

Statement of

The Honorable Dianne Feinstein

United States Senator
United States Senate
November 10, 2011

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AS DELIVERED

On "The Respect for Marriage Act," S. 598
Committee on the Judiciary
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I thank the members of this committee, namely you, Senator Leahy, Senator Kohl, Schumer, Durbin, Whitehouse, Klobuchar, Franken, Coons, and Blumenthal. I thank you all very much for supporting this bill. I would like to take the opportunity to acknowledge the presence of Representative Jerry Nadler from the state of New York, who is the author of the House bill. Mr. Chairman, I believe DOMA is discriminatory and should be stricken in its entirety from federal law. The Respect for Marriage Act will do that, and I urge my colleagues to report this bill to the floor cleanly, without any amendments. When DOMA passed 15 years ago, no state permitted same-sex marriage. Today, 6 states and the District of Columbia do: Vermont, Connecticut, Iowa, New York, New Hampshire, and Massachusetts. So, today there are 131,000-plus legally married same-sex couples in this country.

These changes reflect a firmly-established legal principle in this country: marriage is a legal preserve of the states. DOMA infringes on this state authority by requiring the federal government to disregard state law, and deny more than 1,100 federal rights and benefits to which all other legally married couples are entitled.

Last week, Mr. Chairman, 70 businesses and other organizations joined in an amicus brief in the First Circuit in a case challenging the constitutionality of DOMA. They include Xerox, Exelon, CBS, Aetna, Time Warner, NIKE, Starbucks, Google, Microsoft, among many others. They include legal and professional associations as well as three cities. The brief clearly indicates how DOMA is causing real problems in its discriminatory nature.

First, DOMA strips tax-free health coverage from spouses in same-sex marriages. This affects the employee's tax burden, increasing it on average by over \$1,000 a year. It also increases the employer's payroll tax burden, which is based on the employee's wages. DOMA strips spousal retirement protection under ERISA from same-sex married couples. DOMA denies a same-sex spouse the right to continue health coverage under COBRA. It requires businesses to maintain two sets of books, which these petitioners say has produced additional cost one for married employees with same-sex spouses, another for married employees with different-sex spouses. It has compelled companies to hire costly compliance specialists. And, it imposes even greater costs on small businesses, which cannot afford outside experts. Mr. Chairman, I'd like to place this brief in the record, if I may. Thank you very much.

So, I believe it's pretty clear that the time has come to repeal DOMA. When DOMA was passed, no one was affected, because no one was legally married, because no state had passed a law. That's changed now. We have 7 states, we have 131,000 married couples, and the discriminatory

nature of DOMA is showing up throughout the business and professional communities of this country. So I urge my colleagues to support this bill, end this discrimination, and vote no, please, on all amendments. Thank you very much, Mr. Chairman.