One Option to Another	Participate	Waive	
IG	<p>Employee, spouse or dependent:</p> <ul style="list-style-type: none"> Begins nonpay status or insufficient pay¹ or Ends nonpay status or insufficient pay if coverage continued If employee's coverage terminated, see ID.) If spouse's or dependent's coverage terminated, see IM.) 	No	No	No	Yes	Yes	When You Must File Health Benefits with Your Employing Office
IH	Salary of temporary employee insufficient to make withholdings for plan in which enrolled	N/A	No	Yes	Yes	Yes	Within 60 days after receiving notice from employing office
II	Employee (or covered family member) enrolled in FEHB health maintenance organization (HMO) moves or becomes employed outside the geographic area from which the FEHB carrier accepts enrollments or, if already outside the area, moves further from this area.	N/A	Yes	Yes	N/A	No	Upon notifying employing office of move
IJ	Transfer from post of duty within a State of the United States or the District of Columbia to post of duty outside a State of the United States or District of Columbia, or reverse.	Yes	Yes	Yes	Yes	Yes	Within 60 days after arriving at new post
IK	Separation from Federal employment when the employee or employee's spouse is pregnant.	Yes	Yes	Yes	N/A	N/A	During employee's final pay period
IL	Employee becomes entitled to Medicare and wants to change to another plan or option.	No	No	Yes (Changes may be made only once.)	N/A	N/A	Any time beginning on the 10th day before becoming eligible for Medicare
IM	<p>Employee or eligible family member loses coverage under FEHB or another group insurance plan including the following:</p> <ul style="list-style-type: none"> Loss of coverage under another FEHB enrollment due to termination, cancellation, or change to Self Only of the covering enrollment Loss of coverage due to termination of membership in employee organization sponsoring the FEHB plan Loss of coverage under a non-Federal government-sponsored health benefits program, including TRICARE, Medicare, Indian Health Service Loss of coverage under Medicaid or similar State-sponsored program of medical assistance for the needy Loss of coverage under a non-Federal health plan, including foreign, state or local government, private sector Change in work site or residence (Employees in an FEHB HMO, also see II.) <p>Loss of coverage under a non-Federal group health plan because an employee moves out of the commuting area to accept another position and the employee's non-Federally employed spouse terminates employment to accompany the employee.</p>	Yes	Yes	Yes	Yes	Yes	Within 60 days after loss of coverage
IN	Loss of coverage under a non-Federal group health plan because an employee moves out of the commuting area to accept another position and the employee's non-Federally employed spouse terminates employment to accompany the employee.	Yes	Yes	Yes	Yes	Yes	From 31 days before the employee leaves the commuting area to 180 days after arriving in the new commuting area
IO	Employee or eligible family member loses coverage due to discontinuance in whole or part of FEHB plan.	Yes	Yes	Yes	Yes	Yes	During open season, unless OPM sets a different time

Code	Qualifying Life Events (QLEs) that May Permit Change in FEHB Enrollment or Premium Conversion Election	FEHB Enrollment Change that May Be Permitted				Premium Conversion Election Change that May Be Permitted		Time Limits in which Change May Be Permitted
		From Not Enrolled or Family Enrolled	From Self Only to Family and Family Enrolled	From One Plan or Option to Another	Cancel or Change to Self Only	Participate	Waive	
IP	<p>Event</p> <p>Enrolled employee or eligible family member gains coverage under FEHB or another group insurance plan, including the following:</p> <ul style="list-style-type: none"> Medicare (Employees who become eligible for Medicare and want to change plans or options, see 1L.) TRICARE for Life, due to enrollment in Medicare. TRICARE due to change in employment status, including: (1) entry into active military service, (2) retirement from reserve military service under the Uniformed Services University of the Health Sciences (USUHS) program, or (3) medical or similar State-sponsored program of Medical assistance for the needy. Health insurance acquired due to change of worksite or residence that affects eligibility for coverage. Health insurance acquired due to spouse's or dependent's change in employment status (includes state, local, or foreign government or private sector employment). 	No	No	No	Yes	Yes	Yes	When You Must File Health Benefits Election Form With Your Employing Office Within 60 days after QLE
IQ	<p>Change in spouse's or dependent's coverage options under a non-federal health plan, for example:</p> <ul style="list-style-type: none"> Employer starts or stops offering a different type of coverage. (If no other coverage is available, also see 1A.) Employer changes geographic service area. HMO adds a geographic service area that now makes spouse eligible to enroll in that HMO. HMO removes a geographic area that makes spouse ineligible for coverage under that HMO, but other plans or options are available (If no other coverage is available, see 1A). 	No	No	No	Yes	Yes	Yes	Within 60 days after QLE

(If you are a United States Postal Service employee, these rules may be different. Consult your employing office or information provided by your agency.)

- Employees may change to self only outside of open season only if the QLE caused the enrollee to be the last eligible family member under the FEHB enrollment. Employees may cancel enrollment outside of open season only if the QLE caused the enrollee and all eligible family members to acquire other health insurance coverage.
- Employees who enter active military service are given the opportunity to terminate coverage. Termination for this reason does not count against the employee for purposes of meeting the requirements for continuing coverage after retirement. Additional information on the FEHB coverage of employees who return from active military service will be forthcoming.
- Employees who begin nonpay status or insufficient pay *must* be given an opportunity to elect to continue or terminate coverage. A termination differs from a cancellation as it allows conversion to nongroup coverage and does not count against the employee for purposes of meeting the requirements for continuing coverage after retirement.
- This code reflects the FEHB regulation that gives employees enrolled in an FEHB HMO who *change from self only to self and family or from one plan or option to another* a different timeframe than that allowed by IP. For change to self-only, cancellation, or change in premium conversion status, see 1H.
- This code reflects the FEHB regulation that gives employees enrolled in FEHB a one-time opportunity to change plans or options under a different timeframe than that allowed by IP. For change to self only, cancellation, or change in premium conversion status, see 1P.
- If employee's membership terminates (e.g., for failure to pay membership dues), the employee organization will notify the agency to *terminate* the enrollment.
- Employee's failure to select another FEHB plan is deemed a cancellation for purposes of meeting the requirements for continuing coverage after retirement.
- Under IRS rules, this includes start/stop of employment or nonpay status, strike or lockout, and change in worksite.

Tables of Permissible Changes in FEHB Enrollment for Individuals Who Are Not Participating in Premium Conversion
 Enrollment May Be Cancelled or Changed From Family to Self Only at Any Time

Code	QLE's That Permit Enrollment or Change Event	Change Permitted			Time Limits When You Must File Health Benefits Election Form With Your Employing Office
		From Not Enrolled to Enrolled	From Self Only to Self and Family	From One Plan or Option to Another	
2	Annuitant (Includes Compensationers) <i>Note for enrolled survivor annuitants:</i> A change in family status based on additional family members can only occur if the additional eligible family members are family members of the deceased employee or annuitant.				
2A	Open Season	No	Yes	Yes	As announced by OPM.
2B	Change in family status; for example: marriage, birth or death of family member, adoption, legal separation, or divorce.	No	Yes	Yes	From 31 days before through 60 days after the event.
2C	Reenrollment of annuitant who cancelled FEHB enrollment to enroll in a Medicare-sponsored plan, Medicaid, or similar State-sponsored program and who later was <i>involuntarily</i> disenrolled from the Medicare-sponsored plan, Medicaid, or similar State-sponsored program.	May Reenroll	N/A	N/A	From 31 days before through 60 days after disenrollment.
2D	Reenrollment of annuitant who cancelled FEHB enrollment to enroll in a Medicare-sponsored plan, Medicaid, or similar State-sponsored program and who later <i>voluntarily</i> disenrolls from the Medicare-sponsored plan, Medicaid, or similar State-sponsored program.	May Reenroll	N/A	N/A	During open season.
2E	Restoration of annuity or compensation (OWCP) payments; for example: <ul style="list-style-type: none"> • Disability annuitant who was enrolled in FEHB, and whose annuity terminated due to restoration of earning capacity or recovery from disability, and whose annuity is restored; • Compensationers whose compensation terminated because of recovery from injury or disease and whose compensation is restored due to a recurrence of medical condition; • Surviving spouse who was covered by FEHB immediately before survivor annuity terminated because of remarriage and whose annuity is restored; • Surviving child who was covered by FEHB immediately before survivor annuity terminated because student status ended and whose survivor annuity is restored; • Surviving child who was covered by FEHB immediately before survivor annuity terminated because of marriage and whose survivor annuity is restored. 	Yes	N/A	N/A	Within 60 days after the retirement system or OWCP mails a notice of insurance eligibility.
2F	Annuitant or eligible family member loses FEHB coverage due to termination, cancellation, or change to Self Only of the covering enrollment.	Yes	Yes	Yes	From 31 days before through 60 days after date of loss of coverage.

QLE's That Permit Enrollment or Change		Change Permitted			Time Limits
Code	Event	From Not Enrolled to Enrolled	From Self Only to Self and Family	From One Plan or Option to Another	When You Must File Health Benefits Election Form With Your Employing Office
2G	Annuitant or eligible family member loses coverage under FEHB or another group insurance plan; for example: <ul style="list-style-type: none"> • Loss of coverage under another federally-sponsored health benefits program; • Loss of coverage due to termination of membership in the employee organization sponsoring the FEHB plan; • Loss of coverage under Medicaid or similar State-sponsored program (but see events 2C and 2D); • Loss of coverage under a non-Federal health plan. 	Yes	Yes	Yes	From 31 days before through 60 days after loss of coverage.
2H	Annuitant or eligible family member loses coverage due to the discontinuance, in whole or part, of an FEHB plan.	N/A	Yes	Yes	During open season, unless OPM sets a different time.
2I	Annuitant or covered family member in a Health Maintenance Organization (HMO) moves or becomes employed outside the geographic area from which the carrier accepts enrollments, or if already outside this area, moves or becomes employed further from this area.	N/A	Yes	Yes	Upon notifying the employing office of the move or change of place of employment.
2J	Employee in an overseas post of duty retires or dies.	No	Yes	Yes	Within 60 days after retirement or death.
2K	An enrolled annuitant separates from duty after serving 31 days or more in a uniformed service.	N/A	Yes	Yes	Within 60 days after separation from the uniformed service.
2L	On becoming eligible for Medicare. (This change may be made only once in a lifetime.)	N/A	No	Yes	At any time beginning on the 30th day before becoming eligible for Medicare.
2M	Annuitant's annuity is insufficient to make withholdings for plan in which enrolled.	N/A	No	Yes	Employing office will advise annuitant of the options.
3	Former Spouse Under The Spouse Equity Provisions <i>Note:</i> Former spouse may change to Self and Family only if family members are also eligible family members of the employee or annuitant.				
3A	Initial opportunity to enroll. Former spouse must be eligible to enroll under the authority of the Civil Service Retirement Spouse Equity Act of 1984 (P.L. 98-615), as amended, the Intelligence Authorization Act of 1986 (P.L. 99-569), or the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (P.L. 100-204).	Yes	N/A	N/A	Generally, must apply within 60 days after dissolution of marriage. However, if a retiring employee elects to provide a former spouse annuity or insurable interest annuity for the former spouse, the former spouse must apply within 60 days after OPM's notice of eligibility for FEHB. May enroll any time after employing office establishes eligibility.
3B	Open Season.	No	Yes	Yes	As announced by OPM.
3C	Change in family status based on addition of family members who are also eligible family members of the employee or annuitant.	No	Yes	Yes	From 31 days before through 60 days after change in family status.
3D	Reenrollment of former spouse who cancelled FEHB enrollment to enroll in a Medicare-sponsored plan, Medicaid, or similar State-sponsored program and who later was <i>involuntarily</i> disenrolled from the Medicare-sponsored plan, Medicaid, or similar State-sponsored program.	May reenroll	N/A	N/A	From 31 days before through 60 days after disenrollment.
3E	Reenrollment of former spouse who cancelled FEHB enrollment to enroll in a Medicare-sponsored plan, Medicaid, or similar State-sponsored program and who later <i>voluntarily</i> disenrolls from the Medicare-sponsored plan, Medicaid, or similar State-sponsored program.	May reenroll	N/A	N/A	During open season.

QLE's That Permit Enrollment or Change		Change Permitted			Time Limits
Code	Event	From Not Enrolled to Enrolled	From Self Only to Self and Family	From One Plan or Option to Another	When You Must File Health Benefits Election Form With Your Employing Office
3F	Former spouse or eligible child loses FEHB coverage due to termination, cancellation, or change to Self Only of the covering enrollment.	Yes	Yes	Yes	From 31 days before through 60 days after date of loss of coverage.
3G	Enrolled former spouse or eligible child loses coverage under another group insurance plan, for example: <ul style="list-style-type: none"> Loss of coverage under another federally-sponsored health benefits program; Loss of coverage due to termination of membership in the employee organization sponsoring the FEHB plan; Loss of coverage under Medicaid or similar State-sponsored program (but see 3D and 3E); Loss of coverage under a non-Federal health plan. 	N/A	Yes	Yes	From 31 days before through 60 days after loss of coverage.
3H	Former spouse or eligible family member loses coverage due to the discontinuance, in whole or part, of an FEHB plan.	N/A	Yes	Yes	During open season, unless OPM sets a different time.
3I	Former spouse or covered family member in a Health Maintenance Organization (HMO) moves or becomes employed outside the geographic area from which the carrier accepts enrollments, or if already outside this area, moves or becomes employed further from this area.	N/A	Yes	Yes	Upon notifying the employing office of the move or change of place of employment.
3J	On becoming eligible for Medicare (This change may be made only once in a lifetime.)	N/A	No	Yes	At any time beginning the 30th day before becoming eligible for Medicare.
3K	Former spouse's annuity is insufficient to make FEHB withholdings for plan in which enrolled.	No	No	Yes	Retirement system will advise former spouse of options.
4	Temporary Continuation of Coverage (TCC) For Eligible Former Employees, Former Spouses, and Children. <i>Note:</i> Former spouse may change to Self and Family only if family members are also eligible family members of the employee or annuitant.				
4A	Opportunity to enroll for continued coverage under TCC provisions: <ul style="list-style-type: none"> Former employee Former spouse Child who ceases to qualify as a family member 	Yes Yes Yes	Yes N/A N/A	Yes N/A N/A	Within 60 days after the qualifying event, or receiving notice of eligibility, whichever is later.
4B	Open Season: <ul style="list-style-type: none"> Former employee Former spouse Child who ceases to qualify as a family member 	No No No	Yes Yes Yes	Yes Yes Yes	As announced by OPM.
4C	Change in family status (except former spouse); for example, marriage, birth or death of family member, adoption, legal separation, or divorce.	No	Yes	Yes	From 31 days before through 60 days after event.
4D	Change in family status of former spouse, based on addition of family members who are eligible family members of the employee or annuitant.	No	Yes	Yes	From 31 days before through 60 days after event.
4E	Reenrollment of a former employee, former spouse, or child whose TCC enrollment was terminated because of other FEHB coverage and who loses the other FEHB coverage before the TCC period of eligibility (18 or 36 months) expires.	May reenroll	N/A	N/A	From 31 days before through 60 days after the event. Enrollment is retroactive to the date of the loss of the other FEHB coverage.

QLE's That Permit Enrollment or Change		Change Permitted			Time Limits
<i>Code</i>	<i>Event</i>	<i>From Not Enrolled to Enrolled</i>	<i>From Self Only to Family</i>	<i>From One Plan or Option to Another</i>	<i>When You Must File Health Benefits Election Form With Your Employing Office</i>
4F	Enrollee or eligible family member loses coverage under FEHB or another group insurance plan; for example: <ul style="list-style-type: none"> • Loss of coverage under another FEHB enrollment due to termination, cancellation, or change to Self Only of the covering enrollment (but see event 4E); • Loss of coverage under another federally-sponsored health benefits program; • Loss of coverage due to termination of membership in the employee organization sponsoring the FEHB plan; • Loss of coverage under Medicaid or similar State-sponsored program; • Loss of coverage under a non-Federal health plan. 	No	Yes	Yes	From 31 days before through 60 days after loss of coverage.
4G	Enrollee or eligible family member loses coverage due to the discontinuance, in whole or part, of an FEHB plan.	N/A	Yes	Yes	During open season, unless OPM sets a different time.
4H	Enrollee or covered family member in a Health Maintenance Organization (HMO) moves or becomes employed outside the geographic area from which the carrier accepts enrollments, or if already outside this area, moves or becomes employed further from this area.	N/A	Yes	Yes	Upon notifying the employing office of the move or change of place of employment.
4I	On becoming eligible for Medicare. (This change may be made only once in a lifetime.)	N/A	No	Yes	At any time beginning on the 30th day before becoming eligible for Medicare.
5 Employees Who Are Not Participating In Premium Conversion					
5A	Initial opportunity to enroll.	Yes	N/A	N/A	Within 60 days after becoming eligible.
5B	Open Season.	Yes	Yes	Yes	As announced by OPM.
5C	Change in family status, for example: marriage, birth or death of family member, adoption, legal separation, or divorce	Yes	Yes	Yes	From 31 days before through 60 days after event.
5D	Change in employment status; for example: <ul style="list-style-type: none"> • Reemployment after a break in service of more than 3 days; • Return to pay status following loss of coverage due to expiration of 365 days of LWOP status or termination of coverage during LWOP; • Return to pay sufficient to make withholdings after termination of coverage during a period of insufficient pay; • Restoration to civilian position after serving in uniformed services; • Change from temporary appointment to appointment that entitles employee receipt of Government contribution; • Change to or from part-time career employment. 	Yes	Yes	Yes	Within 60 days of employment status change.

QLE's That Permit Enrollment or Change		Change Permitted			Time Limits
Code	Event	From Not Enrolled to Enrolled	From Self Only to Family	From One Plan or Option to Another	When You Must File Health Benefits Election Form With Your Employing Office
5E	Separation from Federal employment when the employee is or employee's spouse is pregnant.	Yes	Yes	Yes	Enrollment or change must occur during final pay period of employment.
5F	Transfer from a post of duty within the United States to a post of duty outside the United States, or reverse.	Yes	Yes	Yes	From 31 days before leaving old post through 60 days after arriving at new post.
5G	Employee or eligible family member loses coverage under FEHB or another group insurance plan, for example: <ul style="list-style-type: none"> Loss of coverage under another FEHB enrollment due to termination, cancellation, or change to Self Only of the covering enrollment; Loss of coverage under another federally-sponsored health benefits program; Loss of coverage due to termination of membership in the employee organization sponsoring the FEHB plan; Loss of coverage under Medicaid or similar State-sponsored program; Loss of coverage under a non-Federal health plan. 	Yes	Yes	Yes	From 31 days before through 60 days after loss of coverage.
5H	Enrollee or eligible family member loses coverage due to the discontinuance, in whole or part, of an FEHB plan.	N/A	Yes	Yes	During open season, unless OPM sets a different time.
5I	Loss of coverage under a non-Federal group health plan because an employee moves out of the commuting area to accept another position and the employee's non-federally employed spouse terminates employment to accompany the employee.	Yes	Yes	Yes	From 31 days before the employee leaves the commuting area through 180 days after arriving in the new commuting area.
5J	Employee or covered family member in a Health Maintenance Organization (HMO) moves or becomes employed outside the geographic area from which the carrier accepts enrollments, or if already outside the area, moves or becomes employed further from this area.	N/A	Yes	Yes	Upon notifying the employing office of the move or change of place of employment.
5K	On becoming eligible for Medicare (This change may be made only once in a lifetime.)	N/A	No	Yes	At any time beginning on the 30th day before becoming eligible for Medicare.
5L	Temporary employee completes one year of continuous service in accordance with 5 U.S.C. Section 8906a	Yes	N/A	N/A	Within 60 days after becoming eligible.
5M	Salary of temporary employee insufficient to make withholdings for plan in which enrolled.	N/A	No	Yes	Within 60 days after receiving notice from employing office.



Federal Employees
Health Benefits Program

Form Approved
OMB No. 3206-0160

Health Benefits Election Form

Part A - Enrollee and Family Member Information (For additional family members use a separate sheet and attach.)

1. Enrollee name (last, first, middle initial)		2. Social Security number		3. Date of birth		4. Sex M <input type="checkbox"/> F <input type="checkbox"/>		5. Are you married? Yes <input type="checkbox"/> No <input type="checkbox"/>	
6. Home mailing address (including ZIP Code)		7. Medicare (See note - page 2) A <input type="checkbox"/> B <input type="checkbox"/> D <input type="checkbox"/>		8. TRICARE		9. Other insurance			
		10. Name of insurance				11. Insurance policy no.			
12. Name of family member (last, first, middle initial)		13. Social Security number		14. Date of birth		15. Sex M <input type="checkbox"/> F <input type="checkbox"/>		16. Relationship code	
17. Address (if different from enrollee)		18. Medicare (See note - page 2) A <input type="checkbox"/> B <input type="checkbox"/> D <input type="checkbox"/>		19. TRICARE		20. Other insurance			
		21. Name of insurance				22. Insurance policy no.			
Name of family member (last, first, middle initial)		Social Security number		Date of birth		Sex M <input type="checkbox"/> F <input type="checkbox"/>		Relationship code	
Address (if different from enrollee)		Medicare (See note - page 2) A <input type="checkbox"/> B <input type="checkbox"/> D <input type="checkbox"/>		TRICARE		Other insurance			
		Name of insurance				Insurance policy no.			
Name of family member (last, first, middle initial)		Social Security number		Date of birth		Sex M <input type="checkbox"/> F <input type="checkbox"/>		Relationship code	
Address (if different from enrollee)		Medicare (See note - page 2) A <input type="checkbox"/> B <input type="checkbox"/> D <input type="checkbox"/>		TRICARE		Other insurance			
		Name of insurance				Insurance policy no.			
Name of family member (last, first, middle initial)		Social Security number		Date of birth		Sex M <input type="checkbox"/> F <input type="checkbox"/>		Relationship code	
Address (if different from enrollee)		Medicare (See note - page 2) A <input type="checkbox"/> B <input type="checkbox"/> D <input type="checkbox"/>		TRICARE		Other insurance			
		Name of insurance				Insurance policy no.			

Part B - Present Plan		Part C - New Plan	
1. Plan name	2. Enrollment code	1. Plan name	2. Enrollment code

Part D - Event Code		Part E - Employees Only (Election NOT to Enroll)	
1. Event code	2. Date of event	I do NOT want to enroll in the FEHB Program My signature in Part H verifies that I have read and understand the information on page 3 regarding this election.	

Part F - Cancellation		Part G - Suspension (Annuitants/Former Spouses Only)	
I CANCEL my enrollment. My signature in Part H verifies that I have read and understand the information on page 5 regarding cancellation of enrollment.		I SUSPEND my enrollment. My signature in Part H verifies that I have read and understand the information on page 4 regarding suspension of enrollment.	

Part H - Signature

WARNING: Any intentionally false statement in this application or willful misrepresentation relative thereto is a violation of the law punishable by a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both, (18 U.S.C. 1001.)

1. Your signature (do not print)	2. Date (mm/dd/yyyy)	3. Daytime telephone number
----------------------------------	----------------------	-----------------------------

Part I - To be completed by agency or retirement system

REMARKS

1. Date received	2. Effective date of action	3. Personnel telephone number	4. Name and address of agency or retirement system
5. Authorizing official (please print)	6. Signature of authorized agency official		
7. Payroll office number	8. Payroll office contact (please print)	9. Payroll telephone number	



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1640 Rhode Island Ave., N.W.
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fax: 202/347-5323

Administration of DP Benefits for State Employees

State	Date of DP Benefits Institution
Alaska	2007
Arizona	2008
California	1999
Connecticut	2000
District of Columbia	2002
Hawaii	1997
Illinois	2004
Iowa	2003
Maine	2001
Montana	2005
New Jersey	2004
New Mexico	2003
New York	1995
Oregon	1998
Rhode Island	2001
Vermont	1994
Washington	2001

In order to further equal rights for lesbian, gay, bisexual, and transgender (“LGBT”) employees, many state governments have followed the lead of corporate America in offering health benefits to the domestic partners (“DP’s”) of employees. In fact, sixteen states and the District of Columbia provide DP benefits. The states are Alaska, Arizona, California, Connecticut, Hawaii, Illinois, Iowa, Maine, Montana, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington. The first to implement DP benefits for employees was New York, in 1995.

It is important to recognize that the extension of equal benefits to same-sex couples through domestic partner benefits does not correspond with state recognition of same-sex relationships. In fact, three of the states that provide DP benefits to employees (Alaska, Montana, and Oregon) have constitutional amendments restricting marriage to one man and one woman, and eight have laws doing the same (Arizona, Connecticut, Hawaii, Illinois, Iowa, Maine, Vermont, and Washington). However, all sixteen states, plus the District, have been able to successfully implement DP benefits without conflicting with these restrictions.

In order to obtain DP benefits, states generally require the completion of an affidavit to declare the domestic partnership and affirm the eligibility of applicants. This is similar to the procedure

common in corporations and for applying for health benefits through the Federal Employees Benefits Program ("FEHBP"). For example, the FEHBP Health Benefits Election Form includes the following disclaimer:

WARNING: Any intentionally false statement in this application or willful misrepresentation relative thereto is a violation of the law punishable by a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both. (U.S.C. 1001.)

In consideration of this disclaimer, there is no reason to believe that the provision of DP benefits to federal employees would facilitate insurance fraud, or that it would be more prevalent with benefits obtained through a domestic partnership than through other means. The threat of criminal recourse, in addition to the financial burden if discovered, will dissuade fraud through DP benefits in the same way it discourages fraud through traditional means of obtaining insurance benefits.

While all states have a process for investigating reported or suspected fraud, few take the initiative to audit their employee's dependents for eligibility without provocation. An exception is Iowa, which has a dependent eligibility verification process which audits dependents, both domestic partners and not, at random.

Listed below is information regarding each state's process for administering domestic partner benefits.

Alaska:

- Alaska Division of Retirement and Benefits
- List of who qualifies as dependent for enrollment on state healthcare and what is required to prove the status of dependents: <http://www.state.ak.us/drb/ghlb/retiree/dependent-eligibility-documentation.pdf>
- Same-sex Partner Affidavit and required documentation listed on the affidavit and Declaration of Tax Status form. Copies of documentation allowed.
- Must sign an affidavit as to the status of your relationship
 - <http://www.state.ak.us/drb/forms/same-sex-partner-supplement-tier-i-packet.pdf>

Arizona:

- Arizona Department of Administration, Benefit Services Division
- Domestic Partners: must share residence with employee or retiree and have done so continuously for the past 12 months; not legally married to or separated from anyone else; not a close blood relative; at least 18 years old; meets certain financial interdependency tests. See the Eligibility Section of the enrollment guide for full details.
- DP Affidavit and enrollment guide: <http://www.benefitoptions.az.gov/news/Domestic%20Partner%20FORMS.pdf>
- For DP's bio children: <http://www.benefitoptions.az.gov/news/Domestic%20Partner%20Children%20FORMS.pdf>

California:

- Office of Human Resources
- Same-sex partners can enter domestic partnerships and have the same benefits and responsibilities as married couples in CA.
- No auditing system to keep track of whether there is fraud or not.
 - The state does not go after people. Usually people are caught by the companies giving the actual benefits, but there is no way to tell if there is fraud or not.
 - I spoke with the “special filings” department of the secretary of state’s office and they said that there really weren’t a lot of reports of fraud, but that even if there was – the state wasn’t tracking it.
- Each domestic partner signs forms that are filed under penalty of perjury.

Connecticut:

- Managed by Office of the Controller
- They have Civil Unions
- Benefits for same-sex domestic partners, not opposite-sex
- Must submit affidavit
 - Affidavit of Domestic Partnership will be treated in the same manner as a Certificate of Marriage under the State Health Benefit Plan
 - <http://www.osc.state.ct.us/empret/domestic/index.html>

District of Columbia:

- DC Office of Personnel, Office of Compensation and Benefits
- In order to add a domestic partner and dependents you must first obtain a domestic partnership certificate from the Department of Health. You must attach a copy of the certificate with the health benefits enrollment form and affidavit. The information must be submitted to the DC Office of Personnel, Office of Compensation and Benefits, Suite 330 South, 441 4th Street, NW, Washington, DC 20001.

Hawaii:

- Hawaii Employer-Union Health Benefits Trust Fund
- “Domestic Partner” shall mean a person in a spouse-like relationship with an employee-beneficiary who meets the following requirements: (1) the employee-beneficiary and the domestic partner intend to remain in domestic partnership with each other indefinitely; (2) the employee-beneficiary and the domestic partner have a common residence and intend to reside together indefinitely; (3) the employee-beneficiary and the domestic partner are and agree to be jointly and severally responsible for each other’s basic living expenses incurred in the domestic partnership such as food, shelter and medical care; (4) neither the employee-beneficiary nor the domestic partner are married or a member of another domestic partnership; (5) the employee-beneficiary and the domestic partner are not related by blood in a way that would prevent them from being married to each other in the State of Hawaii; (6) the employee-beneficiary and the domestic partner are both at least 18 years of age and mentally competent to contract; (7) the consent of the employee-beneficiary or the domestic partner to the domestic partnership has not been obtained by force, duress or fraud; and (8)

the employee-beneficiary and the domestic partner sign and file with the Fund a declaration of domestic partnership in such form as the board shall from time to time prescribe.

- Manual:
http://www.eutf.hawaii.gov/Administrative_Rules/EUTF%20Administrative%20Rules%20Filed%20by%20LTG%2012-14-07.PDF .
- No auditing process

Illinois:

- Central Management Services
- Different insurance programs for different groups of state employees
 - Same-sex domestic partnership health benefits were extended to AFSCME members as part of the four-year contract negotiated between the Governor and the union in spring of 2004 and ratified by union members in July of 2004.
 - May 8, 2006 Governor Rod R. Blagojevich filed an administrative order extending health benefits to same-sex domestic partners of all state employees in the agencies directly within the Governor's jurisdiction. Effective July 1st, 2006.
- A domestic partner is defined as a person of the same sex who has resided in the employee's household and has had a financial and emotional interdependence with the employee, consistent with that of a married couple for a period of not less than one (1) year, and continues to maintain such arrangement consistent with that of a married couple.
- DP Benefits Manual:
http://www.state.il.us/cms/download/pdfs_benefits/Domestic_Partner_Packet.pdf
 - Must complete Domestic Partner Affidavit and enrollment form with supporting documentation
 - 3 sources of documentation needed initially, unless accused of fraud, no further status check
 - Fraud disclaimer: "Falsifying information/documentation in order to obtain/continue coverage under the Program is considered a fraudulent act. The State of Illinois will impose a financial penalty, including, but not limited to, repayment of all premiums the State made on behalf of the Member and/or Dependent, as well as expenses incurred by the Program.

Iowa:

- Resources Enterprise, Department of Administrative Services
- Available to same or opposite-sex DPs. Manual at:
[http://das.hrc.iowa.gov/benefits/benefit_forms/domestic%20partner%20affidavit%20\(552-0693\).pdf](http://das.hrc.iowa.gov/benefits/benefit_forms/domestic%20partner%20affidavit%20(552-0693).pdf).
- Must complete affidavit. Benefits available to non-biological children of employee (bio children of DP) also.
- Executive Council voted to extend coverage for all employees, after it was negotiated by AFSCME for union employees. (Fact sheet:
http://das.hrc.iowa.gov/benefits/benefit_documents/domestic_partner_fact_sheet.pdf).
- If employment terminates, cannot continue coverage for DP or DP's bio kids through COBRA.
- Auditing, from State Employee Benefit Handbook: On January 1, 2007, the State of Iowa began a dependent eligibility verification process. This process will continue in 2008. This is done in order to confirm that all persons who are covered by a State of Iowa group health

plan are eligible for coverage. We have taken these steps in an effort to hold down costs for our employees and the taxpayers of the State.

If you are selected for eligibility verification, you will be contacted by mail at your home address. Please be sure that you reply to any requests for information in a timely manner.

Please use this enrollment and changed period as an opportunity to review your benefits enrollment and ensure that all persons who are covered by your plan are eligible to be covered. In general, the State of Iowa defines eligible dependents as a spouse or unmarried child/children to age 19. Your unmarried children who are over the age of 19 are also eligible for coverage if they are full time students.

It is important that you are aware of this ongoing verification process, because the state will make every effort to recover money that has been spent for services provided to a person who is not eligible.

Maine:

- Division of Employee Health and Benefits
- From their website:
 - Who is covered: You, your spouse or domestic partner and dependent children up to the age of 23. Children of a domestic partner may not be covered unless you also cover your domestic partner. Dependent children are: Biological, step or adopted children or children of a domestic partner (see above), children you have legal guardianship of and children between the ages of 19 and 23 who are dependent upon you for 50% or more support based on IRS guidelines or who are students.

Montana:

- Health Care and Benefits Division
- Declaration of DP form: <http://www.benefits.mt.gov/docs/DomesticPartnerDeclaration.pdf>
 - For opposite-sex partners, signing form may be proof of common-law marriage, which carries same rights and responsibilities as solemnized marriage.
 - Must submit dissolution form with 63 days of change: <http://www.benefits.mt.gov/docs/DomesticPartnerDissolution.pdf>.

New Jersey:

- Division of Pensions and Benefits
FOR DPs:
- Chapter 103, P.L. 2006, established civil unions under New Jersey law and changed certain provisions of the Domestic Partnership Act. After February 19, 2007, same-sex couples are permitted to establish a civil union, but may no longer enter into a domestic partnership in New Jersey. For additional information about civil unions, see [Fact Sheet #75, Civil Unions](#). New Jersey continues to recognize same-sex domestic partnerships established in New Jersey prior to February 19, 2007, and in jurisdictions other than New Jersey *both prior to and after* February 19, 2007. An updated [list of recognized jurisdictions](#) is available on the Division of Pensions and Benefits Web site.

- Coverage under the SHBP for a same-sex domestic partner is available to any State employee, State retiree, an eligible employee or retiree of a local public entity if the governing body adopts the benefit by resolution (see [Adoption by Local Public Entities](#).)
 - In order for the Domestic Partnership Act to apply to the employees/retirees of a local public entity, the entity's governing body must pass a resolution or ordinance extending the domestic partner benefit and file it with the Division of Pensions and Benefits. The decisions to provide pension and/or health benefits to domestic partners are separate and distinct decisions that must be made by the governing body.

The law gives the employer the option to extend, or not extend, the domestic partner benefit to its employees and retirees. However, if the employer wishes to provide domestic partner *pension* benefits, it must do so for all its employees and retirees in all of the pension funds in which it participates.

When adopted, a local entity's effective date for the addition of coverage of domestic partners is on the 1st of the month following a 60-day period after the Division receives the resolution.

- To add an eligible same-sex domestic partner to coverage, an SHBP eligible employee or retiree must submit the appropriate SHBP enrollment application, and include a photocopy of the New Jersey Certificate of Domestic Partnership dated prior to February 19, 2007 (or a valid certification from another jurisdiction that recognizes same-sex domestic partners) with the application.
- Dependent children of your domestic partner may also be added provided they also qualify as your dependents (see [Enrolling Dependent Children](#) below).
- The children of your domestic partner can be added as dependents under your SHBP coverage **only** if they are single, under the age of 23, live with you, **and are dependent upon you for support**. You will have to file an [Affidavit of Dependency](#) when you add them to your coverage.

For Civil Unions:

- Civil Union Law, became effective on February 19, 2007, and established "civil unions" between same-sex couples within the State of New Jersey. Under the law, a same-sex couple entering into a civil union enjoy the same rights and benefits — as well as the same burdens and obligations — that are available to heterosexual married couples.
 - Applies to any **State employee, local governmental employee, or local educational employee, and any retiree of these employers** who has entered into a civil union, obtained a New Jersey *Civil Union Certificate* (or a valid certification from another jurisdiction that recognizes same-sex civil unions), and who is otherwise eligible for pension and/or SHBP benefits.
- To add a civil union partner to coverage, an SHBP eligible employee or retiree must submit the appropriate SHBP enrollment application and include a photocopy of the New Jersey *Civil Union Certificate* (or a valid certification from another jurisdiction that recognizes same-sex civil unions) with the application.
- Dependent children of your civil union partner may also be added **provided they also qualify as your dependents** (see [Enrolling Dependent Children](#) below).
 - The children of your civil union partner can be added as dependents under your SHBP coverage **only** if they are single, under the age of 23, live with you, and are dependent upon you for support. You will have to file an Affidavit of Dependency when you add them to your coverage.

New Mexico:

- State Personnel Office
- On April 9, 2003 Governor Bill Richardson also signed Executive Order 2003-010 extending employee benefits to domestic partners of gay and lesbian State employees.

New York:

- Department of Civil Service
- Originally negotiated in a union contract.
- Several different plans.
- There is no statewide Domestic Partner registration, but the state give benefits to same-sex couples that are employees of the state.
- The five (5) municipalities that do have Domestic Partnership registration are Albany, New York City, Rochester, Suffolk County, and Westchester County

Oregon:

- Public Employees' Benefits Board
 - (1) Certificate of Registered Domestic Partnership. When a Registered Domestic Partnership exists and the eligible employee wants to enroll the domestic partner or the domestic partner's eligible children in benefit plans, the employee may electronically enroll or submit enrollment update forms to the agency at the appropriate time as defined by PEBB enrollment rules.
 - (2) PEBB Affidavit of Domestic Partnership. An eligible employee and an individual of the opposite sex, or of the same sex without a Certificate of Registered Domestic Partnership who want enrollment in PEBB plans as Domestic Partners must meet all of the following criteria:
 - (a) Are both at least 18 years of age;
 - (b) Are responsible for each other's welfare and are each other's sole domestic partners;
 - (c) Are not married to anyone;
 - (d) Share a close personal relationship and are not related by blood closer than would bar marriage in the State of Oregon;
 - (e) Currently share the same regular permanent residence.
 - (f) Are jointly financially responsible for basic living expenses defined as the cost of food, shelter, and any other expenses of maintaining a household. Financial information must be provided if requested.
 - (g) Electronically enroll or submit enrollment forms to the agency at the appropriate time as defined by PEBB enrollment rules. The employee and domestic partner must jointly complete and submit to the agency a notarized PEBB Affidavit of Domestic Partnership form, within five business days of the electronic enrollment date or the date the agency

received the enrollment forms. If the affidavit is not received, coverage will terminate for the domestic partner retroactive to the effective date.

(h) To enroll eligible dependent children of a domestic partnership by affidavit in benefit plans, whether or not the enrollment includes the domestic partner, the employee must submit an Affidavit of Domestic Partnership form along with enrollment or update forms to the agency. If the affidavit is not received within 5 business days of the electronic enrollment date or the date the agency received the forms, coverage will terminate for the domestic partner's eligible children retroactive to the effective date.

(3) An imputed value for the fair market value of the domestic partner and domestic partner's dependent children's insurance premium will be added to the eligible employee's taxable wages.

(4) An eligible employee ending a domestic partnership established under the PEBB Affidavit of Domestic Partnership must complete and submit a Termination of Domestic Partnership form and enrollment update forms to the agency within 60 days of the event. If the domestic partnership was established under the Certificate of Registered Domestic Partnership, only enrollment update forms must be submitted to the agency within 60 days of the event. Insurance coverage for the domestic partner and domestic partner's dependent children ends the last day of the month that eligibility is lost.

- No auditing unless problem is reported.

Rhode Island:

- Rhode Island Office of Employee Benefits
- The State of Rhode Island extends health benefits (medical, dental, and vision insurance) to same-sex and opposite-sex domestic partners of eligible employees. To qualify for coverage, employees must meet the requirements and provide the verification information listed on the Domestic Partner Affidavit. Both the Domestic Partner Affidavit and the Domestic Partner Dependent Declaration Form must be completed, signed, notarized, and returned to the Agency Personnel Office.
 - Affidavit: http://www.employeebenefits.ri.gov/Documents/06DP_D_1.pdf
 - Declaration form: http://www.employeebenefits.ri.gov/Documents/DP_dependent_affidavit_2006.pdf
- Additional DP Factsheet: http://www.employeebenefits.ri.gov/Documents/DP_FAQ_2006.pdf.

Vermont:

- Department of Human Resources
- Policy and DP Application: <http://www.vermontpersonnel.org/employee/pdf/dompartner.pdf>
 - Can easily enroll bio children of DP
 - A "Domestic Partner" is a person of the same or opposite sex as the eligible employee who meets the criteria set forth in the section of the Policy entitled "Coverage." Persons who live together for economic reasons but have not made a commitment to an exclusive enduring relationship as described in this Policy shall not be considered to be domestic partners.

- Most notify HR of any termination within 30 days.
- Any misrepresentation or falsification of the information on an application or affidavit for health and dental coverage under this Policy shall result in loss of health and dental insurance coverage, shall be considered gross misconduct, and may result in disciplinary action up to and including dismissal.

Washington:

- Washington State Health Care Authority
- Spouse or qualified domestic partner certification:
<http://www.pebb.hca.wa.gov/documents/50-704.pdf>
 - Either complete form, or, send a copy of Certificate of State Registered Domestic Partnership if your same-sex domestic partnership is registered with the Washington Secretary of State.



College and University Professional
Association for Human Resources

September 24, 2008

The Honorable Joseph Lieberman
Chair, the Senate Committee on Homeland Security & Government Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Lieberman:

On behalf of the College and University Professional Association for Human Resources (CUPA-HR), thank you for your support for domestic partner benefits and for holding this hearing on the Domestic Partner Benefits and Obligations Act, S. 2521, which would provide domestic partner benefits to the employees of federal agencies.

CUPA-HR serves as the voice of human resources in higher education, representing more than 10,000 HR professionals at over 1,600 colleges and universities across the country, including 85 percent of all U.S. doctoral institutions, 70 percent of all master's institutions, more than half of all bachelor's institutions and 465 community colleges. Higher education employs 3.3 million workers nationwide, with colleges and universities in all 50 states.

In a recent member survey, 42% of responding institutions said they offer health care benefits for same sex domestic partners and 34% for opposite sex partners. Our members provide such benefits in order to attract top talent and as part of their commitment to provide equal employment opportunities regardless of sexual orientation.

Unfortunately, however, the tax code fails to recognize this commitment to equality as health benefits provided to employees' domestic partners — or other beneficiaries who do not qualify as spouses or dependents under the Internal Revenue Code — are treated both as taxable income to the employee and as wages subject to payroll taxes. This is not



College and University Professional
Association for Human Resources

only costly to both employer and employee but also requires the employer to create a system that can distinguish domestic partner benefits from benefits provided to spouses, track the domestic partner benefits, and calculate and withhold the appropriate taxes.

We very much appreciate that you, together with Senators Smith and Cantwell, have introduced legislation to end these federal tax inequities and to provide comparable tax treatment to health benefits offered to any eligible beneficiary under an employer health plan (S. 1556, the Tax Equity for Domestic Partner and Health Plan Beneficiaries Act). We hope to work with you to see S. 1556 enacted into law at the earliest possible opportunity.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Joshua Adams Ulman".

Joshua Adams Ulman
Chief Government Relations Officer
College and University Professional Association for Human Resources
Centerpoint Commons
1811 Commons Point Drive
Knoxville, Tennessee 37932
julman@cupahr.org



Statement by American Foreign Service Association (AFSA) President John Naland and Gays and Lesbians in Foreign Affairs Agencies (GLIFAA) President J. Michelle Schohn
 Senate Committee on Homeland Security and Government Affairs
 Thursday, October 9, 2008
 Subject: Domestic Partner Benefits and Obligations Act S. 2521 and H.R. 4838

Mr. Chairman, Ranking Member Collins and distinguished members of the committee, our names are John K. Naland, President of AFSA, and Michelle Schohn, President of GLIFAA, and we are submitting this statement on behalf of the American Foreign Service Association (AFSA) and Gays and Lesbians in Foreign Affairs Agencies (GLIFAA).

We are very pleased to submit the following statement on the Domestic Partner Benefits and Obligations Act for inclusion in the committee's record on this very important matter.

Upon review of S. 2521 and H.R. 4838, the American Foreign Service Association and Gays and Lesbians in Foreign Affairs Agencies wish to convey our support for the important issues raised in these bills. The following story, written by a Foreign Service officer serving our country overseas, exemplifies why it is so critically important that we focus on equity and fairness:

“My partner accompanied me to three overseas posts and, like many spouses, he sacrificed advancement in his own career in order to do so. Unlike other families, however, we paid for his transportation to and from post and home leave, the lawyer's fees for his visa, his tickets to travel with me on rest-and-recreation leave, his language training, his immunizations and medical tests, and his medical

evacuation insurance. Unlike other couples, we went without separate maintenance allowances and augmented foreign transfer allowances, post cost-of-living allowances and air freight allowance. Nor were we eligible for group health insurance. And at one post, we were permanently assigned to a one-bedroom apartment despite being a couple.

“My partner faced the indignity of being searched and escorted every time he entered the mission, was barred from dependent jobs (despite being the most qualified), was denied access to the commissary to do our shopping, was not included in embassy hail-and-farewell receptions, and was not allowed to participate in the Foreign Service Institute’s Security Overseas Seminar. He could not benefit from my pension, and would not receive the small courtesy of being notified by the State Department if his parents died while he was overseas as a result of my service.”

“It amazes me that some opponents worry we became partners on a whim or to get some free ride. We put up with these conditions because we love each other and we love being in the Foreign Service. How many heterosexuals would ever tolerate such treatment of their families?”

Another FSO recently told us that he has had to pay \$30,000 in emergency health care costs, out of pocket, for his uninsured domestic partner. Such incidents, which are all too common, demonstrate how vital it is that domestic partners, both overseas and abroad, receive government-provided health insurance and enhanced dental and vision benefits.

One FSO, who served in Operation Iraqi Freedom during his time in the Army, said he would not be able to support his domestic partner if he served in Iraq again, this time as a Foreign Service officer. Because he and many others want to serve our country’s important foreign policy interests by serving in dangerous places, we support granting those serving in Iraq and Afghanistan a separate maintenance allowance that would enable a domestic partner to remain in post housing while the employee is serving in a war zone or in other critical-need countries, as many of our members are.

Yet another FSO told us a story that describes the humiliation that many of our diplomats face when returning to the U.S. with their loved ones. He

shared with us this story: When he and his partner “landed in Chicago, immigration agents grilled him for two hours. They accused him of being illegal, overstaying, you name it. They found my business card in his luggage and demanded an explanation – as if it was inappropriate for him to have it. He patiently explained the situation numerous times, and was eventually released – but with permission to stay for only three months. Incidentally, two of my colleagues from [my previous post] met their [opposite-sex] spouses after [my partner] and I met. They both are now U.S. citizens traveling on diplomatic passports.” We therefore support another provision in these two bills that will provide diplomatic passports and status for domestic partners.

Finally, we simply believe in fairness and equity. The cost of transporting a pet when moving overseas should no longer weighed more importantly than the cost of transporting a partner. So we support the provision in these bills that includes domestic partners in household-size calculations for housing assignments, cost of living allowances, miscellaneous transfer allowances and home service transfer allowances.

We recognize that there is more work to be done to achieve full equity and fairness. For example, none of these bills would address the Military Readiness Act to repeal “Don’t Ask, Don’t Tell.” We also recognize that these bills do not explicitly apply to all aspects of the State Department’s “Member of Household” category, which also includes opposite-sex partners, adult children, and aging parents. Nor would they benefit the uniformed personnel with whom we serve in war zones.

We continue to urge the State Department to address the issues identified in a February 21, 2008, letter to Secretary Rice from Representatives Tammy Baldwin (D-WI 2), Howard Berman (D-CA 28), Ileana Ros-Lehtinen (R-FL 18), and Gary Ackerman (D-NY 5) on issues that “could be handled through internal regulatory changes and would not require congressional action” and are not “contrary to the letter or spirit of the Defense of Marriage Act.” The representatives suggested that “these changes might be efficiently addressed through the inclusion of same-sex domestic partners under the definition of an EFM [Eligible Family Member.]” We note that the DPBO does not address any of the following that the representatives identified in their letter and which continue to be problems for our employees:

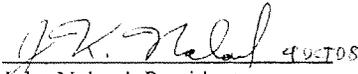
- Travel Orders: Same-sex domestic partners may not currently be included on and employee's travel orders;
- Training: Same-sex domestic partners do not have access to the same training provided to "eligible family members" (current policy forces domestic partners into shortened "FAST" language courses);
- Evacuation: Same-sex domestic partners are not eligible for government-funded emergency and medical evacuation from post;
- Medical Care: Same-sex domestic partners do not have access to post medical facilities, regional medical units and visiting regional medical officers;
- Overseas Visas: Same-sex domestic partners are not assured of post support in obtaining visas, and work permits where applicable, when going overseas with an employee;
- U.S. Visas: Non-citizen same-sex domestic partners are not assured of firm department support in obtaining visas to accompany officers and specialists to postings in the United States; and
- Employment Preference: Same-sex domestic partners are not offered employment opportunities at posts on the same basis as married spouses, and are in some cases specifically excluded from such opportunities.

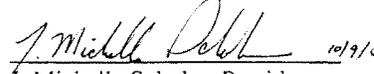
We further believe the following three items, although not specifically mentioned by the representatives, could similarly be achieved without congressional action:

- Mail: Allow access to the diplomatic pouch and APO/FPO mail services for same-sex domestic partners;
- Badges/ID: Issue embassy ID cards and compound access for same-sex domestic partners on a basis equivalent to that used to issue them to married spouses; and
- Unaccompanied Tour Support: Permit same-sex domestic partners to join "family left behind" support groups.

We also note that these bills do not include the provisions of the Uniting American Families Act (S. 1328 and H.R. 2221) in terms of granting immigration sponsorship rights for "permanent partners" equivalent to those provided to married spouses so they may go abroad as American citizens, allowing Foreign Service officers to serve in Washington without visa worries for their partners, and allowing Foreign Service retirees to come home to the United States with their permanent partners.

While the Domestic Partner Benefits and Obligations Act (S. 2521 and H.R. 4838) does not cover all of the issues we deem necessary to recruit and retain the best and the brightest in the Foreign Service and Civil Service of the foreign affairs agencies, we support the issues outlined in these bills as a major step in achieving equity and fairness for those serving our country. Thank you for your consideration of this matter.


John Naland, President
American Foreign Service Association


J. Michelle Schohn, President
Gays and Lesbians in Foreign
Affairs Agencies



INTERNATIONAL FEDERATION OF
PROFESSIONAL AND TECHNICAL ENGINEERS
AFL-CIO & CLC

**Statement of
Gregory J. Junemann
President**

**International Federation of Professional &
Technical Engineers
(IFPTE), AFL-CIO**

Prepared For:

**Senate Homeland Security and Governmental
Affairs Committee**

Hearing:

***“Domestic Partner Benefits for Federal Employees: Fair
Policy and Good Business”***

**Wednesday, September 24, 2008 - 10:00 am
342 Dirksen Senate Office Building**

My name is Gregory Junemann. I am president of the International Federation of Professional and Technical Engineers (IFPTE). IFPTE represents over 80,000 workers in the private, public and federal sectors.

I would like to extend a note of appreciation to Chairman Liebermann for holding this hearing on this very important issue, and for introducing legislation aimed at providing concrete domestic partner benefits to our nation's federal employees. Senator Liebermann and his staff, most notably Mr. Larry Novey, are to be commended for elevating this issue as one of the primary concerns of the Committee.

IFPTE is in a unique position, as a labor union, to understand how important it is for employers to extend health and other benefits to the domestic partners of gay and lesbian workers. Obviously the union holds the strong belief that the very same benefits accorded heterosexual couples, whether they are married or not, should also be accorded to same sex couples in all sectors. Additionally, if the federal government expects to be able to compete for the best and brightest workers, they must adopt a comprehensive domestic partner benefits policy that is not only fair to all workers, but also is one that can compete with the private sector.

IFPTE believes that the federal government is one of the top employers in the nation. Not only do Americans have the opportunity to serve their nation as civil servants, they can do so while receiving a competitive salary, a terrific health and retirement benefits package, and for the most part have job security and the freedom to join and form unions. These are all very attractive attributes for job seekers considering a career serving U.S. taxpayers. Unfortunately, there is a glaring flaw experienced by some of these very same job seekers – the government's unjust policies related to extending domestic partner benefits to their workforce.

It is also important to note that current federal employees are faced with the very same dilemma of deciding between serving the nation through the civil service, or work

for an employer that will extend health care and other benefits to their domestic partner. This is a decision that workers should not have to make.

The union was pleased to see the introduction of S. 2521, The Domestic Partnership Benefits and Obligations Act, last December. We applaud Senators Lieberman and Smith for understanding that this bill is important when it comes to attracting the top talent in the United States to careers in the federal government. This is particularly true for the very workers that IFPTE represents. Employers are fiercely competing to attract engineers, scientists, technicians, and other highly technical workers. And, the federal government is one of the employers seeking these workers.

In fact, IFPTE has even attempted to work with the federal government in the past as a part of an effort to encourage engineers formerly employed by The Boeing Company to consider civil service careers. Following the tragedy of September 11th, many workers in the aviation industry lost their jobs. Thousands of those losing jobs were IFPTE-represented engineers and technicians employed by The Boeing Company. Realizing the federal government's interest in hiring this brand of talent, particularly engineers, IFPTE worked with the OPM to connect the laid off Boeing engineers with federal government recruiters. Unfortunately, inefficiencies within the federal government's hiring process (another issue that cries out for action by the Committee) resulted in many of these workers ultimately getting jobs elsewhere. However, it highlighted what the IFPTE already knew—the government's need for engineers and other highly technical workers.

U.S. taxpayers can't afford to lose this kind of talent simply because of the absence of domestic partner benefits. It is a problem facing federal recruiters that should have been fixed long ago. This is particularly true when you consider that as many as 60% of current federal employees will be eligible for retirement within the next decade. Why should ideology and weak, inaccurate claims of excessive costs continue to prevent the government from installing a 21st Century domestic partner benefit policy that will enable federal recruiters to compete with corporate America? If Lockheed Martin,

General Electric, the Boeing Company and many others see the importance of this, then surely the Federal Government can as well.

The Liebermann/Smith bill, if passed, will go a long way toward opening the doors to all potential workers. It will finally provide benefits to the same-sex partners of federal employees equal to those enjoyed by married workers. The bill calls for an extension of retirement benefits, long term care, health care benefits, family and medical leave and all other accommodations afforded to married federal workers. Obviously, this is legislation that IFPTE fully endorses.

Sadly, it looks like there will not be time to see this legislation become law this year. The 110th Congress is all but over, and with the uncertainty of the legislative schedule this fine bill is unlikely to make its way to the President's desk for approval. The union is also well aware of OPM's opposition to the bill. While IFPTE is looking forward to working with new leadership at OPM beginning in January, we will not give this current, politically-fueled OPM a pass on their shortsighted, clearly ideologically fueled opposition to this bill. Requiring state issued marriage licenses to heterosexual couples as **THE** requirement to receive benefits is nothing more than a transparent attempt to put ideology ahead of the needs of the American government.

IFPTE thanks Senators Liebermann and Smith again, and is hopeful that this legislation will be at the top of the Committee's agenda in the upcoming 111th Congress. I thank the Committee for allowing IFPTE to weigh-in on this important issue.



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GE imagination at work

September 17, 2008

Senator Joseph I. Lieberman
340 Senate Dirksen Building
Washington, DC 20510

Dear Senator Lieberman:

I am the Chief Diversity Officer of General Electric Company (GE) and am writing to provide some information and experience that may be of interest to you in your sponsorship of S. 2521, the bill to provide benefits to domestic partners of Federal employees.

GE, a Fortune 10 company, has been in business about 130 years. We employ approximately 350,000 employees world-wide (approximately 150,000 in the US) and operate in many diverse businesses such as jet engines, power generation, financial services, locomotives, medical imaging and media content. Many of our major businesses have contracts to provide goods or services to the federal government.

Similar to the federal government, we recruit new employees all over the United States and from many different disciplines. We invest a lot of time and resources in designing some of the best approaches to attract and retain key talent at GE.

GE's main health benefits plan added same-sex domestic partner coverage as of January 1, 2004. Our experience in adding this coverage has been consistent with other major employers in terms of cost and administration. Currently, there are approximately 400 domestic partners and 25 dependents of those domestic partners enrolled in the plan. As we have over 300,000 plan participants overall, the effect of adding this coverage on overall cost has been negligible. We would not anticipate significantly higher enrollment even if the benefit were tax-favored.

Administratively, GE utilizes an affidavit process to verify the existence of the relationship except in states that permit civil unions or same-sex marriages. In those states, the marriage or civil union license suffices. Implementation and operation of the affidavit process is largely a manual effort, but as the enrollment numbers are not high, it presents no meaningful burden.

While I could tell you about the impact this offering has had on our recruitment and retention efforts, I thought it would be better to read about it directly in a statement from one of our own employees, a co-chair of the GLBT Alliance at GE, Jayzen Patria:

GE's inclusion of same sex domestic partner benefits has allowed the company to continue to attract and retain gay, lesbian, bisexual and transgender (GLBT) employees.

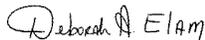
The addition of these benefits has allowed GE to attract GLBT employees both in broad as well as targeted recruitment activities. As a key benefit and metric of an inclusive culture, domestic partner benefits are listed on ge.com as a demonstration of GE's "commitment to GLBT employees." The benefit allows GE to remain a competitive employer at GLBT-specific recruiting events such as Pride festivals and the annual Out and Equal Workplace Summit, a conference targeted at Fortune 500 companies.

At the recent GE GLBT Alliance Global Meeting, a session was held on 21st Century Talent Acquisition, which included a panel of GLBT students from the University of Texas, Austin. When asked about what they expect from a future employer, the students expressed that while a record of innovation and strong culture were key drivers of an employment decision, the lack of domestic partner benefits would be an automatic disqualifier. In essence, their opinion was that these are basic benefits that an employer must offer in order to even be considered in their job search.

Current GLBT employees frequently echo this sentiment. While most do not participate in these benefits based upon their own individual family status, many indicate that it is a key reason why they remain at GE. In their view, the benefits are not only a protection of the health and welfare of their current and future families, but representative of a culture where they can bring their whole selves to work enabling performance and innovation.

We hope this information has been helpful to you. Feel free to contact me if you have any additional questions.

Sincerely,



Deborah A. Elam

DAE/sck

Statement for the Record

Kathleen Marvel
Senior Vice President & Chief Diversity Officer
The Chubb Corporation

Committee on Homeland Security & Government Affairs,
United States Senate

The Hon. Joseph Lieberman, Chair

Hearing entitled, "Domestic Partner Benefits for
Federal Employees:
Fair Policy and Good Business"

September 24, 2008

On behalf of The Chubb Corporation, one of America's leading diversified-financial corporations, I would like to express our support for extending domestic partner benefits for Federal employees. We applaud the Committee for holding this hearing. As Chubb's Chief Diversity Officer, I appreciate the opportunity to provide this statement for the Congressional Record and to share with you some of the ways in which having DP benefits has enhanced our ability to attract and retain some of the best and brightest employees in the financial services industry.

As part of our longstanding commitment to workplace fairness, Chubb has offered a robust menu of life, health (medical & dental) and disability benefits to the domestic partners – and the children of domestic partners – of our employees since 1996. When the program was first introduced, 88 employees (out of a universe of approximately 8,000) signed up. By 2001, that number had risen to 128 (29 same-sex couples; 99 opposite-sex couples). In 2002, 150 employees (31 same-sex couples and 119 opposite sex couples) had enrolled in the program. By 2008, 255 employees (60 same-sex couples and 195 opposite sex couples) had signed up. We can only anticipate that these numbers will continue to grow in the years ahead.

You may wonder why, since we feel this is such an important cornerstone of our benefits portfolio, so few employees have taken advantage of the coverage since it was first introduced at Chubb over 10 years ago. There are myriad reasons for this trend; but the main one is, we believe, the unfortunate fact that under current Federal law, the value of employer-provided health coverage attributable to an employee's non-spouse, non-dependent beneficiary (such as a domestic partner or certain grown children covered under a parent's plan) is included in the taxable income of the employee and in the employee's wages for payroll tax purposes. This results in higher income and payroll taxes for these employees than for employees with spousal or dependent coverage (where the value of the coverage is not regarded as taxable income or wages.)

Bi-partisan, bi-cameral legislative proposals introduced last year – S 1556 by Senators Smith, Lieberman, Cantwell, Wyden, Kerry, Akaka, Murray and Dodd; and H.R. 1820 by Representative Jim McDermott and 108 co-sponsors, would amend the U.S. tax code so that DP benefits offered to eligible beneficiaries under employer health plans will not generate taxable income or taxable wages. Chubb is a strong supporter of both S. 1556 and H.R. 1820, and we are working with a coalition of like-minded companies to end the "double-taxation" of DP benefits.

Diversity is about recognizing, respecting and valuing differences. We realize the challenges involved in integrating and valuing diversity in its many shapes, and are committed to fostering an environment in which all employees can realize their fullest potential. We believe that Chubb benefits from the competitive advantage such diversity provides. We pride ourselves on being a great place to work, as evidenced by the many workplace awards we have received, which are listed in an attachment to this Statement.

Enhancing our work environment by broadening our benefits programs and celebrating the diversity of our workforce has not been a financial burden to Chubb. On the contrary,

we believe that our approach actually strengthens our financial underpinnings, by enabling us to attract and retain a wide variety of talented employees at every level of the organization.

Businesses that drive away talented and capable employees are certain to lose their competitive edge, an outcome that we simply cannot afford to accept in today's competitive global marketplace. At Chubb, we are committed to providing equal employment opportunities to all employees and applicants based on job-related qualifications and ability to perform a job without regard to race, sex, color, religion, age, national origin, sexual orientation, gender identity or disability.

This commitment is reflected in the benefits plans we make available to our employees. In fact, many employees have, over the years, shared with me their observations of why they were attracted to Chubb over another employer. An oft-repeated theme in their comments is the quality and breadth of our benefits programs. Here are just a few such testimonials:

I'm a new hire with Chubb. One of the things that drew me to Chubb (besides the obvious advancement of my career and the chance to be a part of Chubb's position in the insurance industry) is Chubb's support for their gay and lesbian employees, through the employee group and domestic partner benefits.

I have had a successful and satisfying 12 year career with Chubb. [Even though I am leaving the organization,] I want to let you know how symbolically important it was for me--being in a branch--to know that DP benefits and an organization like GLEN exists at Chubb. Although I never utilized it, knowing it was there made me feel a great deal more welcome and secure, as I know it does for others in the branch world.

Addressing individual needs through domestic partner benefits, supporting a business ethic based on best business practice and a commitment to eliminate a discriminatory workplace, creates the strongest foundation of any company that I have worked for. Based on what I have heard from friends, family and colleagues, both within and external to the Insurance Industry, I have found nothing that compares. Chubb is truly the only company, during my employment experience that I can say I have been privileged to work for.

My partner works in another state and the choice of doctors in her plan is limited because of where we live. For us, choosing the Chubb-provided DPB will enable us to have more choices of health care providers that are local and familiar to us. I am proud of the stance Chubb has taken to provide DPB to all employees.

For most of the 12 years since Chubb began offering DPB, my partner (for the past 15 years) and I have not had the need to utilize them--but there have been two occasions which were exceptions. At one point, his employer was bought out by another company and he was one of many employees that were laid off in the aftermath of that occurrence, leaving him unemployed for several months. At another time in his career, the only

medical coverage plan his employer at the time offered was one which had a very high annual deduction (\$3-5,000 as I recall). My partner has various health issues which require ongoing prescriptions that would cost thousands of dollars each month if he had no medical coverage, and so the security of being able to add him to my coverage for brief periods of time was critical to both our financial and emotional well being. It is not too much of a leap to be able to see how important the availability of such benefits can be to an employee's overall productivity.

In the years since its implementation, our culture of inclusion and celebration of diversity in the workplace has been embraced broadly throughout the organization, and we believe this acceptance has had a positive impact on our Corporation's bottom line: we employ the best-qualified insurance professionals in the financial services industry, bar none. Their collective work ethic has helped make Chubb the 180th largest corporation in the U.S. (according to **Fortune** magazine). And it has further reinforced, for ALL of our employees, that fairness and non-discrimination remain fundamental tenets in our workplace.

I thank the Committee for the opportunity to share our views with you, and I hope you will give serious consideration to adding DP benefits to the constellation of benefits to which Federal employees can avail themselves. I truly believe that you will be rewarded with a more loyal and long-term employee universe, which as one of the country's largest public employers, you will agree is critical in today's competitive workplace.

We would be pleased to provide any additional information about our DP benefits program in which you might be interested as you move forward with your exploration of this important issue.

Thank you.



**Statement for the Record for the Hearing on
Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business
U.S. Senate Committee on Homeland Security and Governmental Affairs
September 24, 2008**

Mr. Chairman, as your Committee holds a hearing on your legislation to provide benefits to the domestic partners of federal employees (The Domestic Partner Benefits and Obligations Act, S. 2521), TIAA-CREF wanted to submit this statement for the record about our own experience with domestic partner benefits.

TIAA-CREF is a national financial services organization that manages over \$425 billion in assets for more than 3.4 million clients. We are the leading retirement system for academic, research, medical and cultural institutions. The issue of domestic partner benefits is an important one for us, but also for our client institutions and our plan participants.

TIAA-CREF began offering domestic partner benefits in January 2004. These benefits are offered to same-sex partners, and include all health benefits, such as medical, dental and vision coverage. We offer these benefits to compete effectively in the marketplace for talent and to retain valuable employees in our company. Since the majority of Fortune 500 companies now offer these benefits, those firms that do not are at a competitive disadvantage when hiring qualified candidates. We believe that employees deserve equitable treatment, and offering domestic partner benefits is in keeping with our commitment to provide benefits fairly across our employee population. The response from our workforce has been extremely positive and we have found that offering domestic partner benefits have enabled us to attract and retain a highly-qualified workforce.

Our experience with our domestic partner benefit program is that costs and administration do not diverge appreciably from that of our general population. We have seen no evidence that the claims experience differs within this group, nor do we see any suggestion that otherwise ineligible individuals are benefiting improperly from this program.

One challenge we encounter in administering our domestic partner benefits program is caused by the inequity in the federal tax treatment of such benefits. For those who do not qualify as spouses or dependents under the Internal Revenue Code, such as domestic partners, the value of these benefits is treated both as taxable income to the employee and as wages subject to payroll taxes. Yet, such benefits to spouses and dependents are excludible from income and payroll tax. This creates the need internally for additional systems to track the tax withholding for affected individuals. A greater challenge is communicating the inequity to employees and

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www.tiaa-cref.org

managing the outcome. We appreciate that you, with Senators Smith and Cantwell, have introduced legislation to provide equal tax treatment for health benefits offered to any eligible beneficiary under an employer health plan (S. 1556, The Tax Equity for Domestic Partner and Health Plan Beneficiaries Act). We would like to work with you to see S. 1556 enacted into law, so that all employees may benefit from equal treatment for domestic partner benefits under the tax code.

Domestic partner benefits are an integral part of our recruitment and retention strategy at TIAA-CREF. The costs and administration of our program are in line with commensurate benefits offered to employees with traditional family structures. Correcting the federal tax inequities would address the primary challenge for these benefit programs. Thank you for your significant legislative efforts to promote these benefits and for the opportunity to submit our views



**Written Testimony of Orson Porter
Nike Government Affairs- Nike, Inc.
Statement for the Record before the Senate Committee on Homeland Security and
Governmental Affairs for the hearing on Domestic Partner Benefits for Federal
Employees: Fair Policy and Good Business on September 24, 2008**

Thank you for the opportunity to address this important and vital hearing. Mr. Chairman, in concurrence with the Committee's hearing on domestic partner benefits for the employees of federal workers (The Domestic Partner Benefits and Obligations Act, S. 2521), we at Nike, Inc. wanted to submit this statement for the record about our own experience with domestic partner benefits.

Nike began offering Permanent Partner Benefits as early as 1994 to both same and opposite sex permanent partners. We consider diversity a cornerstone of our ability to remain competitive and seek to be an employer of choice for the total workforce. This we believe fuels our ability to attract and retain the most innovative team members and to continue to drive positive change and new ideas. Please understand this in context of Nike as a global company and global employer. As we recruit employees and move valuable resources from around the world, we sometimes find that we are asking employees to relocate to a situation that is not as equitable from a taxation perspective as where they are currently. To that end, Nike has been a proud supporter of S. 1556 (The Tax Equity for Domestic Partner and Health Plan Beneficiaries Act), which aims to help ensure that Nike's GLBT employees do not incur undue federal tax penalties in order to provide essential medical coverage and benefits for their loved ones and family. We hope to work with you to see S. 1556 enacted into law at the earliest possible opportunity. Not only would this eliminate a significant financial burden for our employees but also for the federal employees who would be entitled to domestic partner benefits under the bill that is the subject of today's hearing.

Again, I would like to thank Senator Lieberman and the distinguished members for their leadership on this important issue of equality. At Nike one of our primary Maxims is "Do the Right Thing". Nike has made the policy and benefit changes within the context of the law to support our GLBT employees. The State of Oregon has recently passed state legislation that will provide additional protections to GLBT citizens and we are now asking the Federal government to follow suit and make positive changes to support its citizens and provide equitable tax treatment.



LEVI STRAUSS & CO.
1105 BATTERY STREET
SAN FRANCISCO, CA 94111

**Written Testimony Submitted by
Helga Ying, Director, Worldwide Government Affairs and Public Policy
Levi Strauss & Co.
Before the Senate Homeland Security and Government Affairs Committee
Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business
September 24, 2008**

Thank you Mr. Chairman and members of the Committee for the opportunity to provide this written testimony today regarding Levi Strauss & Co.'s (LS&CO.) experience providing equal benefits for all of our employees and their eligible domestic partners. We encourage all employers to consider extending healthcare and other benefits to eligible domestic partners, and we urge the Federal Government to lead by example by extending benefits to the domestic partners of all federal employees.

Based in San Francisco, California, LS&CO. is a global corporation with roughly 11,000 employees, more than 3,000 of whom are employed in the United States. LS&CO. is one of the world's leading branded apparel companies. We design apparel and related accessories for men, women, and children under the Levi's®, Dockers®, and Signature by Levi Strauss & Co.™ brands, and we market our products in more than 100 countries.

Providing equal employee benefits for domestic partners is consistent with LS&CO.'s commitment to workplace diversity, our long-standing nondiscrimination policy and our strong corporate values. Our company values -- empathy, originality, integrity and courage -- play an important role in shaping LS&CO.'s business strategies, corporate policies and community-outreach activities.

Guided by our values, in 1992, we became the first Fortune 500 company to offer healthcare benefits to the unmarried partners of our employees -- a practice that is now common among the nation's top employers. We also implement policies that provide equal opportunities for all our employees without regard to race, color, gender, sexual orientation, religion, national origin, age, Vietnam era/disabled status, gender identity, disability, or other bases prohibited by law in the jurisdictions where we do business.

Adopting strict antidiscrimination policies and extending equal benefits to all of our employees and their domestic partners have had no adverse effect on our global business interests. To the contrary, we believe that our values and commitment to diversity have improved our company's ability to compete by attracting the "best and the brightest" job candidates and allowing all employees to participate freely and openly in their respective occupations.

We have found that our policies have earned LS&CO. tremendous positive returns on our resource investments -- returns that we believe would be of significant benefit to federal agencies as well. We, therefore, encourage members of the Committee to develop legislation that would extend benefits to the domestic partners of all U.S. federal employees that are identical or similar to those the Government currently extends to the partners of its legally married employees.

Thank you again for the opportunity to present this testimony.



Naomi G. Goldberg, MPP
Peter J. Cooper Public Policy Fellow
 Christopher Ramos, BA
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 M.V. Lee Badgett, PhD
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September 2008

THE FISCAL IMPACT OF EXTENDING FEDERAL BENEFITS TO SAME-SEX DOMESTIC PARTNERS

EXECUTIVE SUMMARY

S.2521 and H.R.4838, The Domestic Partnership Benefits and Obligations Act of 2007, would provide vital coverage to over 30,000 partners and children, costing the federal government \$41.0 million in the first year and \$675 million over ten years.

The federal government subsidizes certain benefits to federal employees, employees' spouses, and their dependent children, including:

- Health insurance
- Work injury/death compensation
- Retiree health insurance and annuities
- Travel and relocation assistance

Under current policies, LGB federal employees are unable to enroll their same-sex partners and related children in government-sponsored benefits which are available to opposite-sex spouses. Senate Bill S.2521 and House Resolution H.R.4838 both propose to extend these benefits to same-sex domestic partners of federal employees. These bills are applicable only to current federal employees and not to currently retired federal employees.

Using the American Community Survey (ACS), we estimate that approximately 30,185 federal employees have same-sex partners who are not federal employees and are thus eligible for federal benefits. This report estimates the cost of providing these benefits at \$41.0 million in the first year and \$675 million over ten years. Discretionary spending under the bill would increase by \$51.7 million in the first year and \$666 million over ten years. Direct spending would increase by \$127 million over ten years. The United States Postal Service will spend \$20.1 million in the first year, but that additional spending will not be counted in the federal budget. This legislation would result \$10.7 million in increased tax revenue in the first year and \$118 million over ten years.

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Based upon government figures on participation rates in health insurance, we estimate that 14,436 same-sex partners and related children will enroll in the Federal Employees Health Benefits Program. The government share of the premium for family coverage is \$4,600 per year more than that of a single employee for non-postal employees and \$5,244 per year more for postal employees. Using these figures, we estimate that health care spending will increase by \$60.4 million in the first year.

RETIREE HEALTH PROGRAM

In the short-term, allowing LGB federal employees to opt for survivor benefits for their partners will actually result in a reduction in annuity payments due to the spousal reduction that is applied to pay for survivor benefits. Using figures of the number of employees with same-sex partners and the number of employees that retire each year, we estimate that 1,103 employees with same-sex partners will retire in

the first year. We estimate a savings due to spousal reductions in annuity payments of \$22.6 million by year ten and ten year savings of \$108 million.

RETIREMENT SAVINGS PROGRAM

Using ACS data, we estimate that approximately 17% of federal employees in same-sex partnerships are age 55 or older and thus will be eligible for retirement in the next year. Of retirement-eligible employees, we calculate that 1,103 LGB federal employees who have domestic partners will retire in the next year. The government's share of retiree health premiums increases by \$4,640 from single to family coverage. We calculate that it will cost the federal government approximately \$3.9 million in the second year to provide same-sex domestic partner health insurance benefits to retiring federal employees. As current federal employees who are eligible for domestic partner benefits retire, this cost will increase. We estimate that in ten years, there will be approximately 7,241 retirees with same-sex domestic partners enrolled in retiree health benefits. The ten year costs for retiree health benefits for same-sex domestic partners are estimated to be \$127 million.

FEDERAL EMPLOYEE COMPENSATION ACT

To calculate the additional costs to be incurred by the federal government through FECA disability claims filed by LGB employees with recognized domestic partners, we estimate the number of partnered LGB federal employees who might file FECA claims a year. In 2007, there were 134,436 new FECA cases opened, affecting 4.7% of all federal employees. Applying this percentage to the number of partnered LGB federal employees, we estimate that 1,605 partnered LGB employees may file FECA claims. Based upon current salary and claim information, we find that it would cost an additional \$1.3 million in the first year to provide employees with same-sex domestic partners with FECA benefits equivalent to those given to married employees. Federal employees with same-sex partners are very unlikely to incur a workplace fatality claim in any given year, hence any budgetary impact from death benefits would be minimal.

TRAVEL, TRANSPORTATION, AND RELATED BENEFITS

We estimate the number of federal employees with partners who are likely to be transferred in a given year. To do this we use the total number of federal employees with non-federal employee partners, 30,185, and multiply that figure by 1.59%, the percentage of total federal employees relocated in 2003 that received assistance or reimbursement from the government. We estimate that 479 LGB federal employee with a non-federal employed partner will relocate and receive federal funds for this relocation in a given year. By multiplying the number of federal employees with a same-sex partner that will be relocated each year by half of the average relocation expense, \$20,438, we estimate that will cost \$9.8 million in the first year. Adding additional costs associated with relocation, we estimate that the annual total cost travel, transportation, and related benefits to be \$10.1 million in the first year.

POSTAL SERVICE EMPLOYEES

Because the United States Postal Services operates as an independent branch of the government, the costs of providing benefits to current employees are considered "off-budget" and must be paid for via postal revenues. Postal employees comprise approximately 28% of the federal workforce. Using this figure, we estimate that providing domestic partner benefits (health insurance, FECA payments, and travel and transportation costs) to postal employees will cost approximately \$20.1 million in the first year.

INCREASED TAX REVENUE FROM DOMESTIC PARTNER BENEFITS

Allowing federal employees to enroll their same-sex partners in health insurance will also generate an increase in federal income taxes and payroll taxes. Due to the restrictions of DOMA, the IRS currently treats the value of benefits as taxable income or "imputed income." Based upon calculations of the amount of "imputed income" that federal employees receiving domestic partner benefits will be taxed upon as well as average tax rates, we estimate that federal employees will pay approximately \$10.7 million in taxes on imputed income in the first year.

INTRODUCTION

S.2521 and H.R.4838, The Domestic Partnership Benefits and Obligations Act of 2007, would provide vital coverage to over 30,000 partners and children, costing the federal government \$41.0 million in the first year and \$675 million over ten years.

The federal government provides certain benefits to federal employees, employees' spouses, and their dependent children, including:

- Health, dental, and vision benefits
- Retirement benefits
- Family medical leave provisions
- Federal group life insurance
- Long-term care insurance
- Work injury/death compensation
- Travel and relocation assistance

Under current policies, the federal government does not recognize the same-sex partners and children of LGB federal employees. LGB federal employees are currently unable to enroll their same-sex partners and related children in government-sponsored benefits which are available to opposite-sex spouses. Senate Bill S.2521 and House Resolution H.R.4838 both propose to extend these benefits to same-sex domestic partners of federal employees. These bills are applicable only to current federal employees and not to currently retired federal employees.

This report estimates the cost of providing these benefits at \$41.0 million in the first year and \$675 million over ten years. Discretionary spending under the bill would increase by \$51.7 million in the first year and \$666.5 million over ten years. Direct spending would increase by \$127 million over ten years. This legislation would result \$10.7 million in increased revenue in the first year and \$118 million over ten years.

In the sections that follow, we first outline our estimates of the number of employees affected. We then discuss each benefit in turn to provide the details of the calculations, data, and estimates.

ESTIMATES OF THE NUMBER OF FEDERAL EMPLOYEES WITH SAME-SEX PARTNERS

According to the 2005-2006 American Community Survey (ACS), there are 34,117 federal employees who are members of same-sex couples. Approximately 88.5% or 30,185 of these federal employees have same-sex partners who are not federal employees and are thus eligible for federal benefits. The remaining federal employees are part of a couple with another federal employee. For the purposes of this analysis, we assume that both of these employees already have federal benefits and are thus excluded from our estimates in this report. Our estimates are based upon providing domestic partner benefits to the 30,185 same-sex domestic partners of federal employees.

UNITED STATES POSTAL SERVICE EMPLOYEES

Included in our estimate of the number of federal employees with same-sex partners are United States Postal Service employees. According to the Office of Personnel Management (OPM), roughly 28% of federal employees are Postal Service employees.¹ The Postal Service operates as an independent branch of the government.² As such, the Postal Service has negotiated specific contracts with its employees. The Postal Service also operates in a "businesslike way." This means that the Postal Service is expected to cover its operating expenses through postage rates and the revenue it generates.

In the specific case of the proposed legislation, the Postal Service would be responsible for the majority of expenses associated with providing domestic partner benefits to the same-sex partners of its employees. The Postal Service is not, however, responsible for retiree healthcare or annuity costs.³ These costs are considered part of the federal budget as direct spending measures. Estimates of the

costs borne by the Postal Service for current employees and by the federal government for retirees are included in the estimates (see Table 1) but not in the total budgetary impact.

HEALTH, DENTAL, AND VISION INSURANCE

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

The federal government offers federal employees and their dependents more than 300 health insurance plans.⁴ Based on an employee's state of residence and desired level of care, employees can choose among the plans. The federal government subsidizes health insurance premiums. On average, non-postal employees pay 29% of the plan's cost with the federal government covering the remaining 71%.⁵ Postal Service employees pay 16% of premiums, with the government paying the remaining 84%.⁶

Because the federal government does not currently recognize the same-sex partners of federal employees, a change that would recognize these partners would likely result in an increase in cost to the federal government. Enrollment in federal employee health insurance plans would increase in two ways. First, employees may choose to enroll same-sex partners. Second, employees may enroll their partners' children, who are not currently eligible to be covered.

We estimate that 30,185 partners of federal employees and their children would be eligible for federal benefits under this legislation. However, the number of partners and children who will enroll is much lower. There are several reasons for the lower enrollment estimates.

First, some partners have health insurance through their own employers. An estimated 22,393 (74%) of these partners are employed full-time, 11.5% (3,475) work part-time, and 14.3% (4,317) do not work in the labor market. Based upon figures from the Bureau of Labor Statistics' National Compensation Survey (NCS) and its estimates of participation in employer-sponsored health insurance,⁷ we estimate that 52% (15,748) of these partners are eligible for health insurance through their own employers, leaving 48% (14,436) of partners who will need health insurance and enroll in the Federal Employees Health Benefits Program.⁸

There will be some employees who register not only partners but also their partner's children. Some of estimated 14,436 partners who enroll are part of families that will also be enrolling children. According to the ACS, 26.8% of same-sex federal employees have children living in their homes. Previous studies of same-sex couples find that they have, on average, two children.⁹ We make the conservative assumption that on average half of the time the children in these households are the employee's and half of the time the children are the non-employee partner's. Children that are either the biological or adopted children of the employee are currently eligible for coverage and are probably already covered by federal health benefits.¹⁰

For these federal employees, who already have a child enrolled, there is no increase in premium to add a same-sex partner in the short-term. We recognize, however, that the change in policy could result in a very small increase in the average number of individuals insured for each family in the self and family category, which over time could lead to a small increase in average medical care expenditures and, therefore, premiums for that category.

We assume that the children in the remaining households will be eligible to participate in federal health benefits once domestic partners are covered. Table 1 indicates the breakdown in enrollment of partners and partners and children. We estimate that 1,937 employees with same-sex partners will enroll a partner and one uncovered child living in their household.

# of employees enrolling a partner	10,563
# of employees enrolling a partner and child(ren)	1,937
# of employees adding a partner to existing "self + family" coverage (no additional cost)	1,936
Total # of employees affected by legislation	14,436

To calculate the increase in the federal government's expenditures to provide benefits for these additional dependents, we have calculated the cost to the federal government of covering additional partners and children. This figure was calculated by subtracting the government share of the premium for single employee coverage from the government share of the premium for family coverage. The cost both to the employee and federal government of enrolling a partner versus a partner and any children is the same; the only options for enrollment are "self" or "self and family."

Because there are over 300 health plans available to federal employees, the average premium for an individual employee and a family was obtained from OPM. This average premium is weighted by OPM based upon participation in all the plans by federal employees and is based upon the March 31, 2008 OPM headcounts.¹¹ Postal employees are treated somewhat differently than are other federal employees, and the Postal Service negotiates contracts differently. Therefore, the costs of providing healthcare to postal employees' partners will differ. Table 2 shows the increase in the government's share of the premium when an employee enrolls a partner and/or children in the Federal Employee Health Benefits Program.

Non-Postal Federal Employees (72% of federal employees)			
	Employee Share of Yearly Premium	Government Share of Yearly Premium	Added Cost to Government of Adding Family Coverage
Employee (Self)	\$1,459.92	\$3,538.08	
Employee + Family	\$3,438.60	\$8,137.92	\$4,599.84
Postal Federal Employees (28% of federal employees)			
Employee (Self)	\$933.48	\$4,239.84	
Employee + Family	\$2,152.68	\$9,663.72	\$5,423.88
*figures based upon the 2008 OPM Headcounts and Monthly Weighted Average Premiums			

Our calculations assume that same-sex federal employees are evenly dispersed throughout the federal government and that 72% are non-postal employees and the remaining 28% are postal employees; these figures are taken from the 2008 OPM headcount for all federal employees.¹² Using these figures, we estimate that the cost of adding 14,436 partners and related children to the Federal Employees Health Benefit Plan will be \$60.4 million in the first year. This estimate would constitute an increase of 0.41% in the estimated \$14.3 billion the government will spend on employee healthcare costs in 2008.¹³

Previous studies have suggested a 0.3 to 1% increase in enrollment when employers offer same-sex domestic partner benefits and a similar increase in costs.¹⁴ Our estimate suggests that an additional 14,436 partners and associated children will be enrolled in health insurance. This estimate is in line with prior research since it corresponds to an approximate 0.55% increase in enrollment and a 0.41% increase in overall healthcare costs.¹⁵

FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM

The federal government does not pay a portion of the premiums for dental and vision insurance.¹⁶ Thus, we estimate that there would be no increase in government costs due to allowing same-sex federal employees to enroll their partners and any children in the Federal Employees Dental and Vision Insurance Program.

RETIREMENT BENEFITS: RETIREE HEALTH AND SAVINGS PROGRAMS

RETIREE HEALTH PROGRAM

Retired federal employees and their surviving spouses have the option of continuing to participate in the federal government health benefit programs.¹⁷ These programs provide additional benefits to complement national programs that are available to all American citizens through the Medicare program.

In order to be eligible to participate in retirement healthcare programs, retirees must have been enrolled in a healthcare plan for at least five years immediately preceding retirement. Spouses and dependent children are also eligible. After a retired employee dies, a surviving spouse is eligible to continue participating in healthcare benefits unless he or she remarries before age 55 or indefinitely if the employee and spouse were married for more than 30 years. While the Domestic Partnership Benefits and Obligations Act does not apply to current retirees' domestic partners, we interpret the bill to require coverage for same-sex domestic partners of current employees when they retire in the future.

Health premiums are paid in part by the employer and in part by the retiree. Premiums are deducted from annuity payments made to retirees or their survivors or must be paid directly to the government. Just as is the case for non-postal federal employees, the federal government pays approximately 70% of health premiums for retirees and their spouses and dependent children and also for surviving spouses and dependents.¹⁸

For most federal employees, the minimum retirement age ranges from 55 to 57, depending on date of birth. Employees born before 1948 may retire at age 55, those born between 1953 and 1964 may retire at age 56, and those born in 1970 and after may retire at age 57.

Using ACS data, we estimate that approximately 17% of federal employees in same-sex partnerships are age 55 or older and thus will be eligible for retirement in the next year. This compares to an estimated 18% of all federal employees.¹⁹ Federal data about the number of eligible retirees who actually retire after becoming eligible suggest that on average 16% of retirement eligible employees retire each year.²⁰ Using this figure, we calculate that 1,103 LGB federal employees who have domestic partners will retire in the next year.

Again, using the weighted average premium costs from the OPM, we calculate the additional cost to the federal government of allowing LGB employees to enroll same-sex partners in retiree medical insurance. This figure is based upon the difference between the government share of the premiums for single employees and the cost to the government for employees with a spouse (see Table 3).

Table 3. Additional Retiree Healthcare Costs to Government for Adding Same-Sex Partners

	Employee Cost	Government Cost	Added Cost to Government of Adding Family Coverage
Employee (Self)	\$1,610.28	\$3,698.76	
Employee + Spouse	\$3,616.92	\$8,338.08	\$4,639.32

*figures based upon the 2008 OPM Headcounts and Monthly Weighted Average Premiums

The number of retirees and same-sex partners enrolling in retiree health benefits will likely to be lower for several reasons. First, both the employee and the partner may opt out of retiree health insurance entirely. Conservatively, we do not take this into account in our calculations. Second, some same-sex partners may already have retiree health benefits through another employer and will not enroll. Seventy-four percent of same-sex partners of federal employees are employed full-time.²¹ According to the Kaiser Family Foundation's 2007 annual survey of employer health benefits, 33% of employers with 200 or more employees offer retiree health insurance.²² We then assume that 33% of these partners will have retiree benefits through their employers and will not enroll in the government program. Of the eligible 1,103

partners of same-sex partners of retiring federal employees in the first year, we estimate that 834 will enroll in retiree health insurance. We calculate that it will cost the federal government approximately \$3.9 million in the second year to provide same-sex domestic partner health insurance benefits to retiring federal employees. As current federal employees, who are eligible for domestic partner benefits, retire, this cost will increase. We estimate that in ten years, there will be approximately 7,241 retirees with same-sex domestic partners enrolled in retiree health benefits. The ten year cost projections reflect the increase in the number of retirees.

RETIREMENT SAVINGS PROGRAM

There are two retirement benefits plans in which current federal employees are enrolled. Employees hired before 1984 are enrolled in the Civil Service Retirement System, which is a defined benefit plan.²³ Those employees hired after December 31, 1983 are covered by the Federal Employees Retirement System, which is a three-part system comprised of Social Security benefits, a basic benefit plan, and the Thrift Savings Plan.²⁴

Defined Benefit Plans

Under both plans, employees and agencies contribute a percentage of the employee’s salary to a fund, and upon retirement a particular level of benefits is paid. Both retirement programs give federal employees the option to continue payments after death for surviving spouses or dependents.

Spouses of federal employees may continue to receive monthly benefit payments following the employee’s death through a survivor annuity. In order to receive this benefit, the retiring employee must enroll in a dual life annuity plan. Based on the details of the retirement plan as well as the desired level of benefits, an employee’s annuity will be reduced by 5-10% when compared to a single life annuity. The level of reduction corresponds to the level of benefits that will be provided to the surviving spouse after the employee’s death. While alive, the retired employee’s annuity payment is reduced, but after death, a surviving spouse will continue to receive an annuity payment, which is between 50-55% of the unreduced annuity payment. This dual life annuity plan is designed to pay a total benefit over the lifetimes of both the employee and spouse that is equivalent to the benefit paid to an employee via a single life annuity plan. Because survivor benefits are designed to be actuarially equivalent, there are no expected long-term increases in costs associated with allowing LGB employees to opt for a dual life annuity for a same-sex domestic partner.

In the short-term, allowing LGB federal employees to opt for survivor benefits for their partners will actually result in a reduction in annuity payments due to the spousal reduction. Using figures from OPM, the average monthly annuity payment for retirees in 2007 was approximately \$2,244 or \$26,928 per year.²⁵ A retiring employee opting for a spousal benefit of 50% of their annuity upon death will receive a reduction in his or her monthly annuity payment of 10%, or \$2,693 per year (see Table 4).

Table 4. Yearly Annuity Payments to Retired Federal Employees

	Yearly Benefit to Retired Employee	Spousal Option Reduction (10%)	Yearly Benefit to Surviving Spouse (50% unreduced annuity)
Single Life Annuity	\$26,928	\$0	\$0
Dual Life Annuity	\$24,235	\$2,693	\$13,464

*figures based upon the 2008 OPM Headcounts and Monthly Weighted Average Premiums

Using figures of the number of employees with same-sex partners and the number of employees that retire each year, we estimate that 1,103 employees with same-sex partners will retire in the first year. We can estimate the reduction in annuity payments if employees can opt for a spousal reduction for their same-sex partners. Not all retirees will opt for a dual life annuity; studies have estimated that approximately 72% of married retirees receiving employer-sponsored retirement annuities opted for a spousal benefit.²⁶ If 72% of the 1,103 employees with same-sex partners predicted to retire each year

opt for spousal survivor benefits, this equates to a \$2.2 million savings in the short-term in the second year. Because the number of retirees opting for spousal benefits will increase over time as employees eligible for domestic partner benefits retire, the savings will increase over time. We estimate a savings due to spousal reductions in annuity payments of \$22.6 million by year ten. These figures are shown in the ten year projection, and include cost-of-living adjustments.²⁷ However, in the longer-term, as retirees die and survivor payments begin, the additional survivor payments will begin to reduce the savings.

These finds are similar to those found in the Congressional Budget Office's analysis of a bill that would have provided benefits to all domestic partners, both same-sex and opposite sex.²⁸ That analysis also found that there was an overall reduction in annuity payments over the ten-year projected period.

Thrift Savings Plan

For those employees who participate in the Federal Employees Retirement System, there is a plan that allows for employer and employee contributions which functions much like a 401(k), called the Thrift Savings Plan.²⁹ Upon death, a named beneficiary receives the balance of this plan. Domestic partners can already become named beneficiaries under the Thrift Savings Plan, and the plan makes no distinctions based on marital status in terms of the amount of the government's contributions or the amount of the benefit. Therefore, no fiscal impact results from this program.

Due to the Defense of Marriage Act (DOMA) and Internal Revenue Service (IRS) restrictions, spouses and partners are treated differently when named as the beneficiary of an employee's Thrift Savings Plan. Same-sex partners may receive the balance of the savings plan, but are constrained in the ways that these funds may be withdrawn.³⁰ Different-sex spouses, on the other hand, may roll the remaining balance into their own retirement account and are not required to make withdrawals until reaching age 70 ½. The proposed legislation will not change this disadvantage to same-sex partners.

FAMILY, MEDICAL, AND EMERGENCY LEAVE

Under this legislation, federal employees with same-sex partners would be eligible for equivalent benefits provided under subchapters III, IV, and V of chapter 63 of title 5 of the United States code and The Family and Medical Leave Act of 1993 (FMLA), which entitle most federal employees to a total of up to 12 weeks of unpaid leave during any 12-month period for a variety of family and medical purposes, including the birth or adoption of a child, the care of a sick parent, child, or spouse, or time from work for an employee's own medical condition.³¹ Currently, married federal employees may use family and medical leave (FML) to care for a spouse who has a serious medical condition, but employees with same-sex partners may not use FML to care for their infirm partners or the children of their partners. Federal employees with same-sex partners or children who need to take time off may already be taking that time as sick or vacation time, but are not protected by the guarantees of job security contained in the FMLA, title 5 of U.S. code, or any other legislation.

Time taken under FML is taken as unpaid leave for federal employees. However, employees are permitted to use accrued sick and vacation time during this time. Employees can accrue this time and either use it at a later date or receive compensation for unused time. So while an employee may still collect a paycheck during allowed leave, the pay would not increase government costs directly because all employees are entitled to sick and vacation leave.

While the government may see no direct personnel costs associated with extending FML benefits to LGB federal employees, there may be other peripheral costs associated with an employee's leave, such as accommodating an employee's absence either through increasing the workloads of other employees, hiring temporary workers, or reduced productivity. Cost estimates conducted by the Congressional Budget Office exclude these peripheral costs; therefore, we do not attempt to estimate them here.

We conclude that allowing federal employees with same-sex partners to take advantage of FML for the care of same-sex domestic partners and any related children would not result in an increase in direct personnel costs.

FEDERAL EMPLOYEES GROUP LIFE INSURANCE

Under the Federal Employee's Group Life Insurance, federal employees can enroll in a basic life insurance plan. The basic benefit under this plan is equal to the greater of (1) the employee's annual pay rounded to the nearest \$1,000, plus \$2,000, or (2) \$10,000. An employee enrolled in basic life insurance also has the option of enrolling in his or her spouse for up to \$25,000 and each eligible dependent for up to \$12,500.

Presently, the federal government subsidizes one-third of basic life insurance premiums and the employee pays the remainder. The federal government only contributes to the premium of basic life insurance for employees. All other costs, including the cost of optional plans, are paid in-full by the employee. Expanding this benefit to same-sex domestic partners then presents no additional costs to the federal government.

LONG-TERM CARE INSURANCE

The federal government currently offers long-term care insurance to federal employees and their spouses. This insurance covers chronic care; this type of care is not administered in a hospital and is not intended to provide medical intervention or procedures.

The federal government does not subsidize long-term care insurance premiums. Therefore, there would be no additional costs incurred by offering this benefit to same-sex domestic partners.

FEDERAL EMPLOYEE COMPENSATION ACT

The Federal Employees' Compensation Act provides benefits to federal employees who are injured or disabled due to work-related inquiries and to surviving dependents in the event of a work-related death.

FECA Injury and Disability Claims

Under current law, married employees and employees with dependents receive three-quarters of their weekly salary if injured or disabled, while single employees receive compensation equal to two-thirds their salary.³²

To calculate the additional costs to be incurred by the federal government through FECA claims filed by LGB employees with recognized domestic partners, we estimate the number of partnered LGB federal employees that may file FECA claims a year. In 2007, there were 134,436 new FECA cases opened, affecting 4.7% of all federal employees.³³ Applying this percentage to the number of partnered LGB federal employees, we estimate that 1,605 partnered LGB employees may file FECA claims.

Because FECA benefits are derived from the base salary of the worker we use the Office of Personnel Management's estimate of the average federal employee salary, \$60,772 per year or \$234 per day.³⁴ For each day a federal employee without a spouse is away from work and receiving FECA benefits, the employee would receive two-thirds of her pay, or \$156 per day. A federal employee with a spouse would receive three-fourths of her pay, or \$175 per day. We multiply this daily benefit by 41, the average number of days of a FECA-approved disability claim.³⁵ Thus, the average federal employee on a FECA approved leave receives \$6,389 if single and \$7,187 if married.

Using our previous estimate that 1,605 federal employees with same-sex partners may file FECA claims, we find that it would cost \$10.2 million per year to provide benefits solely for these employees as single

individuals. Recognizing the same-sex domestic partners of these employees would mean that they would receive three-quarters instead of two-thirds pay. This recognition would result in a total cost of \$11.5 million. The actual increase in costs to the federal government, which is the difference between these two numbers, is \$1.3 million.

Table 5. Estimated Costs for FECA Injury and Disability Claims

Current FECA Injury and Disability Costs for LGB Employees	Expected FECA Injury and Disability Costs for LGB Employees with Partners	Net increase in cost
\$10.2 million	\$11.5 million	\$1.3 million

FECA Work-Related Fatality Claims

In the case of death, a surviving spouse receives 50% of the federal employee’s regular pay. These benefits are paid until death or remarriage if the surviving spouse is under the age of 55. A surviving spouse with children is entitled to 45% of the salary with an additional 15% for each child, but not to exceed 75% of the employee salary. Because the federal government does not recognize same-sex partners or the children of these partners, same-sex partners of federal employees would receive no benefit in the case of the work-related death.

Using 2007 data from the Bureau of Labor Statistics, we can estimate the number of federal employees with same-sex partners who may be killed due to a work-related event. In 2007, 106 federal employees died from occupational injuries.³⁶ This figure implies an incidence rate of 2.3 fatalities per 100,000 federal employees. With an estimated 34,117 federal employees with same-sex partners, we predict approximately 1 such federal employee will be killed in a work-related injury every 1.27 years. Because surviving spouses receive between 50-75% of the federal employee’s regular pay, we estimate that the recognizing the same-sex partners of federal employees will result in a \$30,386 to \$45,579 in FECA death benefits each year, a negligible increase for the federal budget.

Table 6. Estimated Costs for FECA Fatality Claims

	Expected FECA Fatality Costs for Providing Spousal Benefits to LGB Employees
Cost for Surviving Spouse (50% federal salary)	\$30,386
Cost for Surviving Spouse with Children (Maximum 75% federal salary)	\$45,579

TRAVEL, TRANSPORTATION, AND RELATED BENEFITS

The federal government provides allowances for a variety of costs involved with work-related travel and mandated relocation. Under current law, the federal government only provides allowances for spouses when a current federal employee is transferred to a location beyond 50 miles of his or her present station. There are two distinct reimbursements possible: a per diem “house-hunting” allowance given to the employee and spouse to scout for a new home, and a subsidy for relocation expenses related to the final move.

First we calculate the number of federal employees with partners who are likely to be transferred in a given year. To do this we use the total number of federal employees with non-federal employee partners, 30,185, and multiply that figure by 1.59%, the percentage of total federal employees relocated in 2003 that received assistance or reimbursement from the government.³⁷ We estimate that 479 LGBT federal

employee with a non-federal employed partner will relocate and receive federal funds for this relocation in a given year.

The average cost of relocating an existing federal employee is \$40,876.³⁸ Since most of these costs would be incurred with or without the presence of a partner, we conservatively cut the figure in half, \$20,438, to help estimate the total increased cost to the federal government of covering the relocation costs of a same-sex partner. This figure is multiplied by 479, the number expected transfers of federal employees with a same-sex partner, to yield a total cost of \$9.8 million.

Next, we calculate the estimated additional cost of a house-hunting trip. If the employee and partner travel together, the partner's allowance would be equal to three-fourths of the employee's per diem allowance. If traveling apart, the partner would be entitled to the same per diem rate as the employee. Per diem allowances are calculated based on duration, location, and other specific measures.

In our calculations we use the median per diem allowance, \$147, provided by the U.S. General Services Administration. We assume that most partners will travel together, decreasing the per diem rate to \$110. Multiplying this per diem figure by the total number of same-sex partners, and again multiplying by five days, an assumption about the length of a house-hunting trip, we arrive at a total cost of \$71,276. Combined with the relocation costs, we estimate the annual total cost travel, transportation, and related benefits to be \$10.1 million.

POSSIBLE BUDGET OFFSETS FROM PROVIDING DOMESTIC PARTNER BENEFITS

This report has estimated the potential budgetary costs to the federal government of extending domestic partner benefits to federal employees in same-sex relationships. In addition to the costs associated with providing domestic partner benefits, the federal budget may experience some reduced expenditures. Unlike the budgetary costs, however, many of these offsetting savings are difficult or impossible to estimate precisely.

BUSINESS ADVANTAGES TO PROVIDING BENEFITS

First, the federal government may be better able to recruit and retain qualified and diverse employees. The number of employers offering domestic partner benefits in the United States is increasing, reducing the attractiveness of federal employment for current or potential federal employees who have same-sex partners. According to the 2008 Human Rights Campaign's Corporate Equality Index (CEI), more than 50% of Fortune 500 firms offer domestic partner health insurance to their employees.³⁹ Extending domestic partner benefits to federal employees would allow the federal government to compete with top companies for talented and committed employees.

Second, allowing federal employees to enroll their same-sex domestic partners and related children in health insurance may reduce the number of uninsured people, since at least some of those partners and children were likely to be without insurance. A recent study shows that 20% of people in same-sex couples have no health insurance.⁴⁰ Uninsured partners and children may be accessing healthcare through costly emergency rooms or may be enrolled in government-provided healthcare programs. Allowing federal employees to enroll same-sex partners and children in the federal employee health program would likely reduce federal expenditures on uncompensated care for those individuals.

INCREASED TAX REVENUE FROM DOMESTIC PARTNER BENEFITS

Allowing federal employees to enroll their same-sex partners in health insurance will also generate an increase in federal income taxes and payroll taxes. Due to the restrictions of DOMA, the IRS currently treats the value of benefits as taxable income or "imputed income."⁴¹ As a result, employees must pay both income and payroll tax (for Social Security and Medicare) on this imputed income, and employers must pay their share of payroll taxes on the imputed income. Employees are also not permitted to pay

for same-sex partner coverage with pre-tax dollars. We employ methods similar to those used in an earlier study to estimate the increase in tax revenue from the passage of this legislation.⁴²

We estimated that 14,436 federal employees will enroll a same-sex partner in health insurance. Some of the same-sex partners enrolled will qualify as dependents under the IRS definition. Due to the specific definition of "spouse" in DOMA, the IRS does not recognize same-sex partners as spouses.⁴³ The only exception is if the employee can prove to the IRS that the same-sex partner is a dependent, which requires that the partner receive more than half of his/her support from the employee, the partner earn less than the current exemption amount (\$3,400 in 2007), and that the partner is a member of the household maintained and occupied by the employee.⁴⁴ The passage of the proposed legislation would not alter this arrangement, as the IRS is constrained by DOMA, which does not allow same-sex partners to be treated as spouses for tax purposes. We assume that the partners who do not work will fit this definition (14.3%). Thus 10,119 partners will receive taxable partner benefits.

The IRS does not provide clear definitions for "imputed income," but a commonly used method of calculating imputed income is to measure the increase in the employer's share of the premium for family coverage as opposed to single coverage. In the case of the federal government, this is a yearly cost of \$4,600 for a non-postal employee and \$5,424 for a postal employee.

Tax rates vary based upon income and tax brackets. Using data from the IRS based upon 2006 filings, we can estimate the number of employees in each tax bracket.⁴⁵ Using statistics from the IRS about how taxpayers filed and what tax rates they paid, we can then estimate the number of federal employees in each tax bracket. We assume that if 2% of single filing individuals fall within the 5% tax bracket, then 2% of federal employees with same-sex partners fall within the 5% tax bracket. We assume that federal employees in households without children will use the single filing status, while those employees with children will file as heads of households. The ACS data show that 26.8% of federal employees with same-sex partners have children living in their homes.

Distributing federal employees throughout the tax brackets results in employees' marginal tax rate on imputed income ranging from 5% to 35%. Current federal employees will also pay FICA taxes on this imputed income at a rate of 6.2% for Social Security and 1.45% for Medicare. Using these tax rates, we estimate that federal employees will pay approximately \$10.7 million in taxes on imputed income.

Table 7. Estimated Tax Revenue for Federal Employees Receiving Domestic Partner Benefits

Employment Type	Filing Status	# of Employees	Taxes on Imputed Income
Non-postal (72%)	Single	5,333	\$5,461,429
	Head of Household	1,953	\$1,886,174
Postal (28%)	Single	2074	\$2,504,342
	Head of Household	759	\$864,907
		TOTAL	\$10,716,852

UNDERLYING ASSUMPTIONS IN COST PROJECTIONS OVER 10 YEARS

To estimate the cost of this legislation over the span of ten years, shown in Table 1, several key assumptions were made. In terms of current employee and retiree healthcare costs, we projected a 6.1% increase in healthcare premiums each year, which is taken from the 2007 Kaiser Family Foundation's health benefits survey.⁴⁶ Non-healthcare costs were increased over time using the Congressional Budget Office's 2008 estimate of the Consumer Price Index for the next ten years of

2.2%.⁴⁷ Because retiree annuity payments are increased each year for cost-of-living adjustments, we used the Social Security cost-of-living adjustments to project annuity payments for future retirees.

We also assumed that the current number of federal employees with same-sex partners remained constant over time. Underlying this assumption is the notion that as current employees retire, the chances that they will be replaced with a federal employee in a same-sex relationship remains relatively stable.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated cost of the proposed legislation is shown in Table 8. The costs to the Postal Service of providing benefits to current employees is not included in the overall costs to the federal government, because those costs are to be paid for through Postal Service revenues.

Table 8. Estimated Costs, In Millions of Dollars

	Year 1	2	3	4	5	6	7	8	9	10	Total Cost (Over 10 Years)
DIRECT SPENDING											
Retiree Health Benefits	0	3.9	8.1	12.8	18.1	24.2	30.7	37.9	45.5	53.9	235.1
Reduction in Annuity Payments to Retirees and Survivors	0	-2.2	-4.4	-6.7	-9.1	-11.8	-14.4	-17.1	-19.8	-22.6	-108.1
TOTAL, DIRECT SPENDING	0	1.7	3.7	6.1	8.9	12.4	16.3	20.8	25.7	31.4	127.0
DISCRETIONARY SPENDING											
Health Insurance	43.5	46.1	48.9	51.9	55.1	58.5	62.0	65.8	69.8	74.1	575.7
Dental & Vision Benefits	0	0	0	0	0	0	0	0	0	0	0
Family Medical Leave Provisions	0	0	0	0	0	0	0	0	0	0	0
Federal Group Life Insurance	0	0	0	0	0	0	0	0	0	0	0
Long Term Care	0	0	0	0	0	0	0	0	0	0	0
FECA Disability	0.9	0.9	1.0	1.0	1.0	1.0	1.1	1.1	1.1	1.1	10.2
FECA Death	*	*	*	*	*	*	*	*	*	*	36
Travel, Transportation	7.3	7.4	7.6	7.8	7.9	8.1	8.3	8.5	8.6	8.8	80.2
TOTAL, DISCRETIONARY SPENDING	51.7	54.5	57.5	60.7	64.1	67.6	71.4	75.4	79.6	84.1	666.5
POSTAL SERVICE COSTS (OFF-BUDGET)											
Health Insurance	16.9	17.9	19.0	20.2	21.4	22.7	24.1	25.6	27.2	28.8	223.9
Dental & Vision Benefits	0	0	0	0	0	0	0	0	0	0	0
Family Medical Leave Provisions	0	0	0	0	0	0	0	0	0	0	0
Federal Group Life Insurance	0	0	0	0	0	0	0	0	0	0	0
Long Term Care	0	0	0	0	0	0	0	0	0	0	0
FECA Disability	0.36	0.37	0.37	0.38	0.39	0.40	0.41	0.42	0.43	0.44	4.0
FECA Death	*	*	*	*	*	*	*	*	*	*	14
Travel, Transportation	2.8	2.9	3.0	3.0	3.1	3.2	3.2	3.3	3.4	3.4	31.2
TOTAL, POSTAL SERVICE	20.1	21.2	22.4	23.6	24.9	26.3	27.8	29.3	31.0	32.7	259.2
TAX REVENUE											
Tax Revenue from "Imputed Income" Taxation											-118.4
TOTAL, TAX REVENUE	-10.7	-11.0	-11.2	-11.4	-11.7	-11.9	-12.2	-12.5	-12.8	-13.0	-118.4
TOTAL FEDERAL BUDGET COST	41.0	45.3	50.0	55.4	61.3	68.1	75.5	83.7	92.6	102.4	675.1

* Costs are less than \$40,000

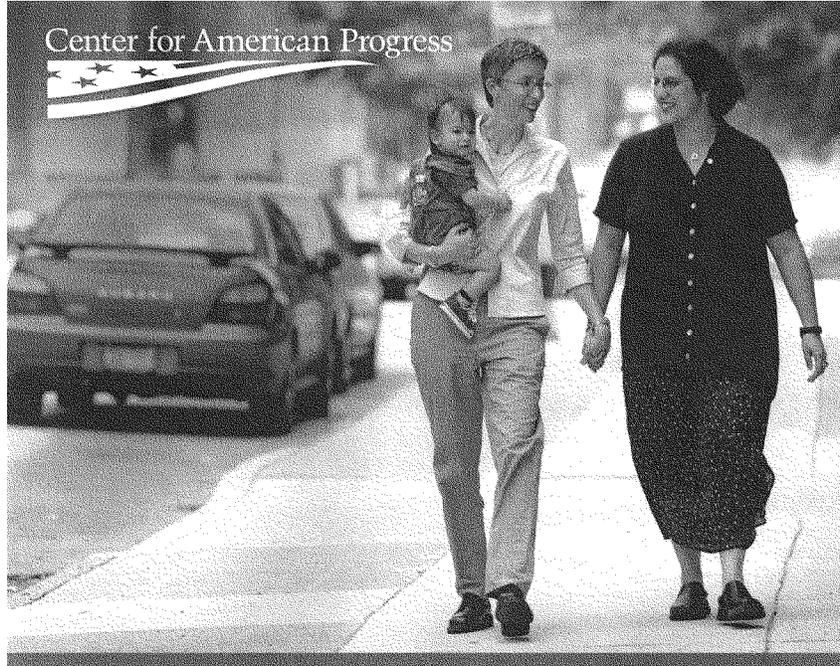
CONCLUSION

Providing domestic partner benefits to federal employees will allow the federal government to remain competitive as well as retain and recruit the most qualified and diverse workforce.

This report estimates the cost to the federal budget of providing these benefits at \$41.0 million in the first year and \$675 million over ten years. Discretionary spending under the bill would increase by \$51.7 million in the first year and \$666.5 million over ten years. Direct spending would increase by \$127 million over ten years. This legislation would result in \$10.7 million in increased revenue in the first year and \$118 million over ten years.

- ¹ Office of Personnel Management (OPM), Office of the Actuaries. Received via email (August 8, 2008).
- ² For information about the United States Postal Service and its status as an independent establishment of the executive branch, see "The United States Postal Service: An American History 1775-2006," Publication 100, May 2007. <http://www.usps.com/cpim/ftp/pubs/pub100.pdf?from=postalhistory&page=pub100pdffile
>
- ³ See proposed legislation to shift Postal Service retiree costs from direct, on-budget spending to off-budget, "H.R. 22: Postal Accountability and Enhancement Act, (109th). <http://www.govtrack.us/congress/billreport.xpd?bill=h109-22&type=cbo>
- ⁴ Detailed plan information available at the OPM website, <http://www.opm.gov/insure/health/08rates/index.asp>
- ⁵ Based upon figures from OPM, Office of the Actuaries. Received via email (August 8, 2008).
- ⁶ Based upon figures from OPM, Office of the Actuaries. Received via email (August 8, 2008).
- ⁷ According to the Bureau of Labor Statistics' National Compensation Survey (2008), 68% of full-time, non-federal employees and 15% of part-time, non-federal employees participate in employer-provided health care plans. An estimated 83% of government employees participate in employer-provided healthcare. US Department of Labor, Bureau of Labor Statistics, Table 2. Medical care benefits: Access, participation, and take up rates, National Compensation Survey, March 2008. <http://www.bls.gov/news.release/ebs2.t02.htm>
- ⁸ This estimate is probably higher than the actual number that will enroll. This figure assumes that all same-sex partners who are eligible for health insurance will enroll. Estimates for state and local government employees suggest that 83% of employees who are offered health insurance participate. Figures for federal employees were not available. US Department of Labor, Bureau of Labor Statistics, Table 2. Medical care benefits: Access, participation, and take up rates, National Compensation Survey, March 2008.
- ⁹ Adam P. Romero, Amanda K. Baumle, M.V. Lee Badgett, Gary J. Gates. "United States, Census Snapshot." The Williams Institute, December 2007. <http://www.law.ucla.edu/williamsinstitute/publications/USCensusSnapshot.pdf>
- ¹⁰ Eligibility requirements for dependents are available at the OPM website, <http://www.opm.gov/insure/health/eligibility/dependents.asp>
- ¹¹ Based upon figures from OPM, Office of the Actuaries. Received via email (August 8, 2008).
- ¹² Based upon figures from OPM, Office of the Actuaries. Received via email (August 8, 2008).
- ¹³ Total amount spent by federal government on health care for current employees calculated using figures from OPM, Office of the Actuaries. Received via email (August 8, 2008).
- ¹⁴ M. V. Lee Badgett and Gary J. Gates (2004). "The Business Cost Impact of Marriage for Same-Sex Couples" <http://www.iglss.org/media/files/busimpact.pdf>; Badgett, M. V. L. (2001). *Money, Myths, and Change: The Economic lives of lesbians and gay men*. Chicago and London: University of Chicago Press.
- ¹⁵ Total federal enrollment in health insurance is based upon figures from OPM, Office of the Actuaries. Received via email (August 8, 2008).
- ¹⁶ Details about the Federal Employees Dental and Vision Insurance Program may be found at the OPM website, <http://www.opm.gov/insure/DentalVision/index.asp>
- ¹⁷ Retiree and dependent eligibility is available at the OPM website, <http://www.opm.gov/insure/health/eligibility/annuitants.asp>
- ¹⁸ Based upon figures from OPM, Office of the Actuaries. Received via email (August 8, 2008).
- ¹⁹ "Analysis of Federal Employment Retirement Data," United States Office of Personnel Management, 2008. http://www.opm.gov/fedddata/RetirementPaperFinal_v4.pdf
- ²⁰ This figure was calculated using figures from OPM showing the proportion of employees who retire after becoming eligible based upon the number of years after initial eligibility.
- ²¹ ACS 2005-2006 data.
- ²² "Employer Health Benefits, 2007 Survey," The Kaiser Family Foundation and Health Research and Educational Trust. <http://www.kff.org/insurance/7672/upload/76723.pdf>
- ²³ Details about the Civil Service Retirement System and the Federal Employees Retirement System can be found at the Office of Personnel Management website, including Retirement Facts 1 -- The Civil Service Retirement System, November 1997 (Form Number: RI 83-1) <http://www.opm.gov/retire/html/library/csrs.asp>
- ²⁴ Details about the Federal Employees Retirement System can be found at the Office of Personnel Management website, FERS -- Federal Employees Retirement System (An Overview of Your Benefits), April 1998 (Form Number: RI 90-1) <http://www.opm.gov/retire/html/library/fers.asp>
- ²⁵ Federal Civilian Workforce Statistics, The Fact Book, 2006. Office of Personnel Management, pg 92. Estimates were calculated using 2005 figures and cost-of-living adjustments from the Social Security Administration, <http://www.ssa.gov/OACT/COLA/colaseries.html>
- ²⁶ See Johnson et al, "Who forgoes survivor protection in employer-sponsored pension annuities?" *The Gerontologist* 45:26-35, 2005, for an estimate of married employees who opt for single versus dual life annuities.
- ²⁷ Calculated using the Social Security Cost-of-Living Adjustments, <http://www.ssa.gov/OACT/COLA/colaseries.html>

- ²⁸ "H.R. 2426 Domestic Partnership Benefits and Obligations Act of 2003," Congressional Budget Office, August 2003.
- ²⁹ Details about the Thrift Savings Plan can be found at the Office of Personnel Management website, FERS -- Federal Employees Retirement System (An Overview of Your Benefits), April 1998 (Form Number: RI 90-1) <http://www.opm.gov/retire/html/library/fers.asp>.
- ³⁰ Pension Protection Act of 2006, Pub. L. No 109-280, 120 Stat. 780 (2006).
- ³¹ Examples of excluded federal employees include: employees with less than one year of service are excluded, as are employees of the District of Columbia, intermittent employees, Congressional employees, including those in the Government Accountability Office or the Library of Congress, and Executive Office of the President employees.
- ³² "Benefits Under the Federal Employees Compensation Act" <http://www.cpol.army.mil/library/permis/2541e.html>
- ³³ Number of FECA claims taken from Department of Labor. "FECA: Moving Forward An Overview of Coming Initiatives in FY2008." Last accessed, September 22, 2008: <http://www.scribd.com/doc/1703099/Department-of-Labor-FECA201A20working20rev3>
- Calculation also uses a figure for total civilian employment from the United States Equal Employment Opportunity Commission. "Equal Opportunity in the Federal Workforce." Last accessed, September 22nd, 2008: <http://www.eeoc.gov/federal/fsp2004/section1a.html>
- ³⁴ Office of Personnel Management. Federal Civilian Workforce Statistics 2005 edition. Last accessed September 17th, 2008: <http://www.opm.gov/FedData/factbook/2005/factbook2005.pdf>
- ³⁵ *Supra* note 32.
- ³⁶ http://www.bls.gov/iif/oshwc/foi/CFOI_Rates_2007.pdf
- ³⁷ We use percentages obtained from data based on the experiences of cabinet level departments which account for 91% of all federal civilian employment. The General Services Administration. "Government wide Relocation Advisory Board: *Findings and Recommendations*." September 15th, 2005. Last accessed September 19, 2008: http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/Findings_and_recommendations_R2-yMA0_0Z5RDZ-i34K-pR.pdf
- ³⁸ *Id.* Calculated using the FY 2003 average cost from the General Services Administration, inflated to 2008 value using the Social Security Cost-of-Living Adjustments, <http://www.ssa.gov/OACT/COLA/colaseries.html>
- ³⁹ Human Rights Campaign 2009 Corporate Equality Index, http://www.hrc.org/documents/HRC_Corporate_Equality_Index_2009.pdf
- ⁴⁰ See Michael A. Ash and M.V. Lee Badgett, "Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Same-Sex and Unmarried Different-Sex Couples," *Contemporary Economic Policy* 24(4):582-599, 2006.
- ⁴¹ See, for example, IRS Private Ruling 200108010, November 10, 2000.
- ⁴² See M.V. Lee Badgett, "Unequal taxes on equal benefits: The taxation of domestic partner benefits," The Williams Institute and The Center for American Progress, December 2007. <http://www.law.ucla.edu/williamsinstitute/publications/UnequalTaxesOnEqualBenefits.pdf>
- ⁴³ See, for example, IRS Private Letter Ruling 200108010, Nov. 17th, 2000.
- ⁴⁴ See definition of "dependent" at IRS website: http://www.irs.gov/pub/irs-utl/mod_4_-_tax_tutorial.pdf
- ⁴⁵ "Individual Complete Report (Publication 1304), Table 3.4, Tax Year 2006," Internal Revenue Service <http://www.irs.gov/taxstats/indtaxstats/article/0,,id=133521,00.html>
- ⁴⁶ "Employer Health Benefits, 2007 Survey," The Kaiser Family Foundation and Health Research and Educational Trust. <http://www.kff.org/insurance/7672/upload/76723.pdf>
- ⁴⁷ CBO Budget Projections, http://www.cbo.gov/ftpdocs/89xx/doc8935/01-24-Senate_Testimony.shtml



One Simple Step for Equality

States prove that the federal government can offer domestic partner benefits with ease

Winnie Stachelberg, Josh Rosenthal, and Claire Stein-Ross · September 2008

Center for American Progress



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Executive Summary

Health care looms large on the agenda as the nation looks toward a new Congress and president in 2009. Health care costs are growing faster than even energy costs, rising \$45 billion more than energy in the past eight years.¹ Americans with chronic diseases and other pre-existing conditions often wonder if their treatment will be covered by insurance, or if they will be able to afford insurance at all. And almost 46 million Americans still live without health insurance coverage, while many more get by without adequate access to care.²

The federal government could take one simple, but essential step that would immediately expand quality coverage to millions of Americans: extending health benefits to same-sex partners of federal employees, who are twice as likely to be uninsured as their heterosexual counterparts.³ Federal employees in same-sex partnerships currently have no access to benefits for their partners. Domestic partner benefits present an opportunity for the federal government to improve the quality of its workforce, and indicate its acceptance of all American families.

Congress is currently considering the Domestic Partner Benefits and Obligations Act (H.R. 4838/S. 2521), which would extend these benefits, along with the other rights and responsibilities of married couples, to federal employees in same-sex domestic partnerships. Congressional passage of this bill would place the federal government among the ranks of thousands of private companies, hundreds of municipalities, and 15 states and the District of Columbia that have already put such policies into action.⁴

This report examines the experiences of these states, which have extended benefits to same-sex domestic partners without complications or added expenses. In fact, many have actually been able to attract higher quality staff. The states show that a domestic partner benefit program for federal employees would likely have the following characteristics:

- **Low enrollment:** Few employees will enroll in the expanded benefit program. For example, only 0.7 percent of Connecticut states employees took advantage of the domestic partner program for same-sex couples.

⁴ Vermont, New York, Oregon, California, Connecticut, Maine, Rhode Island, Washington, New Mexico, New Jersey, Montana, Illinois, Alaska, Arizona, and Hawaii.

- **Minimal costs:** The benefits would create only a marginal added cost. In Iowa, for example, only 0.5 percent of benefit spending goes toward domestic partners. Even this percentage is higher than we expect the federal government would experience, since many states include both same-sex and different-sex partners in their domestic partner benefit programs, unlike the proposed federal program.
- **Higher retention and recruitment rates:** Gay and lesbian employees often cite benefit programs as a key factor in their decision to leave or stay at a job. As more private-sector employers offer domestic partner benefits, states such as Vermont and Washington have found that matching this benefit helps them to attract the best workforce.
- **Strong public support:** When Arizona considered offering domestic partner benefits in 2006, 787 of the 913 public comments concerning the decision were supportive of extending the benefits. Recent polling also shows that 69 percent of Americans believe that same-sex partners should receive benefits.

The Domestic Partnership Benefits and Obligations Act offers an easy choice to legislators. There are both practical and ethical arguments for extending benefits to domestic partners—including the fact that a majority of Americans believe it is the right thing to do.⁴ And the experiences of state governments clearly show that domestic partner benefits do not exact a significant cost on the employer.

An Essential Recruitment Tool: Experiences in the Private Sector

The private sector has been the clear leader in offering equitable benefits to employees. Over 8,600 for-profit companies offer same-sex domestic partner benefits to their employees.⁵

Private employers cite a number of factors driving the decision to open up their benefits systems. Chief among these is the correlation between benefits and worker contentment. There is strong evidence that employees—both heterosexual and homosexual—value the option of domestic partner benefits. Forty-eight percent of lesbian, gay, and bisexual workers said in 2003 that domestic partner benefits would be the most important consideration in a potential job switch.⁶ And 69 percent of heterosexual

workers polled in 2004 said all employees should be guaranteed equal benefits, regardless of sexual orientation.⁷

Even after staff are recruited, domestic partner benefits help employers retain good employees. Eighty percent of employees who were “highly satisfied” with their benefits expressed strong job satisfaction and 83 percent said that their benefits were a factor in their decision to remain at that job.⁸ A majority of employers similarly see benefits as an important retention tool.⁹ With this in mind, it is necessary for public employers to maintain the same level of coverage that private companies offer, or risk losing out in the competition for the most desirable workforce.

Simple Processes and Cost Savings: Lessons from the States

Since Vermont first offered domestic partner benefits in 1994, 15 other states and the District of Columbia have followed suit. Across the board, the costs of expanding the benefits has been negligible; the process has been smooth; potential employees have been attracted by the benefits and current employees have been more inclined to remain; and providing the benefits has in turn lowered the cost of other social services, leading to net savings for states. The process in each state is similar. They each require the employee to fill out an affidavit and provide documentation verifying the validity of the relationship. As with a marriage license, there is a fee attached to this declaration, which provides revenue to the state.

The number of employees who have applied for partner benefits varies from state to state, but it is generally very low. And states have seen no more than marginal cost increases when benefits are extended to domestic partners. Most insurance providers consider the same factors when insuring a domestic partner as a spouse, and the premiums therefore remain the same. A Hewitt Associates study revealed that coverage that includes domestic partners is no more expensive for employers than coverage that does not.¹⁰

Case studies by the Williams Institute show that, if benefits are extended to all partners in the state, the state will actually experience net savings. As more residents are covered by insurance, costs for Supplemental Security Income, Temporary Assistance for Needy Families, Medicaid, and the State Children's Health Insurance Program would decrease, more than offsetting any potential rise in state benefit costs.¹¹

The Congressional Budget Office conducted a study on the potential value for the federal government in recognizing domestic partnerships. The study found that enrolling the same-sex partners of retired employees in the Federal Employees Health Benefits Program would increase costs by less than \$50 million a year through 2014 (current employees and spouses' insurance is covered through appropriations funding). The CBO also concluded that if all 50 states and the federal government were to allow same-sex couples the same rights and responsibilities as opposite-sex couples, the federal government would save nearly \$1 billion per year through resulting increases in tax revenue and decreases in the costs of government support programs.¹²

The one complicating factor for the provision of domestic partner benefits is that many states, as well as the federal government, tax domestic partner benefits as "imputed

income,” unlike benefits for other family members. As explored in the Center for American Progress and Williams Institute 2007 report “Unequal Taxes on Equal Benefits,” this unequal tax treatment imposes an unnecessary financial and accounting burden on both employers and employees. Both Oregon and Rhode Island made a special effort to correct the inequality; two years after the benefits became available, Oregon began exempting the benefits from employers’ tax liability, while Rhode Island established a loan program to assist some employees with the increased taxation.

The federal government will be able to look for guidance to the 15 states and the District of Columbia who already offer same-sex domestic partner benefits for their employees as it enters the process of considering the Domestic Partner Benefits and Obligations Act. States began offering these benefits in different ways—from union negotiation to legislation to judicial decisions—but all have seen lower rates of enrollment and lower costs than expected. Their experiences show that the federal government has a lot to gain from offering same-sex domestic partner benefits without serious costs.

Vermont

Vermont became the first state to begin offering benefits to the domestic partners of state employees, in 1994. The program now covers between 300 and 400 employees each year, and the availability of such benefits has been advantageous in recruiting potential new employees. The original plan was to expand coverage to same-sex partners only, but the legislation that was passed extended benefits to both same-sex and opposite-sex partners. Although there were initial, marginal increases in premium costs following the provision of benefits, they have ultimately had no effect on state costs.¹³ As the earliest state to champion equal benefits, Vermont’s experience is perhaps the best indicator that the benefits’ effects are positive, both in the short- and long-term.

New York

New York has been providing benefits to the partners of state employees since the beginning of 1995. Although there was some negative reaction when the benefits were initially announced, as well as debate over whether to include both same-sex and opposite-sex couples, the benefits system has been unproblematic. The New York state government currently covers 4,881 domestic partners, and the majority of these are opposite-sex partners.

The plan has, overall, been easy to implement. Any employee with dependent children is already enrolled in a family benefits program; adding a partner to this has no effect on the employee’s premium. If one employee seeks to provide coverage for another state employee, the total costs actually decrease. As in other states, New York requires that employees provide proof of the partnership in order to expand the coverage. This docu-

Year States Instituted Domestic Partner Benefits



Vermont	1994
New York	1995
Hawaii	1997
Oregon	1998
California	1999
Connecticut	2000
Maine	2001
Rhode Island	2001
Washington	2001
DC	2002
Iowa	2003
New Mexico	2003
New Jersey	2004
Montana	2005
Alaska	2006
Illinois	2006
Arizona	Oct. 2008

mentation has caused only minimal problems, as has confusion over income imputation to cover additional costs. New York does not keep records on the effect that the benefits program has had on employee attitudes, but the state believes that the coverage for domestic partners has been helpful in recruiting potential employees.¹⁴

Hawaii

Hawaii adopted the Reciprocal Beneficiaries Act in 1997, which allows residents who are barred from marriage to register for certain privileges that are afforded to married couples. The benefits are available to anyone who cannot legally be married, although most who have filed under this law are same-sex domestic partners. The law, however, places no legal requirements on Health Maintenance Organizations or Mutual Benefit Societies. The state's attorney general further decided to remove the law's application to private entities.¹⁵

The law was renewed in 1999, but some elements that provided government employees with health insurance were not, and many advocates for gay rights argue the program has been ultimately ineffective in advancing equality. The system remains in place, but few have taken advantage of it,¹⁶ giving the legislature little motive to expand the rights and benefits.

Oregon

The Oregon Supreme Court ruled in 1998 that denying equal benefits to the domestic partners of government employees was a violation of the state's constitution. Oregon was the first state to successfully frame the debate in this way, and also the first state to require both local and state government to equalize their benefit plans.

Beginning in tax year 2000, Oregon also distinguished its benefits program by exempting the benefits from taxes for qualified domestic partners. The state legislature later passed the Oregon Family Fairness Act in 2007 that, while respecting the voter-approved ban on same-sex marriage, establishes a procedure for obtaining a civil union, and extends to those who seek one the privileges of married couples, including insurance benefits.¹⁷

The Williams Institute earlier this year released an analysis of the effect of a state-wide domestic partnership registry on Oregon's budget. Overall, they estimate state savings of between \$1.5 million and \$3.7 million biennially—between \$100,000 and \$1.2 million due to the inclusive benefits plan alone. The death benefits that may become available to surviving domestic partners through the Oregon Family Fairness Act would increase state costs by an estimated \$20,000 per year for the first three years, with the cost diminishing after that.¹⁸

California

California passed three laws in 1999 to promote equality for the gay and lesbian community. One of the three measures provided for the creation of a domestic-partner registry for which both same-sex partners and opposite-sex partners age 62 or older are eligible. The laws also established hospital visitation rights for all partners, and health insurance coverage for state employees.¹⁹ Fewer than one half of 1 percent of state employees have applied for the partner benefits since they have been offered.²⁰

Last year, California became the first state to go one step further and require all contractors with the state to provide benefits. The Equal Benefits Ordinance applies to any business with a state contract for more than \$100,000.²¹ It grants a few exceptions, but lack of compliance can result in a termination of the contract.²²

This year, the 2008 California Supreme Court decision to extend marriage to same-sex couples also established equal benefits for all families in the state (with the exception of federal taxation of those benefits). These equal benefits are at risk of being revoked by the anti-marriage Proposition 8.

Connecticut

Connecticut began offering domestic partner coverage to its employees in 2000, after several unions came together to argue that the state should provide the insurance. Prior to the implementation of benefits, the state expected approximately 1 percent of its 50,000 employees to register a partner and the cost to equal approximately 0.5 percent of total benefit costs.²³ During the first two years that benefits were available, 336 employees—approximately 0.7 percent of state workers—sought the benefits for a partner, bringing the cost of state-provided benefits up by \$825,000. This amounts to roughly 0.1 percent of the state's total benefits cost.²⁴ As in many other states, benefits for domestic partners of employees are eligible for taxation, unlike the benefits for spouses, which contributes to the states' income tax revenues.²⁵

Maine

Maine's State Employee Health Commission authorized in 2001 the extension of health insurance to the domestic partners of state employees. Later that year, the state legislature voted to establish a domestic partner registry, which offers further rights to all committed same-sex couples in the state. There was initially negative feedback from a small number of employees, particularly retirees, but this quickly abated and the state employee domestic partnership program was implemented without difficulty.

About 240 employees and retirees currently receive the benefits, and the cost to the state is \$1,718,844 annually.²⁶ Because adding a partner is equivalent to adding a spouse, the only real change to cost or procedure is the need for a manual calculation of the premium deduction and the taxable benefit.²⁷

Rhode Island

Rhode Island's state assembly amended Statute 36-12-1 in 2001 to provide insurance benefits to the domestic partners of state employees. The state realized in 2005 that federal law requires employees to pay federal income tax on these benefits and to fix this unequal treatment, and the assembly passed Statute 36-12-15, creating the Domestic Partner Income Tax Loan Account. This program offers a one-time no-interest loan to state employees with additional tax burdens of \$500 or more from their domestic partner benefits for tax years 2002-2005.²⁸ A number of large private employers in Rhode Island began offering the benefits long before the state, including the Hasbro Corporation in 1997, and Brown University in 1994.²⁹

Washington

The Public Employees Benefits Board voted in 2000 to begin offering insurance benefits to the domestic partners of Washington state employees.³⁰ The states made projections about the cost of legalizing same-sex marriage, many of which would also be applicable to extending domestic partner benefits. When a spouse or partner is included in an employee's benefit package, the overall cost typically decreases. The state expected to save between \$300,000 and \$2.1 million each year on benefit spending alone, depending on the structure of the benefits.³¹

During the implementation process, some problems arose around the role of a partner as a dependent. Complications surrounded the share of benefit costs that an employee was required to pay, and how the benefits' value would be taxed. The state eventually made slight changes to the payroll process and reverted to making manual changes as necessary, rather than altering the entire system. As the state transitioned to offer the benefits, the benefits board voted to also include the children of domestic partners and extend Medicare benefits to qualifying partners. This necessitated another slight tax change, done manually at the close of each tax year.

Washington currently insures approximately 1,000 employees' partners; the Public Employees Benefits Board has requested that this coverage be expanded to opposite-sex partners as well, which would add approximately 3,000 employees to the benefits program. The most common issues still raised about the benefits are their tax implications, and whether to begin including opposite-sex partners. The state does not separate out costs

related to domestic partner coverage, but no marked change has been seen. Because the state passed a non-discrimination law in 2006, and a law establishing a partner registry the following year, the way in which eligibility is determined has been modified. This is expected to increase administrative costs. However, the state's Human Resources Department reports seeing a positive boost in recruitment and retention since the benefits were instituted.³³

District of Columbia

The District of Columbia City Council passed in 1992 the Health Care Benefits Expansion Act, making it the one of the earliest government entities to recognize domestic partners. The law allowed for District employees' partners to receive insurance coverage, but congressional funding did not permit its implementation until 2002. The law enables employees to use leave time to care for a partner or his/her dependents, to attend the funeral of a partner or dependents, or for the birth or adoption of a dependent. It also guarantees domestic partners hospital visitation rights.³⁴

The District of Columbia has experienced no problems with cost or implementation,³⁴ and a number of additional laws have passed since that extend rights and responsibilities to domestic partners. The lack of distinction made between domestic partner benefits and traditional coverage in D.C., as well as in many other states, serves as a testament to the facility with which such a program can be introduced and put into practice.

Iowa

Iowa has been providing equal benefits to domestic partners and spouses since 2003 after an effort led by the American Federation of State, County, and Municipal Employees. Iowa state employees are allowed to add a partner to coverage just as they would any other family member, and any difference in cost is solely due to having a family plan versus a single plan. The state's contribution toward medical benefits is the same for each; the state does not contribute to dental benefits for any of its employees.³⁵

Domestic partner coverage amounts to less than one-half of 1 percent of the roughly \$300 million budget for employee insurance and benefits. Because of the tax implications of the benefits, only 74 employees currently utilize the benefits—far fewer than originally expressed interest. There are still some complaints about the tax structure for the benefits, but the process and implementation were both quick and relatively seamless. Although the state has not catalogued any particular effect in recruitment, most large Iowa employers do offer the benefits.³⁶

New Mexico

Governor Bill Richardson of New Mexico issued Executive Order 2003-010 in 2003, which extended health insurance benefits to the partners of state employees. Richardson instructed his staff to further investigate recognizing domestic partnerships on a state-wide level. The Williams Institute provided a memorandum early in 2008 to the sponsor of the Domestic Partners Rights and Responsibilities Act (HB 9), which would have allowed both same- and opposite-sex couples to register as domestic partners.³⁷

The Williams Institute's research indicates that, in addition to the financial boon that comes with commitment ceremonies and celebrations, domestic partnerships would have a positive effect on businesses. They conclude that domestic partner benefits increase employer competitiveness; enrollment and costs would likely be minimal; the state budget would see a net gain; and emphasizing diversity and equality has a positive long-term effect on businesses.³⁸ Although HB 9 never left the state legislature, the Williams Institute findings nonetheless demonstrate the financial and practical incentives of extending insurance benefits to domestic partners.

New Jersey

The New Jersey state legislature passed the Domestic Partnership Act in 2004, which required all New Jersey businesses to offer insurance coverage to employees' registered same-sex partners. However, existing state law places no obligation on employers to cover the cost of benefits, meaning that the financial effect on employers would be, if anything, marginal.³⁹

Benefit costs for the expanded coverage are determined in the same manner as they had been prior to the legislation. Family coverage includes a partner just as it would for spouses and children, which means that if an employee already has children included in his or her benefits plan, there would be no change. If an employee pays for part of his or her coverage, the same level of payment would be required to cover a partner. Although the benefits are not included in calculating state income tax, the employee is still required to pay federal income taxes, as well as Social Security and Medicare taxes on the value of the benefits—spouses and children's benefits are not subject to this taxation.⁴⁰

Residents have not been able to register for domestic partnerships since New Jersey's civil union law took effect in 2007. Partnerships established prior to 2007 are still recognized, and state employees who enter civil unions are eligible for any benefits that would be accorded a heterosexual spouse, though these are taxed in the same way as domestic partner benefits.⁴¹

Montana

A court decision in 2005 added Montana to the list of states providing domestic partner benefits to state employees. Around 140 employees have included their domestic partners in the state plan. There has been no noticeable increase in benefit costs to the state. Additionally, the state has found that, given that workers accept decreased salaries when they enter the public sector, generous benefits help keep the state's package competitive.⁴² This echoes the Williams Institute's findings that offering equal benefits increases recruitment and reduces turnover, as well as creates a healthier environment for workers.⁴³

Illinois

Illinois Governor Roy Blagojevich issued an executive order, effective July 1, 2006, that extended health, dental, and vision insurance coverage to the domestic partners of state employees. The 37,000 state employees who are members of the American Federation of State, County, and Municipal Employees began receiving these benefits in 2004 following a contract negotiation, and the state will adopt that contract's guidelines for all state employees. The state expected an enrollment increase of roughly .5 percent, with an annual state cost increase of approximately \$2.2 million. The state also expected net savings once it began providing the same set of benefits to all its employees. State government officials, including the human resources director and insurance benefits director, joined advocacy groups to praise the governor's decision to extend the benefits.⁴⁴

Alaska

Alaska's Supreme Court ruled in 2006 that the state was required to provide the same health insurance to employees' same-sex partners as they granted to employees' spouses. The decision was handed down in an equal protection case that had been brought by several state employees. All Alaska state employees at the time applied the same proportion of their salary toward insurance, yet only married employees were able to obtain coverage for a partner. Conservative activists and legislators attempted to constitutionally bar the equal benefits following this ruling, but their efforts were ultimately unsuccessful.⁴⁵

Alaska hired a consulting firm to project enrollment and cost increases, taking into consideration the state university system and the city of Juneau, which had previously instituted the benefits. Extending benefits to same-sex and opposite-sex domestic partners was considered. If coverage was only added for same-sex domestic partners, enrollment was expected to increase 0.5 percent and costs were projected to rise between \$84,000 and \$120,000 for active employees and between \$533,000 and \$760,000 for retired employees. If coverage was expanded to different-sex domestic partners as well, enrollment was projected to increase by 2.0 percent, and costs were projected to increase between \$390,000 and \$544,000 for active employees and between \$2,226,000 and \$3,181,000 for retired employees.⁴⁶

Arizona

Arizona's domestic partner benefits program will take effect in October 2008, and will include coverage for the partners of state and public university system employees. The decision to begin offering the benefits came out of a Department of Administration proposal and was unanimously approved by the Governor's Regulatory Review Council this spring. Under the new rules, domestic partners, as well as their dependents, will qualify for state employee benefits.

Those in favor of expanding benefits argue it will improve recruitment and retention; given the prevalence of the benefits at other institutions and organizations, it can be difficult for the state to remain competitive without providing similar benefits. Governor Napolitano and her staff also pointed to the issue of fairness in championing the benefits. The state predicts enrollment of between 317 and 853 employees, costing the state up to \$4.25 million. The issue has undergone much debate in Arizona, but public opinion supports the council's ruling; 913 individuals and groups wrote to the Department of Administration about the benefits, with 787 writing in favor and only 112 in opposition.⁴⁷

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Acknowledgements

Anna Kirsanova (Alaska Department of Administration), Greg Beatty (California Department of Personnel Administration), Valerie Wilkins (DC Human Resources), Donald Cohn (DC City Council Committee on Health), Ed Holland (Iowa Department of Administrative Services), Barbara Marchant (Iowa Public Employee Relations Board), Myke Selha and Rick Davis (LGBT Community Center of Central Iowa), Tanya L. Plante (Maine Office of Employee Health and Benefits), Alicia Kellogg (Maine Department of Administrative & Financial Services), Justin Brown (Maine Housing Authority), Samantha Walker (Maine Marriage and Divorce Representative), Dale McCormick, Casi Hunter (Montana Health Care and Benefits Division), Kathleen Field (Montana Department of Administration), Darryl L. Decker (New York Governor's Office of Employee Relations), Kathryn S. Callaghan (Vermont Administrative Services Division), Renee Bourbeau and Mary Fliss (Washington Public Employee Benefits Board), Beth Dupre and Dennis Martin (Washington Health Care Authority), Megan Moreno (Washington Secretary of State's Office), The Williams Institute, Human Rights Campaign.

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Center for American Progress



**Post-Hearing Questions for the Record
Submitted to the Honorable Howard C. Weizmann
From Senator Joseph I. Lieberman**

**“Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business”
September 24, 2008**

1. **You testified that a strict interpretation of S. 2521, as currently drafted, raises questions as to whether benefits would be available to same-sex domestic partners once an employee retires. In drafting the bill, I intended that a federal employee and a domestic partner who qualify for coverage under the bill would, after the employee retires, continue to be covered under applicable retirement statutes to the same extent as a retired federal employee and the employee’s spouse. Would you explain specifically why you believe that the legislation as currently drafted might not be interpreted to make benefits available to a same-sex domestic partner after the employee retires?**

As written, S. 2521 does not amend the appropriate benefits chapters of title 5, United States Code, but rather creates a legislative obligation in the statutes at large, and as such could raise questions as to whether benefits would be available to domestic partners once an employee retires. Under the applicable definitions contained in 5 U.S.C. 8331 and 8401, “employee” and “annuitant” have separate definitions. Generally speaking (with the exception of reemployed annuitants), they are mutually exclusive categories, with an “annuitant” in part defined as a “*former* employee or Member.”

2. **In your testimony, you summarized OPM’s estimate of how much the bill would increase FEHB Program costs for 2010 and for the ten years 2010 through 2019. You also provided OPM’s estimate of the total present value of increased survivor benefits. Would you please provide for the record a detailed breakdown of how much OPM estimates S. 2521 would cost and an explanation of the methods and assumptions as to how OPM arrived at that estimate?**

OPM believes that S. 2521 would cost approximately \$610 million over ten years. The cost to the government through programs administered by OPM would come from the additional government contribution payments for coverage under self and family enrollment in the Federal Employees Health Benefits (FEHB) Program offset by initial cost savings from retiree payments for the election of a future survivor benefit for their domestic partner under the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS).

FEHB PROGRAM COSTS

We have assumed that 0.34% of Federal employees would set up same-sex domestic partnerships and 80% of those would change to self and family enrollment under the FEHB Program. This assumption is based on the Congressional Budget Office Cost Estimate conducted in 2003 for H.R. 2426, the Domestic Partnership Benefits and Obligations Act. H.R. 2426 would have provided benefits to domestic partners of Federal employees, akin to S. 2521, but for both same-sex and opposite-sex partners. In that report, CBO estimates that

about 2% of Federal employees will elect to provide health care for a domestic partner and that approximately 17% of those elections will be same-sex partnerships (0.34%). A copy of CBO's estimate is attached.

Calculation of Government Share and Estimated Participation Rate

FEHB Government Share (2008 Calendar Year)

	Non-Postal	Postal	New Annuitant
Self (Bi-weekly)	\$136	\$161	\$142
Family (Bi-weekly)	\$313	\$367	\$321
Annual difference	\$4,597	\$5,351	\$4,641
Employees	1,500,000	600,000	85,000
Additional family enrollments	5,100	2,040	289

The following chart shows the estimated additional cost of the government share for a switch from self enrollment to family enrollment for postal, non-postal and annuitant populations by year, through 2019, which results in a cumulative total of \$672 million in additional outlays.

Costs to the Government

CY	7% inflation			Additional Costs			Cumulative Total (\$ millions)
	Extra Family Enrollment	Postal	Annuitant	Non-Postal	Postal	Annuitant	
	Non-Postal			Non-Postal	Postal	Annuitant	
2010	5,100	2,040	289	\$27	\$12	\$2	\$41
2011	5,100	2,040	578	\$29	\$13	\$3	\$45
2012	5,100	2,040	867	\$31	\$14	\$5	\$50
2013	5,100	2,040	1,156	\$33	\$15	\$8	\$56
2014	5,100	2,040	1,445	\$35	\$16	\$10	\$62
2015	5,100	2,040	1,734	\$38	\$18	\$13	\$68
2016	5,100	2,040	2,023	\$40	\$19	\$16	\$75
2017	5,100	2,040	2,312	\$43	\$20	\$20	\$83
2018	5,100	2,040	2,601	\$46	\$21	\$24	\$91
2019	5,100	2,040	2,890	\$49	\$23	\$28	\$101

Totals may not add due to rounding

SURVIVOR ANNUITY BENEFITS

We have also prepared an estimate of the cost of the legislation in increased survivor benefits. Once again, we have assumed that 0.34% of Federal employees would establish eligible same-sex domestic partnerships based on the CBO Cost Estimate, and that 85% of those would elect survivor benefits. Using these assumptions, 340 employees in a same-sex domestic relationship would retire each year and 289 of those would elect a survivor annuity for the employee's domestic partner.

The legislation would increase the total present value of benefits by about \$50 million (\$37 million for non-Postal and \$13 million for Postal). As discussed above, the Budget outlays decrease during the first ten years because the retirees' annuities are less than the full, life-rate in order to pay for the survivor reduction, while initially there would be only a few survivors who would actually receive annuities. In other words, the estimates below are negative because at the beginning of the program only a few domestic partners would be expected to receive survivor annuities, but the employees who retired would have their annuities reduced in order to pay for the future annuities of their partners. That means, initially, the payout by the government would be less because it would not be paying full annuities to these retiring employees. Thus, the \$672 million in FEHB 10-year costs are partially offset by the \$62 million saved in reduced retirement annuity outlays during that period, resulting in the \$610 million net cost figure.

Estimates include additional survivor benefits for deaths of employees.

Change in Budget Outlays (\$ Millions)

	Non-Postal	Postal	Total
2009	-2	0	-2
2010	-3	-1	-4
2011	-3	-1	-4
2012	-4	-1	-5
2013	-4	-1	-5
2014	-5	-1	-6
2015	-5	-2	-7
2016	-7	-2	-9
2017	-7	-3	-10
2018	-7	-3	-10

**Post-Hearing Questions for the Record
Submitted to the Honorable Howard C. Weizmann
From Senator Susan M. Collins**

**"Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business"
September 24, 2008**

- 1. In Maine, when a domestic partnership is terminated, either party may terminate upon mutual consent and file a "Termination of Domestic Partnership by Mutual Consent form" or through the "Alternate Notice of Termination of Domestic Partnership." This form must be served on the other party and then upon 30 days after service the partnership is terminated. Both forms are filed with the Domestic Partnership Registry.**

I also understand that IBM has a similar process that provides that within 30 days of the termination of the domestic partnership an employee will fill out an "Affidavit of Termination of Domestic Partnership." Once received by IBM, benefits would cease upon the last day of the month in which the partnership ends unless IBM decides to make continuation coverage under the IBM group health plans available for purchase. Would this type of process whereby a federal employee could file an affidavit with OPM certifying that the partnership has terminated alleviate OPM's concerns with respect to having a date certain for the dissolution of a partnership?

No. The bill provides that affidavits of eligibility for benefits and obligations be filed with the Office of Personnel Management (OPM). However, unlike IBM, Federal human resources functions are de-centralized and performed by individual agencies on behalf of their employees. OPM does not have a central clearinghouse to administer benefit programs for individual Federal employees.

Changes in Direct Spending										
Increase in FEHBP Benefits (future retirees)	4	9	14	19	25	32	40	49	58	69
Net Increase in FECA Outlays ^a	2	2	*	*	*	*	*	*	*	*
Postal Service FEHBP and FECA Costs (off-budget)	54	59	0	0	0	0	0	0	0	0
Reduction in Survivor Annuity Payments	-3	-7	-10	-13	-17	-21	-25	-29	-32	-36
Total, Direct Spending	57	63	3	5	8	11	16	20	26	32
Changes in Discretionary Spending										
Agency Costs for FEHBP Benefits (active employees)	91	96	102	109	117	125	134	143	152	162
Agency Costs for FECA	1	1	3	3	3	3	3	3	3	3
Total, Discretionary Spending	92	97	105	112	120	128	137	146	155	165

NOTES: FEHBP = Federal Employees Health Benefits Program. FECA = Federal Employees Compensation Act. Components may not sum to totals because of rounding. This estimate assumes that the bill will be enacted by October 2003. The estimate does not reflect changes to the Internal Revenue Code; those effects would have to be estimated by JCT.

* = Less than \$500,000.

a. The outlays shown are net of receipts from federal agencies.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 2426 will be enacted by the end of fiscal year 2003 and that domestic partners would be eligible to begin receiving benefits in November 2003. CBO estimates that about 2 percent of federal employees would elect to provide health care and retirement benefits for a domestic partner if given the opportunity. Approximately 83 percent of the costs would come from partners in opposite-sex partnerships and approximately 17 percent of costs derive from partners in same-sex partnerships. These figures are based on information from state and local governments as well as corporations that have adopted similar policies. In addition, domestic partners of workers who retire after the bill goes into effect would be eligible to opt for survivor annuity coverage, as well as retiree health care benefits.

Direct Spending

Federal Employees Health Benefits Program (FEHBP) for Future Retirees. H.R. 2426 would extend eligibility for health benefits to the domestic partners of retiring federal employees. An employee who retires after enactment of the bill would be allowed to maintain family coverage for his or her domestic partner. Unlike premiums for current workers, the government's share of health care premiums for retirees is classified as direct spending. For each year of the 2004-2013 period, CBO projects that approximately 1,000 additional family coverage policies would be added to the FEHBP by retiring non-Postal Service workers choosing to cover domestic partners. As a result, direct spending would increase by \$71 million over the next five years and by \$319 million over the next 10 years. The costs associated with providing benefits to the domestic partners of both active and retiring Postal Service workers are discussed below.

Federal Employees' Compensation Act (FECA) Benefits. FECA provides compensation to federal civilian employees for disability due to personal injury sustained while in the performance of duty. Married workers currently receive slightly higher FECA benefits for wage replacement than do single workers. Additionally, if an employee dies of an employment-related injury or disease, his or her spouse receives monthly compensation equal to 50 percent of the deceased employee's salary. CBO projects that H.R. 2426, if enacted, would provide FECA benefits to approximately 1,200 domestic partners of non-postal federal employees each year. Additional costs would total \$35 million; agencies would have to cover those costs over time from appropriated funds (see below). Because increases in agency contributions would lag behind the increased costs, there would be a net increase in direct spending of \$4 million over the 2004-2013 period.

Postal Service Employees. Postal Service employees would also be eligible for domestic partner coverage under H.R. 2426. CBO estimates that providing health benefits to the domestic partners of active postal workers would result in about 11,000 postal employees moving from individual to family coverage plans. Additionally, CBO anticipates that approximately 500 of the postal workers who would retire each year would maintain FEHB coverage for their partners. Together, these benefits would cost \$311 million over the 2004-2008 period and \$814 million over the 2004-2013 period. Additionally, extending FECA benefits to Postal Service employees would cost \$15 million over the next five years and \$30 million over the next 10 years.

The operations of the Postal Service are classified as off-budget (like Social Security), although the total federal budget records the agency's net spending (outlays less offsetting collections). The Postal Service's mandate requires it to set postage rates to cover its operating expenses, and thus it would be expected to cover 100 percent of the increased costs associated with H.R. 2426 from postage receipts. However, the Postal Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) effectively froze postage rate increases until 2006. Therefore, for the 2004-2005 period, the increased costs resulting from H.R. 2426 would not be offset by higher postal receipts. Beginning in 2006, the Postal Service would be able to raise postage rates to account for its increased costs. As a result, CBO estimates that extending FEHBP and FECA benefits to the domestic partners of Postal Service workers would increase off-budget direct spending by \$113 million over the 2004-2005 period and would have no net effect after that.

Survivor Annuities. Under current law, a federal employee who is eligible to receive retirement benefits may elect to provide his or her spouse with a survivor annuity by reducing the value of the employee's annuity. Participants in the Civil Service Retirement System (CSRS) face different reductions and survivor annuity benefit levels than participants in the Federal Employees' Retirement System (FERS). Under both plans, those who elect survivor benefits face a reduction in their current annuity of between 5 percent and 10 percent.

Under H.R. 2426, federal employees who retire would be able to choose to reduce the value of their own annuities in order to provide survivor annuities for their domestic partners. CBO estimates that 85 percent of federal employees with domestic partners would elect survivor benefits if given the opportunity. On that basis, CBO projects that approximately 2,000 newly retired federal employees

each year would add survivor annuities for their domestic partners and thus collect smaller annuities. However, some of these individuals would die and their partners would begin collecting survivor benefits. Over the next 10 years, the savings from the reduction in retirees' annuities would outweigh the additional costs for survivors' annuities. CBO estimates that direct spending would decrease by \$51 million over the 2004-2008 period and by \$194 million over the 2004-2013 period.

Coverage of Current Retirees. H.R. 2426, as introduced, would extend domestic partner benefits to all current federal retirees, as well as active workers. However, the sponsor indicated to CBO that this was not the intent of H.R. 2426 and requested that CBO estimate the costs of the bill under the assumption that it would be changed to include only active workers and those who retire after the bill's enactment. The above estimate reflects that assumed change. If all current retirees were to receive the same benefits that new retirees would receive under H.R. 2426, the cost of the bill would increase by an additional \$448 million over the 2004-2008 period and \$1.4 billion over the 2004-2013 period.

Discretionary Spending

Health Benefits for Active Employees. H.R. 2426 would allow federal employees to add domestic partners to their health insurance policies. CBO estimates that about 80 percent of employees who add a domestic partner would switch from individual coverage to family coverage. Federal agencies pay about 72 percent of health-care premiums for active employees; thus, as premiums rise, so do agency contributions. In 2004 family coverage policies for active employees are projected to cost the federal government approximately \$3,800 more than individual coverage policies. CBO estimates that providing additional family coverage policies to about 24,000 non-postal employees who would elect domestic partner coverage would increase spending subject to appropriation by \$515 million over the 2004-2008 period and by \$1.2 billion over the 2004-2013 period.

Federal Employees' Compensation Act Benefits. As discussed under the direct spending section, this bill would result in increased spending for federal workers' compensation. The reimbursement of FECA expenses paid by the Department of Labor comes from discretionary salary and expense accounts of federal agencies. Because these expenses are ultimately borne by the employing agency, CBO estimates discretionary spending would increase by \$11 million over the 2004-2008 period and by \$26 million over the 2004-2013 period to pay for these benefits.

Federal Employees' Group Life Insurance (FGLI) Benefits. Under current law, the federal government pays one-third of basic life insurance premiums and employees pay two-thirds. Optional coverage that provides benefits above the basic level is paid for entirely by the employee. H.R. 2426 would allow federal employees to purchase Option C coverage, which would insure a domestic partner for up to \$25,000. The premium for this option is actuarially sound; over time, premiums paid in to the account equal the payouts from the account. While the cash flow in any given year could be positive or negative, the overall impact on the federal budget would be negligible.

Tax Changes

H.R. 2426 contains provisions that would amend the Internal Revenue Code of 1986. Those changes would likely have tax implications that CBO does not estimate. The Joint Committee on Taxation normally supplies the estimate of the tax effects of legislation.

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**Post-Hearing Questions for the Record
Submitted to Dr. Yvette C. Burton
From Senator Joseph I. Lieberman**

**“Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business”
September 24, 2008**

1. In your testimony, you summarized the requirements that IBM has established for its employees who would like to qualify for domestic partner benefits and the requirements that apply if the domestic partner relationship ends. You also offered to provide more detailed information about IBM’s process. Would you please provide more detailed information regarding IBM’s process for the record?

Eligibility criteria

Effective January 1, 1997, a variety of IBM benefit plans became available to qualifying same gender domestic partners for participants who are active employees or on approved leaves of absence with benefits (other than bridge leave) on or after such date.

Who qualifies as a domestic partner? IBM defines a domestic partnership as the relationship between two people who meet all of the following criteria:

- *They are of the same gender*
- *They share an intimate, committed relationship with each other; intend to do so indefinitely; and have no such relationship with any other person*
- *They are jointly responsible for each other's welfare and financial obligations*
- *They reside in the same household*
- *They are not related by blood to a degree of kinship that would prevent marriage from being recognized under the law of their state of residence*
- *Each of them is over age 18, of legal age, and mentally competent to enter a contract*
- *They reside in a state under the law of which marriage or an attempted marriage between two persons of the same gender is not recognized as a valid marriage*
- *If they reside in a state that provides a means for legal recognition of the relationship (e.g., civil union), they have obtained such legal recognition under the laws of such state within the time period required by IBM.*
- *Neither of them is married to a third party*

Termination of domestic partnership

What should I do if my domestic partner dies or the partnership is terminated in some other manner? You must complete the *Affidavit of Termination of Domestic Partnership*, which is

included with this Guide, and submit it to the ESC within 30 days of the termination of your relationship. The current address for submission is:

If the domestic partner is still living, a copy of the "Affidavit of Termination of Domestic Partnership" should be mailed to him or her. Once your Affidavit of Termination of Domestic Partnership has been received by the ESC and has been determined to be in good order, eligibility of your domestic partner will cease upon death or on the last day of the month in which the partnership ends.

***Note:** Where a civil union or other legalized relationship under state law has been entered into, any applicable state law requirements for dissolving the relationship must be completed and submitted to the ESC at the above address.*

***Will continuation coverage be available to my domestic partner if the partnership is terminated?** Yes, although not legally required to do so, IBM has decided to make continuation coverage under the IBM group health plans available for purchase by former domestic partners in such situations for a limited time (generally up to 36 months) at group rates. You or your former domestic partner must notify the ESC within 60 days from the end of the month in which the domestic partnership terminated; otherwise, the opportunity for your domestic partner to purchase continuation coverage will be lost.*

***Will continuation coverage be available to the children of my domestic partner when they cease to meet the eligible family member criteria?** Yes, continuation coverage will be available as explained above when the children no longer meet the eligibility criteria of the IBM Plan (e.g., they marry, become employed full-time, no longer reside in your household, are no longer principally dependent on you, or reach age 23).*

Coverage will cease on the last day of the month in which they no longer meet the eligibility criteria. The ESC must be notified within 60 days from the end of the month when they cease to meet the eligible family member criteria; otherwise, the opportunity to purchase continuation coverage will be lost.

2. You testified that the literature suggests fraud is not a problem when companies rely on employee affidavits to qualify for benefits, and that there is greater fraud in marriage licenses being produced that are not valid than there are in affidavits. Would you elaborate on that statement?

As discussed, IBM has attached examples of studies that demonstrate there are not problems when companies rely on employee affidavits to qualify for benefits. Please note these are not IBM driven studies.

A) Please see Page 8 of the University of Kentucky Study on Domestic Partnership Benefits:

B) Report of the Council on Medical Services:

C) Quote from Business for Social Responsibility:

"It is worth nothing that since Domestic Partner Benefits were introduced, not a single case of employee fraud has been documented...."

<http://www.bsr.org/research/issue-brief-details.cfm?DocumentID=49766>

3. You also testified that studies indicate the benefits of providing domestic partner benefits strongly outweigh the costs. Would you expand upon that statement?

As discussed, IBM has attached studies that demonstrate providing domestic partner benefits outweigh the costs. Please note these are not IBM driven studies. See attachments in the e-mail.

A) HRC: Link to Article on Corporate DP History and Framework:

<http://www.hrc.org/issues/workplace/benefits/dom>

B) Article: The True Cost of Providing Domestic Partner Health Care Benefits (7/13/2005):

Opponents of fair compensation for state employees in committed same-sex relationships have claimed that the cost of providing domestic partner health benefits will be a significant impact on the state budget. This is simply untrue. In the two decades since companies and state and local governments have been providing domestic partner benefits, studies repeatedly have found that there is no significant increase in healthcare costs.

When the State of Minnesota provided domestic partnership health benefits to state employees, the Minnesota Department of Employee Relations reported that the increase in cost in 2002 was only \$189,000 - out of a total health care budget of \$331 million (or, an increase of only .05 percent in state employee health care costs). Julien Carter, Commissioner of the Department of Employee Relations, also reported that if the value of these benefits "were redistributed to each state employee in the form of wages, they would represent approximately .002 cents per hour" (or, 4 cents per year). See April 16, 2002, letter from Julien Carter, Commissioner of Department of Employee Relations, to House Speaker Steven A. Sviggum.

The City of Madison, which has offered domestic partner health benefits for city employees since 1999, found that the increase in cost in providing reimbursement for health insurance for domestic partners was negligible - a less than one percent increase in the City's health care budget.

When the City of Milwaukee offered the benefits in 2002, far fewer than one percent of employees registered for the benefits. See "Fourteen Milwaukee Workers Seek Partner Health Coverage," *Milwaukee Journal Sentinel* (Dec. 27, 2001).

In April 2004, a spokesperson for the Madison-based American Family Insurance Company reported that their healthcare costs increased less than one percent after they began offering domestic partner health benefits in 2002.

The State of Illinois will begin offering domestic partner benefits to state employees in 2006. The Illinois Department of Central Management Services has estimated that the cost of providing domestic partner benefits will be approximately one tenth of one percent of the state's employee health care budget. [Read the report.](#)

These experiences are consistent with studies across the country which have found that offering domestic partner benefits does not lead to a significant increase in cost.

A survey conducted by the Society for Human Resource Management revealed that 85 percent of companies that provide domestic partner benefits reported that their health care expenses remained about the same after offering these benefits. See *Society for Human Resource Management, "Domestic Partner Benefits Survey" (1997)*. [Read the report](#) (subscription required).

As reported by the Employee Benefit Research Institute in March 2004, "employers are no more at risk when adding domestic partners than when adding spouses. Experience has shown . . . the costs of domestic partner coverage to be lower than anticipated." [Domestic Partner Benefits: Facts and Background](#), EBRI (2004).

Karen Roberts, a senior vice president with AON Consulting, a benefits consulting firm, said in an article published in *Business Insurance* in 2003 that "It's certainly a philosophical issue and not a financial issue. . . . Any employer who has based their reason for not offering [domestic partner benefits] on cost really has not done their homework." See *Judy Greenwald, "More U.S. employers seen adding benefits for domestic partners," Business Insurance, Vol. 37, Issue 32 (Aug. 11, 2003)*.

A national study by KPMG Peat Marwick published in 1997 found that the costs of providing health insurance coverage for firms offering domestic partnership benefits was "equivalent" to the cost to firms not doing so. See *"Health Benefits in 1997: Survey of Employer-Sponsored Benefits," Montvale, NJ, KPMG Peat Marwick, 1997*.

According to a 1997 study by the National Lesbian and Gay Journalists Association, companies that provided domestic partner health benefits to same-sex couples found that their overall health insurance costs increased by less than 0.5 percent. See *"Domestic Partner Benefits: A Trend Toward Fairness," National Lesbian and Gay Journalists Association, Washington, 1997*.

Who else offers these benefits?

Eleven other states (Connecticut, Illinois, Iowa, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington) and the District of Columbia offer these benefits, and they have not found the cost of doing so to be burdensome or prohibitive.

175 city, county and governmental agencies also offer domestic partner health benefits, including the City of Madison, Dane County, the City of Milwaukee, the La Crosse School District, Western Wisconsin Technical College, and other public employers in Wisconsin.

[233 Fortune 500 companies](#) now offer domestic partner health benefits

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Report on Domestic Partnership Benefits

**University of Kentucky President's Commission on Diversity
Inclusion Sub-Committee**

March 2005

**Commissioner Jeff A. Jones, Ph.D.
Commissioner Mary Bolin-Reese, Ph.D.**

Introduction

Frequently Asked Questions about Domestic Partnership Benefits

Benefits Listed by Relationship to Employee

Comparative Cost Impact on UK Families

Timeline of Domestic Partner Issues at UK

UK Employees' Personal Stories: The Impact of the Lack of Domestic Partner Benefits on UK Employees

Proposed Model for Domestic Partnership Benefits Plan for the University of Kentucky

Appendix 1: 2003 Top Twenty Ranked Public Research Universities Domestic Partner Policies

Appendix 2: 2005 Domestic Partner Policies at UK's Former 19 Benchmarks

Appendix 3: 2005 Domestic Partner Policies at Flagship Public Universities in Neighboring States

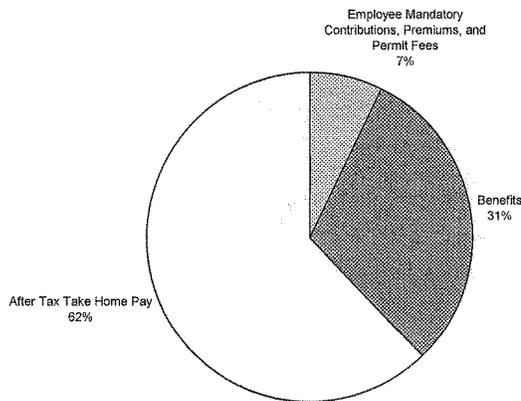
Appendix 4: Examples of Domestic Partner Documentation Forms from Other Universities

Introduction

Benefits are an increasing concern for employees at most work sites. The University of Kentucky is no exception. As the chart below shows, benefits for a single UK employee made up almost a third of total compensation in 2004. This percentage is often even larger for employees whose families can be covered under a range of UK benefits. Employers offer benefits as a means to attract and keep skilled employees. In the University's efforts to attain the status of a top 20 public research university, compensation is often critical in attracting new talent and retaining current employees from offers by other universities, government, and private industry.

Domestic partnership benefits have been a frequent request at UK for at least 15 years. As other universities have added such benefits, the call for adding such benefits has only become louder. At the same time, the country as a whole is gripped in often heated struggles over accommodating or resisting an increasingly diverse variety of American family structures.

This report examines many of the issues around domestic partnership benefits and the University of Kentucky, and concludes with a multi-stage implementation model of what and how such benefits could be offered by the University.



Graph Based on Actual Payroll Earnings/Deductions Statement for Single UK Employee, 2004 Calendar Year

Questions and Answers About Domestic Partnerships and the University of Kentucky

What is a domestic partnership?

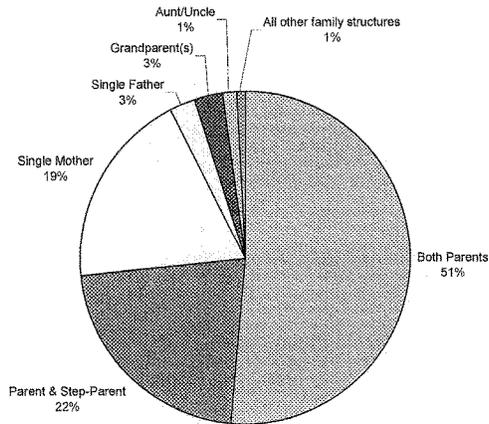
A *domestic partnership* is an increasingly common term to describe a range of intimate, romantic, and/or loving relationships between two individuals committed to sharing life's joys and responsibilities. This term in its broadest sense thus encompasses relationships such as:

- Legally recognized marriages
- Religious marriages not legally recognized (usually between a same-sex couple)
- Couples (opposite-sex/heterosexual or same-sex/homosexual) living together in a committed relationship outside of legal marriage
- Common law marriages recognizing opposite-sex couples living together but without a formal legal marriage
- Sometimes, in the broadest sense, any two people sharing a household (such as roommates)

Why would an employer want to offer domestic partnership benefits?

American family structures have grown to become very diverse. The pie chart below shows the biological relationship for the students at eight Fayette County middle schools as drawn from a Fall 2004 survey.

Family Structures for Eight Fayette County Middle Schools, 2004
(Missing Responses Not Included.)



Source: 2004 Fayette County Middle School Youth Risk Behavior Survey

Almost half of these students do not live with both their biological parents. This survey also asks about who a student lives with and not the legal relationships within the family. Thus, it is likely that not all 51% of biological parents living together with their child are legally married. While this example shows the diversity among Fayette County's children, UK employees are likely far more diverse with many not having children and living in a variety of family structures.

As an employer in a competitive market to attract the best and brightest academic and administrative talents, UK faces other institutions in larger, more culturally diverse urban areas and other universities offering domestic partnership benefits. For a potential or current employee whose dependents are not covered by existing UK benefits criteria, domestic partnership benefits can amount to thousands of dollars annually in additional compensation or savings.

What are domestic partnership benefits?

Domestic partnership benefits vary from company to company. The benefits offered within a domestic partnership package vary from employer to employer, but typically are characterized by health care coverage for same-sex and opposite-sex unmarried partners along with whatever other benefits the employer offers to members of an employee's legally recognized spouse/ex-spouses and children.

More commonly domestic partnership benefits are offered by companies to keep and attract quality personnel. American companies have traditionally offered benefits such as insurance, bereavement leave, trailing spouse hiring programs, access to company discount programs, and access to company recreation facilities to employees and their legally married spouses. Most also extend such benefits to the legally recognized children (biological, adopted, or step) of employees. Such benefits often account for a significant (up to 40% in some cases) portion of a company's compensation to an employee. Companies can thus attract, keep, and compensate employees more fairly by offering DP benefits.

How common are domestic partnership benefits?

Domestic partnership benefits are increasingly common - especially in business sectors where there is competition for skilled professionals:

- 75% of the top twenty public research universities offer some type of DP benefits with 65% offering health insurance benefits (See Appendix 1)
- 68% of UK's former 19 benchmarks offer some type of DP benefits with 37% offering health insurance benefits (See Appendix 2)
- Among neighboring states' flagship universities, Indiana University, Ohio State University, and the University of Illinois all offer DP benefits including health insurance benefits (See Appendix 3)
- One third of the Fortune 500 companies offer DP benefits
- Eight state governments offer DP benefits to state employees
- 130 cities and towns offer DP benefits to city employees
- 44 of the top 50 (88%) ranked US universities
- 18 of the 74 (24%) statewide university systems in the US

- 150 of the 530 (28%) individual state-funded universities

(Sources: Human Rights Campaign, Gay Financial Network, American Civil Liberties Union, Lambda Legal Defense and Education Fund)

The following local, central Kentucky employers offer domestic partnership benefits.

- Amazon.com
- American Airlines
- Avon
- Bank One
- Barnes and Noble
- Blockbuster
- Centre College
- Chevron
- Cingular Wireless
- Coca-Cola
- Continental Airlines
- Delta Airlines
- Disney Corporation
- Eddie Bauer
- Gap, Inc.
- Gateway
- Hilton Hotels
- IBM
- IKON Office Solutions
- Insight Communications
- JP Morgan
- Kinkos
- Lazarus (Federated Department Stores)
- Lexington Herald-Leader (Knight-Ridder)
- Lexmark
- Merrill Lynch
- Northwest Airlines
- Proctor and Gamble
- Prudential Financial
- R. J. Reynolds
- Charles Schwab
- Sheraton (Starwood Hotels)
- Starbucks Coffee
- Target
- Toyota
- United Airlines
- US Airways
- US House of Representatives
- Verizon Communications
- Xerox Corporation

Within the technology sector, such benefits are common personnel practices and include such industry leaders as:

- Adaptec
- Adobe Systems
- AOL Time Warner
- Apple
- Cisco Systems
- Compaq
- Dell
- Digital Equipment Corporation
- Gateway
- Hewlett-Packard
- Honeywell
- IBM
- Intel
- Lotus
- Lucent Technologies
- Microsoft
- Motorola
- NCR Corporation
- Netscape
- Nokia
- Novell
- Oracle
- PeopleSoft
- QualComm
- Quark
- Raytheon
- SAS Institute Inc.
- Sony
- Sun Microsystems
- Sybase
- Texas Instruments
- Unisys
- Xerox
- Yahoo! Inc.

How would an employer define a couple as being domestic partners?

Usually a domestic partnership policy includes a means to define who is a couple using various ways:

- The couple can sign a form and/or affidavit with Human Resources that they are a committed couple who live together, are exclusively partnered, are not otherwise legally married, and plan on staying together.
- Different companies structure their policy differently but may ask couples to show some form of documentation of joint residence, joint finances, or other shared commitment.
- A policy also usually includes a form severing DP benefits in case a couple dissolves their domestic partnership.
- Employers who do not require marriage licenses or documentation of a legal marriage may simply use benefit enrollment forms to sign up or remove a spouse or partner.

Won't people try to defraud the company by registering roommates and friends?

According to studies collected by the Human Rights Campaign (www.hrc.org), there is not a single reported case of the fraudulent use of a domestic partnership benefit package. The likelihood is rare -especially considering the fear of bias or ostracization associated with revealing that one is gay/lesbian. Documentation such as enrollment forms stating that two individuals are a domestic partnership couple also provides the means for pursuing any fraud attempted against an employer. In many cases domestic partners must show more proof of relationship than a legally married couple, yet fraud to gain insurance benefits among domestic partners and legal spouses is extremely rare.

Is there a financial impact?

Providing benefits to domestic partners cost no more than covering employees' far more numerous legal spouses. In fact, one study discussed in the September 1997 *Risk Management* found that same-sex domestic partner coverage on average costs employers less than covering opposite-sex couples. The reason for this involves the expenses associated with pregnancy and especially for premature births. While same-sex couples do have children, opposite-sex couples are more likely to be parents and thus have larger families to be covered by employers. In the aforementioned study, same-sex couples were also more likely to be younger.

Studies by Dr. Lee Badgett find that usually only one to two percent of employees utilize domestic partnership benefits. The 2% figure is usually only reached when a company or university extends such benefits to opposite-sex unmarried couples as well as same-sex couples.

How is this different than marriage?

While same-sex marriages are currently legal in Massachusetts and a number of countries (the Netherlands, Denmark, Canada, etc.), Kentucky law does not recognize them. Thus, same-sex couples cannot access hundreds of spousal benefits:

- Over 1,000 federal benefits covering taxes, inheritance, divorce, immigration, protection from testifying against one's spouse, child custody, insurance, veteran's benefits, and Social Security benefits
- Over 180 state benefits under Kentucky law covering property, children, and benefits

- Discounts and programs by private companies open only to legal spouses

Domestic partnership benefits are not marriage. They extend to employees less than a handful of the hundreds of benefits going to legally married couples. Many of the legal benefits of civil marriage can only be granted by state or federal government. Such benefits as health insurance, however, are often available to an employee's children and sometimes other dependent parents. Thus, providing health care to an employee's dependents is not defined by marriage to that dependent. Domestic partnership benefits recognize the diversity of America's families and the care and responsibilities an employee's household demands.

With the passage of state constitutional bans on recognizing same-sex marriages and, more vaguely, similar relationships, the legality of DP and other programs in these states have been questioned:

Like Kentucky, Louisiana passed a constitutional ban on recognition of same-sex marriages and similar relationships in 2004. The City of New Orleans, however, continues to offer domestic partnership benefits. New Orleans' legal department has taken the stand that offering benefits to various employee dependents does not constitute offering benefits based solely on a marriage or marriage-like relationship. Thus, New Orleans holds that the ban has no effect on their DP program.

On the other hand, a March 2005 decision by the Michigan Attorney General is more complex. In November 2004 Michigan voters also approved a ban on same-sex marriages and similar relationships. As in other states during the election, supporters of the ban argued that if approved, the ban would not have an impact on DP programs. The Attorney General's opinion, however, finds that the ban bars state entities from offering DP programs to both same-sex and opposite-sex couples. While his opinion does not affect current contracts, new labor contracts and enrollments for state and municipal workers will strip employees' families of existing DP benefits. Of note, however, in the opinion is the Attorney General's belief that DP benefits could legally be offered based on membership in an employee's household. Such benefits, however, can not be offered based on an intimate and loving relationship akin to marriage. The opinion does not fully address about whether state universities will also have to strip DP benefits from their employees. The ACLU is suing over the opinion, however, on behalf of state employees, the University of Michigan, and the City of Kalamazoo.

Ohio recently approved a ban that has created numerous legal complications. Several heterosexual Ohio men have challenged whether state domestic violence statutes apply to them. Their attorneys argue that because the men were not legally married to the women they beat, they cannot be tried for domestic violence. Simple assault carries lesser penalties in Ohio than domestic violence. Similarly, an Ohio lesbian who is the biological parent of a child she and her partner conceived through artificial insemination is seeking to remove her ex-partner's joint custody under the argument that the constitutional ban strips the non-biological mother of any custody rights.

Kentucky's constitutional ban also defines legal marriage as only between one man and one woman. It goes on further, however, to also ban *a legal status identical to or substantially*

similar to that for marriage. The amendment is currently being contested in Kentucky court over the issue of whether the amendment illegally combined two issues (marriage and civil unions) under one vote. In the case of DP benefits, like with the City of New Orleans, offering some or all of the benefits that currently go to people in a range of relationships to an employee likely does not create a legal status identical or substantially similar to the hundreds of benefits and legal responsibilities defining civil marriage.

Do opposite-sex couples ever use domestic partnerships?

While most people associate domestic partnerships with same-sex couples, opposite-sex couples do participate in these programs.

- The majority of couples who took advantage of DP benefits in the District of Columbia's public program were elderly heterosexual couples. In most of these couples' cases, these individuals were widows and widowers who wanted access to hospital visitation, daily care, and health decisions for their partners without the complicated property entanglements of full legal marriage. In other words, these couples wanted to care for each other without tying up the inheritances they wanted to leave to their children by a former relationship.
- France recently introduced domestic partnerships on a national scale. To the surprise of many French people, opposite-sex, heterosexual couples make up the most common users of this system. As with the elderly in DC, these couples want the daily care and access rights to their partner without the much more vast legal property rights and responsibilities inherent in full legal marriage.

Some companies and universities, however, limit domestic partnership benefits to same-sex couples because opposite-sex couples already have access to such rights through legal marriage. Courts in some states have found offering DP benefits only to unmarried same-sex couples and not unmarried opposite sex couples amounts to sexual orientation discrimination.

How does a company offer DP benefits?

Companies usually approach equalizing compensation packages in one of two ways:

- A. Offer DP benefits to same-sex and opposite-sex couples that match the benefits offered to employees and their legal spouses.
- B. Develop a broad "cafeteria-style" plan where all employees pick what benefits they want using a set amount of credits. Thus, a single person who does not need to take advantage of partner/spouse insurance can apply her/his additional credits towards a larger employer pension contribution. Employees can choose to add a parent, a child over age 18, a spouse, a domestic partner, a roommate, or another relative to a health plan. The benefit of such a system is that the employer provides an equal amount of compensation in the form of credits to all employees. Each employee then has the flexibility to define how to use these in accordance with the diversity of American families today.

Once a company defines which option to pursue, then it becomes a matter of developing a procedure for registering employees and their beneficiaries. Companies can immediately offer benefits such as use of a company gym, bereavement leave, trailing spouse program, etc. Many insurance companies now offer DP coverage and will work with an employer to establish coverage. Some insurers will require a wait until the next year's insurance contract and enrollment period begins to initially offer coverage. Some insurers do not currently offer DP coverage but may be willing to add such coverage for larger customers. With ever greater demand for such benefits, most insurers will likely offer DP in the next five years if they do not currently. Because the University of Kentucky is self-insured for its HMO and UK Dental programs, it could internally provide such insurance to domestic partners.

These Kentucky insurers are known to offer domestic partnership coverage. Other insurers may also offer such coverage.

- Ameritas (dental and vision coverage)
- CIGNA (medical)
- Great West Life (medical)
- New York Life and Health (medical)

Other sources for more detailed information:
<http://www.hrc.org/worknet/>

Comparative Cost Impact on UK Families

The benefits currently limited to certain UK families are a great financial asset for these families. For those employees whose families are not recognized by UK, however, there is instead a financial burden. Moreover, employees whose families receive benefits are compensated more than their peers.

In the scenario below, you have two couples who are using a handful of the 40+ benefits that UK offers. This simplified version is used to show basic costs. If the scenario factored in multiple insurance programs for dental, vision, etc., then the differences would likely be greater. One is eligible for greater compensation for his relationship while the other employee is not. The disadvantaged employee, moreover, must pay considerably more for similar services. The result:

\$4,274 annual loss in compensation and/or additional costs for the Family B employee
--

The impact of having no domestic partnership benefits is exemplified in the table on the following page:

	Family A	Family B
Employee Partner	46 Year Old Male Faculty	46 Year Old Female Faculty
Length of Relationship	16 months	20 years
Type of Health Plan	UK HMO -USA	UK HMO -USA
Type of Documentation Required to Add Partner to Health Plan	None, if added during open enrollment	Currently ineligible

Base Salary	\$50,000	\$50,000
Benefits (including UK contribution to employee's health insurance)	\$11,000	\$11,000
Sub Total	\$61,000	\$61,000

Additional Compensation Employee Participation in HealthTrac	\$120	\$120
Spouse Participation in HealthTrac	\$120	Currently ineligible
UK Contribution to Spousal Health Care Plan	\$1,764	Currently ineligible
For Relationship	\$2,004	\$120
	\$1,884	\$0

Difference
\$1,884

Additional Expenses		
Use of UK Wellness Program		
Gyms (couple)	\$80	Currently ineligible as couple
Gold's Gym (memberships for 2)		\$590
Employee Contributions to UK		
Spouse Health Plan	\$2,520	Currently ineligible
Anthem Blue Cross/Blue Shield Health Insurance for 46 Year Old Healthy Female		\$3,900
Additional Annual Deductible	\$0	\$500
	\$2,600	\$4,990

\$2,390

Base Compensation	\$61,000	\$61,000
Additional Compensation	\$2,004	\$120
Additional Expenses	\$2,600	\$4,990
TOTAL:	\$66,604	\$66,130

\$4,274

Timeline of Domestic Partnership Issues at UK

1996: UK's non-discrimination policy amended to protect against sexual orientation bias...and that such protections do not grant benefits

2001-2003: UK Committees Recommending Adoption of Domestic Partnership Benefits:

- Health Benefit Task Force, 2001
- Faculty Senate Council Ad Hoc Committee on the Status of Women, 2001
- President's Work-Life Task Force, 2003
- Faculty Senate Ad Hoc Committee on Faculty Salaries, 2003

2003: UK Staff Senate's Employee Benefits Committee unanimously votes down a resolution opposing domestic partnership benefits at UK

2003: UK expands definition of "family" to "household" for the purposes of funeral leave and temporary disability leave

2004: University Senate votes to allow a student to have a legitimate excuse for a sickness or death of anyone in her/his household ...a change from the former narrow definition of immediate family

UK Employees' Personal Stories of the Impact of the Lack of Domestic Partner Benefits

Dr. Joan Callahan, Professor, Philosophy and Women's Studies:

Dr. Callahan and her partner Jennifer Crossen have been together for almost 20 years. They have raised their son David Crossen, a current UK student, together. Joan has long been an advocate for domestic partner benefits at the University. Jennifer operates her own horse farm. As such, she is considered in a high risk occupation. Joan's family is forced by the lack of domestic partnership benefits to purchase health insurance on the private market that is more expensive and inferior in services compared to the Employee+Family plan through UK. The University not only does not contribute to Joan's family's health care costs, but also bars Joan from purchasing into the UK HMO for her family even without any University contribution.

Anonymous, Main Campus

Last March (2004) my partner's father passed away suddenly from a heart attack. I went with her to Colorado to be with her and her family for the funeral and etc. My supervisor gave me all four days as funeral leave because she interpreted the funeral leave policy to include domestic partners. When I got back to work, our budget officer (who is over our entire unit) questioned me about the leave and wanted to know specifically who had died in my immediate family. I did not really want to come out to this budget officer who nit picks at every policy and procedure anyway. So I contacted Russ Williams who suggested that I contact Mr. Terry Allen, Assoc. Vice President for Employment Equity. I wrote Mr. Allen a letter explaining my situation in detail. Mr. Allen looked over the funeral leave policy and consulted with the UK Attorney's Office and I ended up being granted a half day of funeral leave which would be granted for any mere acquaintance...wouldn't even have to be a close friend. If I had been married to my partner or had equal benefits as a married person, I would have gotten all four days as funeral leave. Instead, I had to use 35% of my annual vacation leave. I also consulted an attorney before writing the letter to Mr. Allen. The time and attention that I took in this matter to stand up for my rights was very draining and difficult during what was already a very emotionally difficult time for me and my partner. I felt sad and less than...after all was said and done.

Dr. Torsten Elwert, Post-Doc, Physics and Astronomy: Dr. Torsten Elwert is a highly talented astrophysicist currently working as a post-doc in the Department of Physics and Astronomy as part of a highly competitive NASA grant to the University. He and his partner of nine years, Arno, are legally married in Arno's native country of The Netherlands. While in excellent health, Arno is also sixty years old and requires basic preventative and maintenance health care as he has received throughout his life in his native country.

Unfortunately, Kentucky law does not recognize their marriage, and the University does not offer health insurance benefits to domestic partners. As a result, Arno has no health coverage and faces considerable hurdles in getting private health insurance because of his age and visa status. As a result, Torsten is considering giving up the post-doc to return to Europe where his family will have basic health care.

Kevin Holmes, UK Alumni

When I applied for admission to UK, I had already established residency in Kentucky prior to applying. In fact, my residency had been established well over one year prior to applying. However, Admissions deemed me to be a non-resident. Despite the fact that I was over 21, independent of my parents, living on my own means, employed, a veteran, and had evidence of residency in Kentucky, in the eyes of UK Admissions, I was not a Kentuckian. In my opinion, this was because I was not a graduate of a Kentucky high-school, and because my parents lived in another state (even though I could have qualified under the Academic Common Market). Both of these items were asked on the application, and Admissions could not view me based on other qualifiers to separate me from the average incoming freshman (even though I was applying as a transfer admission).

I appealed the decision to treat me as a non-resident, because I was in my mind, without a doubt, a resident of Kentucky, with an established record of residency. I wasn't paying school taxes for nothing! A hearing was scheduled a few weeks later. I dressed appropriately for the occasion: shirt and tie, slacks, dress shoes.

When I went in for my hearing, I found that instead of just one or two people to hear my plea, I was going to have to defend myself to a room of several people. I don't remember how many were there, but in my memory, it felt like a board room of 20. It was probably closer to 10. At my young age, this was quite overbearing. I had to defend my residency to a group of people who were not my peers. It felt like getting permission to steal the car from your parents AFTER you'd already wrecked it. They were going to decide the legitimacy of where I lived and have a direct impact on my budget. This would directly play a role on whether or not I could afford to go to school.

I had prepared for the battle by memorizing the requirements for residency. I recited how I met these requirements. The one that I remember most vividly was the one about marriage to a resident of Kentucky, because I used it. Actually, I bent it. I had to stretch the mold to fit my situation. My Kentucky residence had been established due to my

relationship with a Kentucky resident. I recounted this tale to the panel. I told them of how I had come to establish a domestic partnership with this individual. This seemed to pique the interest of the panel more than any of the other arguments I had used. They began to ask questions, specifically speaking to legal arrangements, combination of financial assets, familial commitments, and so on. I told the panel of our life together, and of our plans for the future, of the business that we wanted to open, and of our joint checking account. Gauging from the reaction, it seemed to be the joint checking account that sold them on the legitimacy of my residency.

While I still do not agree that I should have had to defend my residency, or had to use my relationship as a basis of my residency, I was glad that UK was open-minded enough to allow residency to be established through a same-sex relationship even though it was not specifically written into the books.

Gina and Mary Anne, current employees, Administration and MedCenter: Having been together for over a decade, Gina and Mary Anne decided to have a child via artificial insemination. Gina would be the biological mother. While Gina eventually was unable to become pregnant, she encountered two issues. The first is that if she had been able to give birth, she discovered that she and Mary Anne were ineligible for the extra University contribution to childbirth insurance costs that go to two employees who are legally married. The second was that while the UK MedCenter would perform artificial insemination on single women, UK used Central Baptist Hospital for the actual procedure. Central Baptist, in turn, has a policy banning insemination of women who are single or in unmarried partnerships. As a result, Gina's physician had to quietly ignore this rule and find an alternative to inseminate Gina.

Camille B. and Matt M., former UK students and employees, now at the University of Maine: Camille and Matt are an unmarried opposite-sex couple. The two have considered having their first child once Matt finished his doctoral program. They were concerned, however, that having a child would force them to legally marry so that they could have health insurance if Camille chose to stay home with the child. Legal marriage, however, is an institution whose legal property components around shared debt and social history often placing women in an inferior role troubled the two. Fortunately in their case, Matt took a position with the University of Maine where domestic partnership benefits that include health insurance are offered.

Dr. Laura Kaplan, former UK employee and student, now at the University of Northern Iowa:

I was employed by UK full-time from 1996-1999 and as a part-time instructor between 1999 and 2003. When I completed my doctorate my partner and I considered several options, including staying in Kentucky with our friends/family. I lived in Lexington 23 years so it was difficult to consider leaving. With a PhD in social work I actually had many more options than graduates in most other disciplines since there are more programs than PhDs. We left Kentucky but in our deliberations we decided that

partnership benefits would be integral to our choice of universities. I accepted an offer at a regional university in the Midwest that offered partnership benefits.

What this means at this location is that I can purchase, similar to a family plan, health insurance for my partner. I am always amazed when people argue this is a benefit that should not be offered. There seems to be an underlying belief that this is free, a gift to same sex couples. How silly. I am fortunate to have a job that allows me to eat into my budget for the approximately \$300 a month it costs to get my partner health insurance. Quite a gift in a way, for the privileged few of us who can actually afford to pay this additional fee.

I just remembered a very important piece on DP benefits no one usually discusses. Going to the bogus argument of it being a 'gift' that costs the company more--when I get my DP, and I pay for my partner's health insurance at almost \$300 a month, the very big difference between this and what a legally married person paying on 'family' insurance is that I GET TO PAY TAXES ON THAT \$300. It's a gift alright. Everyone else gets a DEDUCTION for paying family insurance; I get a double whammy--pay the fee and pay the taxes as if it's income to me.

Another benefit I get is the ability to get my partner a reduced rate at the wellness center here. We don't use this one since my partner is a full time student. But a friend, another faculty did sign her partner up for it with great difficulty. The center official did not want to grant this reduced fee to a same sex couple. After negotiations and paperwork it was approved. I attempted to open a joint checking account with the university credit union. I had a couple of months of phone calls and conversations with people who did not seem to understand what I wanted and if they could do it. I was told joint accounts can be opened by family members. I said my partner is my family member. Since we are not married, nor related by blood, I could not do it. These negotiations included my informing them (and providing documentation) with the university policy on partner benefits and the evidence required to prove partnership. Oh, did you think I could just identify my partner? Can married people just say they are married? I believe this may be the case. But we had to pass a test--a criteria for determining partnership in such things as length of time living together, shared ownership of house or vehicle, evidence of shared bill paying all for a minimum of 2 years. I never got the checking account; the credit union decided it would have to be voted upon at the board meeting.

We are pretty lucky. We both have health insurance now. The doctors and nurses seem okay; we have accompanied each other into exam rooms and have received care and benefits. I gave up on the credit union. There are no family tuition benefits here so I do not have that battle. Some things are clear--even when an administration decides to do the right thing it can go wrong if it does not attempt to change the culture of the institution. We have benefits but this is not a particularly comfortable place to be for sexual minorities, the staff does not appear to understand the benefits or so willing to extend them. During our orientation we were provided with 'multicultural' training in which the facilitators had trouble saying the word lesbian even though we said it first. So, benefits should be equally distributed among all kinds of families, yes. But the school

must change the climate as well. We left Kentucky, in part, because there were no partner benefits at potential employing universities. We also knew in Kentucky the cultural climate was not accepting because the universities were not even trying to have the conversation.

Steve Savage, former UK faculty: In the mid-1990s Steve Savage, a library faculty of over sixteen years, left the University largely because of conflicting policies tied to domestic partnership benefits. At an American Library Association (ALA) conference, Steve met the love of his life, another librarian from Michigan. Their romance developed into a long term partnership. Steve sought to have the University help hire his partner through its trailing partner policy, but was told that because his partner was another man, they did not meet the criteria for the policy. Some months later a position opened within the library system that would have had Steve as one of the position's supervisors. When Steve's partner sought to apply for it, Steve was told that because his partner could not apply because of the University's policy against having one member of a couple supervising another. In this case, Steve felt the policy of defining his family as a couple in one case and not as a couple in another was deeply discriminatory. Steve began looking for a job closer to his partner and left the University.

Dr. David Wagner, Associate Professor and Director of Graduate Studies, Forestry:

Because UK does not allow domestic partner benefits, my partner (who is retired) must purchase a "Medicare supplement" policy, the premium for which is ~\$300 per month. On top of that, his medications, even with the benefits from the supplemental insurance that he can purchase (which is lousy) costs ~\$400 per month out-of-pocket. That makes \$700 we pay per month for his health care costs, even when he is healthy! This is difficult to say the least . . . and it's disheartening that UK chooses not to help us while at the same time allowing other couples who don't happen to be gay to purchase health insurance coverage to protect their families.

Carol W., former MedCenter employee: In the mid-1990s, Carol's partner chose to have some elective surgery at the UK Medical Center. Before the surgery the two carefully explained that they were a couple and had been so for over 20 years. Carol's partner wanted Carol to be in the recovery room waiting for her when she woke up. All seemed to be planned and well until the day of the surgery. When Carol went to go back to the recovery area, she was told that only family could go back to sit with patients. In the UK system, Carol was listed only as friend. Fortunately, Carol was a MedCenter employee and used her employee badge to get to her partner.

James Younce, Staff, Parking Office: (James and his same-sex partner have been together for almost a decade. While they have had a religious marriage ceremony within their faith community, it is not legally recognized in Kentucky. Thus, in the religious sense, the two are married and husbands.) Below is James' response to stories about how DP benefits affect his family:

When I first started UK, I believe I had already asked on Lambdanet about DP benefits, and of course, found out there were none. I also asked co-workers about DP benefits after I was there a few weeks, and they seemed to be more optimistic. They were under the impression many of the programs you could sign up for even if you weren't married, but having checked some of them out with a representative, I educated my co-workers that they were in fact wrong.

My husband & I were very interested in the wellness programs, and use of Alumni Gym/Seaton Center. We were current members of Gold's Gym, but UK seemed to have better programs, and obviously a lot cheaper. Once I found out they extended no DP benefits, we realized this included the Wellness Programs. Disappointed, we continued our membership at Gold's Gym instead. Although Gold's Gym doesn't specifically have us listed as married, they actually allowed us to join 2 years ago as a couple when they were running their Valentine's day 'couples' special. I think it is sad that Gold's Gym would be willing to recognize us, but UK would not.

My husband & I were also interested in tickets for UK football & basketball games. As an employee, I actually now can purchase a ticket before the general public, but after students. I am also a student, but trying to purchase two tickets that would allow me and my husband to sit together during the game still wasn't helped by the new employee ticket program. I did see where you could purchase family tickets before the general public, and I believe at a discounted rate as well. This is a student program. I inquired to the Athletics department, because it said a marriage certificate or birth certificate proving a legal relationship would be required. They wrote back insisting only legally married couples could purchase the family tickets. Again, disappointed, we never went to any ballgame.

I had also talked to the representative regarding all of the voluntary programs they had to offer. The only program that would work for my husband & I was the universal life insurance policy. The representative told me that she knew in the past they were able to work around the marriage issue in order to write a policy for the life insurance. Honestly, once I found out that my husband & I would not be treated like any other couple, I wasn't very interested in anything else MPM had to offer.

Although my husband already has health insurance through his company, we compared plans & obviously the UK HMO was much cheaper. I currently have the UK HMO program, and even after I have heard horror stories about UKMC, I still think the doctors there are more thorough & more willing to spend time with you than any other place I've ever been. We would have considered moving my husband over to the UK HMO plan. Unfortunately, we can't because we're not legally married.

The Elder Care program is another program that causes me concern. It sounds like a great program, but not only does it not include my husband and his elders, but it doesn't include much of my 'family'. Married persons are not the only thing that needs a new definition in this country in this day & age. The legal constraints of 'family' also need to

be broadened. I'm not saying everyone should be considered. However, in my case, my mother has already passed away. My father is pretty much non-existent. I barely see any of my blood relatives at all. However, a woman named Laura Napier is the same to me as my mother. She raised me just as much - if not more than - my own mother. I had my own room at her house. I spent more time with her than I did my own mother. I treated them both like my mother. She has been diagnosed with MS. Her mother, who is just like my grandmother, had a stroke over a year ago. Elder Care would be of great benefit to them, but because there is no legal relationship, it does us no good. It would also benefit my husband's family - they are all a little older than my family, and would benefit greatly from this, but again, no legal relationship, so no benefit.

My husband & I also considered membership to Spindletop. I have not honestly researched it further because of being disappointed about all the other benefits. My co-workers again seem to be optimistic that if we were to join & pay the dues, no one would question the fact that we are not legally married. I had thought Spindletop would be a great place to renew our vows in our 10 year anniversary that is coming up in a couple of years. I think we would also enjoy the pool. However, we won't until UK changes its policy.

In regards to certain leave (TDL), I am unsure as to whether my husband is included in this or not. The policy for using TDL to care for someone other than yourself states:

"82.1.15.1 A family member is defined for this eligibility as spouse, child, grandchild, mother, father, grandparent, brother, sister, (includes steps, halves, and in-laws of the same relationship), legal dependent of the employee irrespective of residence, or another who resides in the employee's household and for whom the employee has an obligation to provide care. "

Now I am not sure who decides the last part. He is in my household, and I have an obligation to provide care for him - in my opinion & in his. But I do not know if that would hold up with UK's policies?

After looking at funeral leave, it seems to leave many things open. It looks as though not only would my husband's death be included in the funeral leave, but also my "second mother" Laura would be included, as well as possibly my husband's immediate family. This is after looking at policy 84.1.1. So, in death, to UK, these people are most important in my life to give me time off, but in life, they are not. That is interesting. I'd rather celebrate the relationship while they are living, rather than after they have died.

It is also interesting that Laura (my second mother) is included under the FMLA provision, although we have no legal relationship. She was in a in loco parentis relationship with me as a child, so I could take time off under FMLA in order to care for her were she seriously ill. However, my husband, who I am more financially & emotionally responsible for, is NOT covered under UK's definition of FMLA. How sad.

Finally, as I work in the Parking office, I see other 'benefits' of being married or having a legal relationship that some may not see as a benefit, but a lot of people do see it as a big

convenience benefit. At the Parking office, we do not accept payments by check or credit card for a debt (permit, citation, impoundment) from anyone other than the student/employee, unless there is a legal relationship - usually a spouse, or parent of a student. We also do not allow anyone other than a parent or a spouse to pickup/purchase permits for a student/employee. Many employees/students find it convenient for their spouse or parent to come deal with Parking issues for them while they are at work/class. Also, we have many people who don't have the money to pay for their issues, so they have their spouse or parent pay for them. Working in the department, I myself do not really have this issue. But if I did not work there, my husband could not come in and pay my impoundment fees/citations with his credit card, nor could he come in and purchase my E permit for me while I was at work. The issue is about chargebacks, and stopped payments. If there is no legal relationship between the two people, it is nearly impossible for the department to hold my husband accountable (for instance) for a payment made for something I incurred. That is the basis for the policy. So I am not sure it is an UK issue so much as it is a financial institution or KY legislature issue.

Proposed Model: Domestic Partnership and Household Benefits Plan for the University of Kentucky

The University provides over 45 benefits for individuals with some type of relationship to employees or students. Legally recognized spouses by far receive the most benefits followed by legally recognized children. The University is likely to weigh issues of cost and political impact. Here is a stepped plan for introducing such benefits:

A. Highlight Existing Benefits:

Create a domestic partnership page on the UK website

List the following benefits that are currently available to unmarried domestic partners and/or their families:

- UK Library Card
- Joint Alumni Association Membership
- Joint UK Federal Credit Union Membership
- Bereavement Leave
- Family Medical Leave
- ElderCare

B. Add Benefits With No or Little Financial or Political Impact for Anyone In an Employee's Household:

- Wellness Programs (but not including HealthTrac Program which is tied to membership in a UK health insurance plan)
- Use of parking permit by anyone in an employee's household
- Spindletop Hall family memberships changed to household memberships
- Allow employees and students to buy athletic tickets for self and anyone in household with proof of shared address

C. Add Benefits with No or Moderate Financial Impact but Possible Political Impact for Unmarried Domestic Partners and Their Children:

- Option to buy into UK health, dental, and vision programs at full cost and with no compensation from the University
- Allow domestic partners and children to participate in HealthTrac Program if in a UK health plan

D. Add Benefits with Low Political Impact but Possible High Financial Costs for Anyone in an Employee's Household:

- Option for UK employees to buy into UK health, dental, and vision programs at full cost and no University contribution

E. Add Benefits with Low to Moderate Financial Impact but Possible Political Impact to UK:

- Provide health insurance to unmarried domestic partners and their children with University contribution in line with legally recognized spouses and children

F. Add Benefits with Low Political Impact but Possibly High Financial Impact to UK:

- Provide health insurance to anyone in an employee's household with University contribution
- Alternatively, allow any UK employee to insure one other adult in their household and any children in the household

REPORT OF THE COUNCIL ON MEDICAL SERVICE

CMS Report 3 - I-98
(December 1998)

Subject: Health Insurance for Domestic Partners

Presented by: Kay K. Hanley, MD, Chair

INTRODUCTION

At the 1997 Interim Meeting, the House of Delegates adopted Substitute Resolution 101, which calls for the AMA to study the experience of employers that have extended health insurance coverage to domestic partners and the effects of such programs on costs and access by otherwise uninsured individuals. Substitute Resolution 101 also reaffirmed Policy H-180.980 (AMA Policy Compendium), which opposes the denial of health insurance on the basis of sexual orientation.

The following report, which is presented for the information of the House, reviews available literature on the number of employers offering domestic partner health benefits, the criteria employers use to establish eligibility for such benefits, the extent to which employees take advantage of such benefits, the number of individuals covered by such benefits, and the costs of such benefits

Much of the information contained in this report comes from surveys of firms conducted by Hewitt Associates (1994), the International Society of Certified Employee Benefit Specialists (1995), the International Foundation of Employee Benefit Plans (IFEPP, 1994) the Society for Human Resource Management (SHRM, 1997), and KPMG Peat Marwick (1998). Additional information was drawn from studies conducted by academic institutions or municipalities prior to extending benefits to employees' domestic partners (Ohio State University, the University of Iowa, Harvard University, City University of New York, the City of San Francisco). While low response rates and the small number of survey respondents offering domestic partner benefits make it difficult to quantify precisely the extent and cost of such benefits, the various sources provide generally consistent information.

DEFINING DOMESTIC PARTNERSHIP

Since 1970, there has been a 400% increase in the number of unmarried-couple households to 4.1 million or 7.5% of the adult population (1997 U.S. Census Bureau). More than one-third of these households include children under the age of 15. Estimates of the number of unmarried-couple households made up of same-sex couples range from 2% to 33%. Although definitions of domestic partnership vary, such a partnership is generally understood to be a committed, exclusive relationship between two people of legal age who are not related by blood, share the same residence, and are financially and emotionally interdependent. Domestic partnerships include both opposite-sex and same-sex relationships.

1 Employers offering domestic partner benefits must formulate working definitions of domestic
2 partnership. Some employers require a relationship to be of a minimum duration to be considered a
3 domestic partnership, e.g., six or twelve months. Similarly, some employers require a "cooling
4 off" period of six to twelve months between the end of one domestic partnership and eligibility for
5 benefits under another. Such "cooling off" periods are not required of heterosexual employees who
6 divorce and remarry.

7
8 The official status of a relationship as a domestic partnership or a marriage depends on location,
9 sexual orientation, and the couple's actions (i.e., participating in a marriage ceremony or
10 registering with a domestic partner registry). While a growing number of states, counties, and
11 cities maintain registries for both same- and opposite-sex partnerships, no state recognizes same-
12 sex marriages. Domestic partner registration confers a degree of recognition but not the full legal
13 status of marriage. Common law marriage between heterosexuals is granted or recognized by a
14 majority of states and entails the same legal rights and responsibilities as traditional marriage.

15
16 It is not known the extent to which heterosexual couples fail to take advantage of family
17 employment benefits because they are unaware that they qualify for common law marriage or that
18 common law spouses are legally equivalent to traditionally married spouses. Employers generally
19 do not publicize, or are unaware of, the benefits implications of common law marriage. Thus,
20 although common law marriage is legally distinct from domestic partnership, couples who
21 unwittingly forgo common law spouse benefits would be affected by domestic partner policies.
22 For purposes of this report, such couples can be considered domestic partners.

23 24 TAX AND LEGAL STATUS OF DOMESTIC PARTNER BENEFITS

25
26 Under current law, domestic partner health insurance expenditures are tax deductible for the
27 employer, but generally taxable to the employee. According to rulings issued by the Internal
28 Revenue Service, employer-provided health benefits for cohabitants are excludable from taxable
29 income only if the recipients are legal spouses under state law or legal dependents under section
30 152 of the tax code. Flexible benefits provided under Section 125 of the tax code are nontaxable
31 and, thus, cannot be offered to non-common law spouse, non-dependent domestic partners.
32 Flexible benefits may be provided to domestic partners, but the value of such benefits must be
33 declared as taxable income.

34
35 In the last decade, numerous initiatives to mandate domestic partner benefits have met legislative
36 and judicial opposition. For example, a law granting benefits to same-sex partners of City of
37 Philadelphia employees is currently being contested in court on the grounds that by passing the
38 law, the City has redefined marriage, which can only be done at the state level. A 1996 San
39 Francisco ordinance requires city contractors to provide domestic partner benefits equivalent to
40 spousal benefits. In a legal suit filed by the airline industry, a federal district court ruled that
41 employers with self-funded ERISA plans are exempt from the San Francisco ordinance. A bill has
42 also been introduced in the U.S. House of Representatives that would reduce federal funding to San
43 Francisco if the ordinance remains in effect, although no corresponding bill has been introduced in
44 the Senate. In a 1993 case, a Labor Relations Board ordered the University of Vermont to conform
45 to its own policy prohibiting discrimination based on sexual orientation by providing health
46 benefits for same-sex domestic partners.

47

1 PREVALENCE AND SCOPE OF DOMESTIC PARTNER BENEFITS

2
3 In response to demographic changes and to pressure from employees, employers started extending
4 benefits to employees' domestic partners over 15 years ago. The main reasons employers cite for
5 offering domestic partner benefits are to meet the needs of their employees, to recruit and retain
6 talented workers, and to align their employment practices with their anti-discrimination policies.
7 The major reasons cited for not offering domestic partner benefits are concern about health care
8 costs and, in the past, insurance company refusal to cover domestic partners. Employers that have
9 considered and rejected the idea of offering domestic partner benefits often cite concerns about
10 public reaction or that recognition of domestic partnerships would undermine the institution of
11 marriage.

12
13 Surveys show that 7% to 13% of U.S. employers currently offer benefits to employees' domestic
14 partners and that more employers are considering doing so. According to the 1998 KPMG survey,
15 employers least likely to offer domestic partner benefits are located in the South, whereas
16 employers offering domestic partner benefits are concentrated on the East and West coasts. Such
17 benefits are most likely to be offered in competitive industries with relatively young workforces
18 such as high technology, telecommunications, and entertainment. The most comprehensive list of
19 U.S. employers offering domestic partner benefits is maintained by the Human Rights Campaign
20 (<http://www.hrc.org/issues/workplac/dp/dplist.html>) and contains approximately 600
21 municipalities, academic institutions, and private employers. The list includes Kaiser-Permanente,
22 Time Warner, Tropicana Beverages, the University of Chicago, and Walt Disney.

23
24 Among employers offering domestic partner benefits, health insurance is the most frequently
25 offered benefit. About half the time, domestic partner benefits are less comprehensive than those
26 offered to employees' spouses (e.g., they include only health or only non-health benefits, or they do
27 not include dental or vision coverage). Employers cannot always offer the usual range of health
28 plans to employees seeking domestic partner coverage because some insurance carriers do not
29 insure domestic partners. This situation has occurred less frequently as insurers have accumulated
30 a body of actuarial data upon which to project claims costs. Approximately two-thirds of
31 employers offering domestic partner benefits extend COBRA coverage to domestic partners of
32 employees. Occasionally, employers require employees to pay the full cost of adding domestic
33 partners to health plans.

34
35 Among employers offering domestic partner benefits, one-third to one-half offer benefits to both
36 opposite-sex and same-sex partners, with the remainder being roughly split between those offering
37 benefits to opposite-sex partners only and those offering benefits to same-sex partners only.
38 Academic institutions generally offer benefits to same-sex partners only, whereas public employers
39 are more likely to offer them to both opposite-sex and same-sex partners.

40
41 Employers offering benefits to opposite-sex partners only may do so out of moral objections or
42 fears of negative public reaction. Some employers offering benefits to same-sex partners only,
43 including IBM and Lotus, reason that heterosexuals have the option of legal marriage whereas
44 same-sex couples do not. The Stanford University subcommittee that studied domestic partner
45 benefits recommended that, if the cost of covering both groups was prohibitive, benefits should be
46 extended to same-sex couples only because they had a stronger equity claim. A New York State
47 court recently dismissed a case brought against Bell Atlantic by an unmarried heterosexual
48 employee seeking health benefits for his domestic partner; the case is currently in Federal court.
49

1 There is little information on children of domestic partners. Domestic partnerships average fewer
2 children than traditional marriages. Available information indicates that employee benefits are
3 usually not extended to dependents of domestic partners.

4 VERIFICATION OF DOMESTIC PARTNERSHIP

5
6
7 Of employers offering domestic partner benefits, 75% to 90% require a signed affirmation or
8 notarized affidavit of partnership status. In municipalities with domestic partner registries,
9 employers may accept or require registration to qualify for domestic partner benefits. Affirmations
10 or affidavits written by the employer typically include a statement of requirements for domestic
11 partner benefits and a statement that the employee will promptly notify the employer if the
12 relationship ends. The document might also include a statement that the employee recognizes
13 possible legal ramifications of domestic partnership. For example, the relationship could be
14 considered equivalent to marriage for purposes of allocating community property or being
15 responsible for a partner's debts. Among employers requiring signed statements of domestic
16 partnership, about half require additional documentation, such as a statement from a joint bank
17 account, a mortgage, or a lease. A minority of employers who require proof of domestic
18 partnership also require married couples to furnish proof of marriage.

19
20 Despite early concerns about fraud and abuse, employers have consistently reported having no
21 problems with false claims of domestic partnership in order to obtain health or other benefits.
22 Documentation requirements, social stigma associated with domestic partnership, and limits on
23 pre-existing conditions serve as deterrents to fraudulent claims.

24 EFFECT ON INSURANCE COVERAGE AND COSTS

25
26
27 Enrollment rates for domestic partner health insurance have been much lower than anticipated by
28 employers, representing only 1% to 4% of employees. Organizations that offer coverage to both
29 opposite- and same-sex couples experience higher enrollment rates than those covering only same-
30 sex domestic partners. About two-thirds of couples electing domestic partner benefits are opposite-
31 sex couples. Possible reasons for low enrollment rates, particularly among same-sex couples,
32 include reluctance to disclose domestic arrangements for fear of social stigma, the fact that many
33 domestic partners have access to health insurance through their own employers, and unfavorable
34 tax treatment of domestic partner benefits. Although the total number of individuals who obtain
35 health insurance through domestic partner benefits is unknown and probably relatively small,
36 domestic partner benefits are an important source of access to those with no other source of health
37 insurance.

38
39 Costs are affected by the total number of enrollees and by average cost per enrollee. Limited
40 available data indicate that most employers have not experienced a significant change in costs after
41 offering domestic partner benefits, and that adverse selection has not been a problem. Eighty-five
42 percent of respondents to the 1997 SHRM employer survey reported that their firms' health care
43 costs "stayed about the same" rather than "increased" or "decreased." CCH Employee Benefits
44 Management Directions (1994) reports that plans offering coverage only to same-sex couples
45 experience about a 1% total increase in health care costs, whereas plans offering coverage to all
46 domestic partners experience about a 3% increase in costs.

47

1 Evidence from employer surveys suggests that adding domestic partner coverage has little effect on
2 costs per enrollee, with more employers reporting slightly reduced average costs than slightly
3 higher average costs (IFEBP, 1994 and Report of the CUNY Study Group on Domestic
4 Partnerships, 1993). Fears about catastrophic HIV-related costs have not been realized (Hewitt,
5 1994 and IFEBP, 1994). Within employment groups, increased risk of HIV-related claims from
6 male couples is offset by reduced risk of HIV-related claims from female couples. Lifetime costs
7 associated with HIV infection and AIDS are on par with costs of other serious illnesses such as
8 cancer, kidney failure, heart disease, and premature birth (Hewitt, 1994 and IFEBP, 1994).
9 Compared to married couples, same- and opposite-sex domestic partner couples present reduced
10 risk of pregnancy – one of the largest components of inpatient costs – and fewer children. In
11 addition, those in domestic partnerships tend to be younger than those who are not (Hewitt, 1994).
12

13 In the past, employers had to accept premium increases in order to add domestic partner coverage.
14 Surcharges were sometimes dropped once subsequent experience proved them to be unwarranted.
15 Today, employers are less likely to be subject to such increases and when they are, the increases
16 are usually eventually eliminated based on experience.
17

18 RELEVANT AMA POLICY

19

20 The AMA has established a number of policies that are relevant to the issues raised in Substitute
21 Resolution 101 (1-97). Policy H-180.980 opposes the denial of health insurance on the basis of
22 sexual orientation. Policies H-160.991, H-65.992, and H-65.990 support equal rights regardless of
23 sexual orientation. Numerous AMA policies support universal health insurance coverage (Policies
24 H-165.904, H-165.882, H-165.877, H-165.919, H-165.960). Policy H-165.978 supports exploring
25 ways of expanding health insurance coverage to uninsured dependents of insureds. In addition,
26 Policy H-180.978 supports expanding access to health insurance through market mechanisms
27 rather than through government mandates and regulations.
28

29 CONCLUSION

30

31 AMA policy favors the expansion of access to health insurance through market mechanisms rather
32 than legislative mandates. AMA policy also opposes the denial of health insurance or other
33 discrimination on the basis of sexual orientation. Accordingly, the trend toward domestic partner
34 benefits is consistent with AMA policy. Market forces and changing social norms have led an
35 increasing number of employers to extend employee health benefits to domestic partners, bringing
36 such benefits into the mainstream. Although there are limited data on the extent and cost of
37 domestic partner benefits, several conclusions clearly emerge from existing reports. First,
38 employers have found workable ways of defining and verifying domestic partnership. Second, a
39 relatively small but growing number of people obtain health coverage as domestic partners or as
40 dependents of domestic partners, most being opposite-sex partners. Third, adding domestic partner
41 coverage appears to have little effect on average costs per enrollee or on premiums. Finally,
42 employers who offer domestic partner benefits have experienced increases in total health benefits
43 costs of 1 to 3%. Total costs increase more when coverage is offered to both opposite-sex and
44 same-sex partners.
45

46 This report is intended to provide information on the current status of domestic partner health
47 insurance benefits. The Council on Medical Service will continue to monitor trends in domestic
48 partner benefits.