STATEMENT OF COLLEEN M. KELLEY

NATIONAL PRESIDENT

NATIONAL TREASURY EMPLOYEES UNION

September 23, 2008

to the

Committee on Homeland Security and Governmental Affairs

United States Senate

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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 or 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.