Therefore, the definition of marriage in DOMA is derived most immediately from a Washington State case, *Singer* v. *Hara,* 522 P.2d 1187, 1191–92 (Wash. App. 1974), and this definition has now found its way into Black's Law Dictionary (6th ed. 1990). There are many similar definitions, both in the dictionaries and in the cases. For example, more than a century ago the U.S. Supreme Court spoke of the ''union for life of one man and one woman in the holy estate of matrimony.'' *Murphy* v. *Ramsey,* 114 U.S. 15, 45 (1885).

Note that ''marriage'' is defined, but the word ''spouse'' is not defined but refers to. This distinction is used because the word ''spouse'' is defined at several places in the Code to include substantive meaning (e.g., Title II of the Social Security Act, 42 U.S.C. §§416 (a), (b), & (f), contains a definition of ''spouse'' that runs to dozens of lines), and DOMA is not meant to affect such substantive definitions. DOMA is meant to ensure that whatever substantive definition of ''spouse'' may be used in Federal law, the word refers only to a person of the opposite sex.

[Prepared by the Office of Senator Don Nickles]

THE DEFENSE OF MARRIAGE ACT IS NECESSARY NOW

The Defense of Marriage Act (DOMA) is a modest proposal. In large measure, it merely restates current law. Some may ask, therefore, if it is necessary. The correct answer is . . . it's essential, and it's essential now. A couple of examples will illustrate why:

Same-Sex ''Marriages'' in Hawaii. Prompted by a decision of its State Supreme Court, *Baehr* v. *Lewin,* 852 P.2d 44, reconsideration granted in part, 875 P.2d 225 (Haw. 1993), the people of Hawaii are in the process of deciding if their State is going to sanction the legal union of persons of the same sex. After Hawaii's high court acted, the legislature amended Hawaii's law to make it unmistakably clear that marriage is available only between a man and a woman, Act of June 22, 1994 (Act 217, §3), amending Hawaii Revised Statutes §572–1, but the issue still thrives in the courts, and a lower court may hand down a decision later this year.

If Hawaii sanctions same-sex ''marriage'', the implications will be felt far beyond Hawaii. Because Article IV of the U.S. Constitution requires every State to give ''full faith and credit'' to the ''public Acts, Records, and judicial Proceedings'' of each State, the other 49 States will be faced with recognizing Hawaii's same-sex ''marriages'' even though no State now sanctions such relationships. The Federal Government will have similar concerns because it extends benefits and privileges to persons who are married, and generally it uses a State's definition of marriage.

DOMA. The Defense of Marriage Act does not affect the Hawaii situation. It does not tell Hawaii what it must do, and it does not tell the other 49 States what they must do. If Hawaii or another State decides to sanction same-sex ''marriage'', DOMA will not stand in the way.

The Defense of Marriage Act does two things: First, it allows each State to decide for itself what legal effect it will give to another State's same-sex ''marriages''. This initiative is based on Congress' power under Article IV, section 1 of the Constitution to say what ''effect'' one State's acts, records, and judicial proceedings shall have in another State. Second, DOMA defines the words ''marriage'' and ''spouse'' for purposes of Federal law. Since the word ''marriage'' appears in more than 800 sections of Federal statutes and regulations, and since the word ''spouse'' appears more than 3,100 times, a redefinition of ''marriage'' or ''spouse'' could have enormous implication for Federal law.

The following examples illustrating DOMA's importance are from Federal law, but similar situations can be found in every State.

Veterans' Benefits. In the 1970s, Richard Baker, a male, demanded increased veterans' educational benefits because he claimed James McConnell, another male, as his dependent spouse. When the Veterans Administration turned him down, he sued, and the outcome turned on a Federal statute (38 U.S.C. §103(c)) that made eligibility for the benefits contingent on his State's definition of ''spouse'' and ''marriage''. The Federal courts rejected the claim for added benefits, *McConnell* v. *Nooner,* 547 F.2d 54 (8th Cir. 1976), because the Minnesota supreme court had already determined that marriage (which it defined as ''the state of union between persons of the opposite sex'') was not available to persons of the same sex. *Baker* v. *Nelson,* 191 N.W.2d 185 (Minn. 1971), dismissed for want of a substantial federal question, 409 U.S. 810 (1972).

If Hawaii changes its law, a *Baker* v. *Nelson*-type case based on Hawaiian law will create genuine risks to the Federal Government's consistent policy. The Defense of Marriage Act anticipates future demands such as that made in the veterans' benefits case, and it reasserts that the words ''marriage'' and ''spouse'' will continue to mean what they have traditionally meant.

Family and Medical Leave Act. The Family and Medical Leave Act of 1993 (FMLA), Pub. L. 103–3, 107 Stat. 6, requires that employees be given unpaid leave to care for a ''spouse'' who is ill.

Shortly before passage of the Act in the Senate, Senator Nickles attached an amendment defining ''spouse'' as ''a husband or wife, as the case may be.'' That amendment proved essential when the regulations were written.

When the Secretary of Labor published his proposed regulations, he noted that a ''considerable number of comments'' were received urging that the definition of ''spouse'' ''be broadened to include domestic partners in committed relationships, including same-sex relationships.'' However, the Nickles amendment precluded him from adopting an expansive definition of ''spouse''. The Secretary then quoted the Senator's remarks on the floor:

''. . . This is the same definition [of 'spouse'] that appears in Title 10 of the United States Code (10 U.S.C. 101). Under this amendment, an employer would be required to give an eligible female employee unpaid leave to care for her husband and an eligible male employee unpaid leave to care for his wife. No employer would be required to grant an eligible employee unpaid leave to care for an unmarried domestic partner. This simple definition will spare us a great deal of costly and unnecessary litigation. Without this amendment, the bill would invite lawsuits by workers who unsuccessfully seek leave on the basis of the illness of their unmarried adult companions.''

''*Accordingly,*'' continued the Secretary, ''*given this legislative history, the recommendations that the definition of 'spouse' be broadened cannot be adopted.*'' 60 Federal Register 2180, 2191–92 (Jan. 6, 1995) (emphasis added).

The Family and Medical Leave Act is an excellent example of how a little anticipation in the Legislative Branch can prevent a far-reaching, even revolutionary, change in American law.

[Prepared by the Office of Senator Don Nickles]●

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 695

At the request of Mrs. KASSEBAUM, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 695, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes.

S. 983

At the request of Mr. FEINGOLD, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 983, a bill to reduce the number of executive branch political appointees.

S. 1035

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1423

At the request of Mr. GREGG, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1423, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 1578

At the request of Mr. FRIST, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1596

At the request of Mr. MURKOWSKI, the names of the Senator from Alaska [Mr. STEVENS], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 1596, a bill to direct a property conveyance in the State of California.

S. 1610

At the request of Mr. BOND, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1623

At the request of Mr. WARNER, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1646

At the request of Mr. DOMENICI, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

S. 1687

At the request of Mr. KERRY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1687, a bill to provide for annual payments from the surplus funds of the Federal Reserve System to cover the interest on obligations issued by the Financing Corporation.

AMENDMENTS SUBMITTED

THE WHITE HOUSE TRAVEL OFFICE EXPENSES AND FEES REIMBURSEMENT ACT

DOLE AMENDMENT NO. 3960

Mr. DOLE proposed an amendment to amendment No. 3955 proposed by him to the bill (H.R. 2937) for the reimbursement of legal expenses and related fees incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993; as follows:

''Strike the word ''enactment'' and insert the following:

enactment.

TITLE —FUEL TAX RATES

SEC. . REPEAL OF 4.3-CENT INCREASE IN FUEL TAX RATES ENACTED BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AND DEDICATED TO GENERAL FUND OF THE TREASURY.

(a) IN GENERAL.—Section 4081 of the Internal Revenue Code of 1986 (relating to imposition of tax on gasoline and diesel fuel) is amended by adding at the end the following new subsection:

''(f) REPEAL OF 4.3-CENT INCREASE IN FUEL TAX RATES ENACTED BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AND DEDICATED TO GENERAL FUND OF THE TREASURY.—

''(1) IN GENERAL.—During the applicable period, each rate of tax referred to in paragraph (2) shall be reduced by 4.3 cents per gallon.

''(2) RATES OF TAX.—The rates of tax referred to in this paragraph are the rates of tax otherwise applicable under—

''(A) subsection (a)(2)(A) (relating to gasoline and diesel fuel),

''(B) sections 4091(b)(3)(A) and 4092(b)(2) (relating to aviation fuel),

''(C) section 4042(b)(2)(C) (relating to fuel used on inland waterways),

''(D) paragraph (1) or (2) of section 4041(a) (relating to diesel fuel and special fuels),

''(E) section 4041(c)(2) (relating to gasoline used in noncommercial aviation), and

''(F) section 4041(m)(1)(A)(i) (relating to certain methanol or ethanol fuels).

''(3) COMPARABLE TREATMENT FOR COMPRESSED NATURAL GAS.—No tax shall be imposed by section 4041(a)(3) on any sale or use during the applicable period.

''(4) COMPARABLE TREATMENT UNDER CERTAIN REFUND RULES.—In the case of fuel on which tax is imposed during the applicable period, each of the rates specified in sections 6421(f)(2)(B), 6421(f)(3)(B)(ii), 6427(b)(2)(A), 6427(l)(3)(B)(ii), and 6427(l)(4)(B) shall be reduced by 4.3 cents per gallon.

''(5) COORDINATION WITH HIGHWAY TRUST FUND DEPOSITS.—In the case of fuel on which tax is imposed during the applicable period, each of the rates specified in subparagraphs (A)(i) and (C)(i) of section 9503(f)(3) shall be reduced by 4.3 cents per gallon.

''(6) APPLICABLE PERIOD.—For purposes of this subsection, the term 'applicable period' means the period after the 6th day after the date of the enactment of this subsection and before January 1, 1997.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3. FLOOR STOCK REFUNDS.

(a) IN GENERAL.—If—

(1) before the tax repeal date, tax has been imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 on any liquid, and

(2) on such date such liquid is held by a dealer and has not been used and is intended for sale,

there shall be credited or refunded (without interest) to the person who paid such tax (hereafter in this section referred to as the ''taxpayer'') an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such liquid had the taxable event occurred on such date.

(b) TIME FOR FILING CLAIMS.—No credit or refund shall be allowed or made under this section unless—

(1) claim therefor is filed with the Secretary of the Treasury before the date which is 6 months after the tax repeal date, and

(2) in any case where liquid is held by a dealer (other than the taxpayer) on the tax repeal date—

(A) the dealer submits a request for refund or credit to the taxpayer before the date which is 3 months after the tax repeal date, and

(B) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(c) EXCEPTION FOR FUEL HELD IN RETAIL STOCKS.—No credit or refund shall be allowed under this section with respect to any liquid in retail stocks held at the place where intended to be sold at retail.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms ''dealer'' and ''held by a dealer'' have the respective meanings given to such terms by section 6412 of such Code; except that the term ''dealer'' includes a producer, and

(2) the term ''tax repeal date'' means the 7th day after the date of the enactment of this Act.

(e) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 6412 of such Code shall apply for purposes of this section.

SEC. 4. FLOOR STOCKS TAX.

(a) IMPOSITION OF TAX.—In the case of any liquid on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before January 1, 1997, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon.

(b) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(1) LIABILITY FOR TAX.—A person holding a liquid on January 1, 1997, to which the tax imposed by subsection (a) applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by subsection (a) shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by subsection (a) shall be paid on or before June 30, 1997.

(c) DEFINITIONS.—For purposes of this section—

(1) HELD BY A PERSON.—A liquid shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made.)

(2) GASOLINE AND DIESEL FUEL.—The terms ''gasoline'' and ''diesel fuel'' have the respective meanings given such terms by section 4083 of such Code.

(3) AVIATION FUEL.—The term ''aviation fuel'' has the meaning given such term by section 4093 of such Code.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(d) EXCEPTION FOR EXEMPT USES.—The tax imposed by subsection (a) shall not apply to gasoline, diesel fuel, or aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code is allowable for such use.

(e) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by subsection (a) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(f) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(1) IN GENERAL.—No tax shall be imposed by subsection (a)—

(A) on gasoline held on January 1, 1997, by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(B) on diesel fuel or aviation fuel held on such date by any person if the aggregate amount of diesel fuel or aviation fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(2) EXEMPT FUEL.—For purposes of paragraph (1), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by subsection (a) by reason of subsection (d) or (e).

(3) CONTROLLED GROUPS.—For purposes of this subsection—

(A) CORPORATIONS.—

(i) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(ii) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(B) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(g) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and diesel fuel and section 4091 of such Code in the case of aviation fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by subsection (a) to the same extent as if such taxes were imposed by such section 4081 or 4091.

SEC. 5. BENEFITS OF TAX REPEAL SHOULD BE PASSED ON TO CONSUMERS.

(a) PASSTHROUGH TO CONSUMERS.—