STATEMENT BY

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ON

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

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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 to 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 with huge dollar signs in their eyes have also been licking their chops in anticipation of grabbing for themselves as much as possible of the work that has been performed by retiring federal employees. 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 private sector competition.

Putting aside for a moment the still-enormous pay gap between the federal and non-federal sectors and the fact that the Federal Employees Health Benefits Program (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 Corrections Officer who puts his life on the line every day to keep us and his fellow prison guards safe from dangerous criminals. 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

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

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 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.