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Congress of the United States
House of Representatives
Washington, DC

August 7, 2007

Dear Cosponsor:

On rereading the Employment Nondiscrimination Act that you have cosponsored, I realized that we had included a provision that, while I support it as a matter of public policy, is not properly part of this bill in terms of the arguments we have made for it. I am referring specifically to section 8, subsection 5(b), which would in effect amend ERISA. As you know I am myself a supporter of full partnership rights for people of the same sex, including marriage. But we have always been clear to differentiate that issue, including domestic partnerships, from the basic principle of opposing discrimination. While nothing in the language as drafted would have compelled the recognition of domestic partnerships, it would in effect amend a provision of ERISA that now governs what states can do in compelling the recognition of domestic partnerships by companies within their boundaries. This should not have been included and I write to notify you of my intention to request that the Education and Labor Committee strike this provision from the bill when it is considered.

Thus, if you are asked about this provision between now and the time of the committee markup, I hope you will feel free to note that it will not be part of the final bill, and that no one should decide to be against the basic nondiscrimination bill because of its inclusion. I and others will be pursuing the right of people of the same sex to have their relationships fully recognized, but in other contexts, and not here where it would not be legislatively appropriate nor helpful to getting the bill passed.

BARNEY FRANK