



# FEDERAL LGBT LEGISLATION: **AN ECONOMIC EMPOWERMENT AGENDA**

“WE MEASURE PROGRESS BY THE SUCCESS OF OUR PEOPLE. BY THE JOBS THEY CAN FIND AND THE QUALITY OF LIFE THOSE JOBS OFFER. BY THE PROSPECTS OF A SMALL BUSINESS OWNER WHO DREAMS OF TURNING A GOOD IDEA INTO A THRIVING ENTERPRISE. BY THE OPPORTUNITIES FOR A BETTER LIFE THAT WE PASS ON TO OUR CHILDREN. THAT’S THE PROJECT THE AMERICAN PEOPLE WANT US TO WORK ON. TOGETHER.” - **President Barack Obama, State of the Union address, January 25, 2011**

Lesbian, gay, bisexual and transgender Americans share the same anxieties about our nation’s economy as their friends and neighbors. They too have experienced foreclosures and layoffs, delayed their retirements, filled out hundreds of job applications, struggled to pay bills and afford healthcare for their kids. But unlike their fellow Americans, LGBT people are uniquely burdened by discrimination and a lack of recognition of their families under the law. They face a challenging job market along with the reality that, in most of the country, they can lose or be denied a job simply because of their sexual orientation or gender identity. Their families share the struggles of making ends meet, but without being recognized by the federal government, and benefiting from programs and protections designed to help families in need – like being able to take time to care for a sick partner under the Family and Medical Leave Act, not taking a tax hit for making use of a fair-minded employer’s domestic partner benefits, or the knowing a partner’s Social Security benefits or federal employee retirement is there to help should the worst happen.

**In the 112th Congress, HRC’s message to lawmakers is simple: LET LGBT PEOPLE GET TO WORK.**

Get rid of the barriers that keep them unemployed or underemployed, make it difficult or impossible to protect their families, and undermine their ability to get the education they need to succeed. Remember that LGBT people are part of the economic life of this nation, but they could and would contribute more if we stopped letting discrimination hold them back. Part of our nation’s recovery, part of making America the success we all know it can be, is making it a place where lesbian, gay, bisexual and transgender people are given an equal opportunity to succeed.

## **THE EMPLOYMENT NON-DISCRIMINATION ACT: A JOBS BILL**

Work is central to the lives of all Americans, allowing us not just to make a living and support our families, but also to contribute to the health and life of our communities and our nation’s economy. Finding and keeping job is tough for everyone in today’s market, but LGBT people, there is the additional burden of discrimination. In 29 states, a gay or lesbian worker can be fired simply because of his or her sexual orientation. In 38 states, a transgender job-seeker can

be turned away based solely on gender identity. For LGBT job seekers, the challenges of the economic downturn are coupled with the real risk that a potential employer could turn you away because you casually mention your same-sex partner in an interview, or checking your references reveals that you have changed your gender. For those LGBT people lucky enough to have jobs, the fear of discrimination can mean constant self-censoring, hiding part of yourself, and your family, from colleagues and supervisors. While the toll on LGBT workers is immeasurable, the impact on the economy should not be ignored. When LGBT people are left unemployed or underemployed because of discrimination, employers let their valuable skills go unused. And LGBT workers who fear they may be fired or passed over for a promotion can't perform as well. Corporate America knows that a welcoming environment for all workers, regardless of sexual orientation or gender identity, is the right thing to do – that's why more and more companies are adopting nondiscrimination policies and actively recruiting LGBT workers.

That is why Congress must pass the Employment Non-Discrimination Act (ENDA). ENDA would prohibit employment discrimination based on sexual orientation and gender identity, ensuring that LGBT workers are judged by how well they do the job, not by who they are. ENDA would level the playing field for LGBT people, giving them an equal opportunity to compete in the job market and to contribute their skills to improving the economy for all Americans.

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## **FEDERAL BENEFITS: A SOCIAL SAFETY NET FOR ALL FAMILIES**

Everyone worries about their families in times like these – how to pay the bills and afford health insurance when facing layoffs, how to plan for retirement when a 401(k) is devastated by the economic downturn. The federal government provides over one thousand protections and benefits to married couples, many of which are critical social safety net programs. Your family gets to stay on your health insurance when you lose your job, thanks to continuation coverage under COBRA. You can take unpaid leave to care for a spouse who falls ill and know your job will still be there, thanks to the Family and Medical Leave Act. And your family can rely on your retirement benefits from Social Security.

But families headed by gay and lesbian couples enjoy none of these protections. Because of the so-called “Defense of Marriage Act” (DOMA), even couples whose states recognize them as married, or in a civil union, are denied the myriad of federal benefits and protections that most opposite-sex couples take for granted. Congress must repeal DOMA to ensure that LGBT people can also protect their families, in good times and in bad.

However, rolling back to DOMA faces an uphill battle with anti-LGBT leaders in control. In the meantime, Congress can address some of the inequalities that DOMA creates, discrimination that costs American employers money and harms their ability to recruit top talent. One such solution is the Tax Equity for Health Plan Beneficiaries Act (DP Tax), which would eliminate the unfair tax on employer-provided domestic partner health insurance benefits. Unlike health coverage for an opposite-sex spouse, employees who make use of the DP benefits that a fair-minded employer provides must pay taxes on them – and so must the employer. This can cost a middle-class worker thousands of dollars every year, meaning many employees' same-sex partners decline the coverage, potentially turning to government-funded programs for health coverage.

### **Respect for Marriage Act:**

would repeal DOMA and respect the legal marriages of same-sex couples entered into states that allow them.

### **Tax Equity for Health Plan Beneficiaries Act:**

would eliminate the unfair employee and employer taxation of domestic partner health benefits.

### **Domestic Partnership Benefits and Obligations Act:**

would ensure families with a federal government worker have equal benefits.

### **Uniting American Families Act:**

would end the exclusion of same-sex couples from immigration procedures.

### **Equal Access to COBRA Act:**

would make continuing health benefits available to domestic partners who are covered under plans during the worker's employment.

### **Family and Medical Leave Inclusion Act:**

would allow workers to take unpaid leave to care for a domestic partner or same-sex spouse.

The Domestic Partnership Benefits and Obligations Act (DPBO) would provide equal family benefits to same-sex partners of federal civilian employees, and help the federal government compete with America's leading employers—many of whom offer domestic partner benefits—in recruiting the top talent. Alongside extending certain benefits to the partners of federal employees under his existing authority, President Obama has repeatedly called for passage of DPBO to equalize the provision of the full range of benefits, particularly health and retirement coverage. While passing both House and Senate committees last Congress, unfortunately, DPBO did not move the floor of either chamber.

The Uniting American Families Act (UAFA) would permit U.S. citizens and legal permanent residents to sponsor their same-sex partners for immigration purposes. Under current law, unlike different-sex couples, bi-national same-sex couples are frequently kept apart or torn apart by U.S. immigration law. This injustice often forces American citizens to move overseas to where their relationships are recognized, taking their talents and productivity with them.

Additionally, legislative options exist to address other specific federal rights and benefits, including bills that would equalize access to continuation health coverage under COBRA (Equal Access to COBRA Act) and to family and medical leave under the FMLA (Family and Medical Leave Inclusion Act).

## **SAFE SCHOOLS: ENSURING ALL STUDENTS ARE PREPARED TO CONTRIBUTE TO OUR ECONOMY**

Perhaps one of the most compelling stories about the LGBT community in the last year was a poignant reminder of the damage done to youth who experience anti-LGBT bullying and harassment. In the 112th Congress there are two legislative solutions, as well as administrative actions, that can address the problem of bullying, harassment and discrimination against LGBT students.

The Safe Schools Improvement Act (SSIA) would address the pervasive problem of bullying of LGBT students by amending the Safe and Drug-Free Schools and Communities Act. The legislation would require that schools and districts ensure that their codes of conduct specifically prohibit bullying and harassment (including that based on sexual orientation and gender identity), and that states include bullying and harassment data in their state-wide needs assessments reporting just as districts include such data in their plans to address school safety.

The Student Non-Discrimination Act (SNDA), modeled after Title IX, prohibits any school program or activity receiving federal financial assistance from discriminating against any public school student on the basis of actual or perceived sexual orientation or gender identity. The bill also gives students the ability to seek redress for such discrimination in court.

As the 112th Congress takes up reauthorization of education programs, inclusion of language from SSIA and SNDA would ensure that LGBT young people grow up with the educational opportunities they deserve in order to fully contribute to the economic life of our nation.

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### **For more information on these pieces of legislation contact:**

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