

FOR IMMEDIATE RELEASE
June 25, 2007

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REMARKS OF SENATOR EDWARD M. KENNEDY ON THE EMPLOYEE FREE CHOICE ACT

(As prepared for delivery)

Over the years, the American workplace has changed immensely for the better. It was not so long ago that the normal workday was 10 hours or even more. The workweek was six days. There was no overtime pay or minimum wage. Workers regularly risked injury or death on the job because there were no workplace laws. There was no workers compensation. Children often worked long hours in dangerous, unhealthy factories.

The progress that ended those practices did not come by accident, nor did it come easily. The American worker has more safety and dignity today because workers came together and joined their voices to demand these changes. They launched one of the greatest progressive movements of the 20th Century – the trade union movement. Unions have always led the fight for a safer, fairer workplace. They have always been the voice of working families.

Progress has been made, but there is no cause for complacency. American workers are facing major new challenges. Rapid advances in technology, globalization and other powerful changes are fundamentally altering our economy and our society. The new, global economy has helped the nation prosper, but the men and women who did so much to build this prosperity – America's workers – are not seeing the benefits. They should.

They are working harder than ever in the Bush economy, but they're not receiving their fair share of our economic growth. Since President Bush took office, corporate profits have increased 83 percent. Productivity is up 18 percent. But household income has declined significantly and the wages of working Americans have been stagnant.

For the first time, young men are earning less than their fathers did. Six million Americans have lost their health insurance. Their retirement security is fading as well. Only 1 in 5 workers earns a guaranteed pension. People feel insecure about their jobs, their incomes, their health insurance, their children's futures, and their own prospects for a dignified retirement.

The American dream is increasingly out of reach, and the middle class is declining. Inequality is rising to record levels not seen since the gilded age. Today, more than 40% of the country's total income goes to the wealthiest 10% of Americans. The top one tenth of one percent of Americans receive nearly 7% of the total income of our entire country.

It didn't used to be this way. There was a time when all Americans shared in the benefits of the nation's rapid growth. The rising tide truly did lift all boats. It was a time when union membership was growing, when unions were building America's middle class. From the 1940s to the 1960s, union membership reached its peak. During that same time, wages and productivity rose together. Workers shared in corporate gains, and our entire society benefited as a result.

I believe that we can overcome the challenges that the new, global economy presents for our country. We can return to a time of shared prosperity. But to do so, we must give employees back their voice, so they can come together again to obtain what's fair, and reclaim the American Dream.

More than half of workers today say they would join a union if they could – which means almost 60 million workers across the country want a stronger voice at work. We know that strong unions mean a strong middle class. They mean higher wages -- union wages are 30

percent higher than non-union wages. Strong unions mean better health care – 80 percent of union workers have health insurance, compared to only 49 percent of non-union workers.

They mean more security – union members are almost twice as likely to have paid sick days, and are four times more likely to have a secure, guaranteed pension.

It's no wonder that so many American workers want union representation. The question is, why don't they have it? The reason is shamefully clear – our labor laws are too weak to protect workers' basic rights. Workers who try to exercise their freedom to form a union find that the system is rigged against them.

Jeff Lemon works at the Beaver County Times distribution center in Pennsylvania. When he and his coworkers were denied the raises promised by the company, they asked for a union election. As soon as they did so, the company launched an anti-union campaign.

Management threatened to eliminate jobs and replace workers with outside contractors.

Employees were forced to attend anti-union meetings. Managers spied on workers. And Jeff Lemon was fired for his union activity.

Despite the threats and intimidation, Jeff's coworkers voted for the union two years ago. But they still don't have a contract. The company keeps stalling and refuses to reach an agreement. The National Labor Relations Board says Jeff's discharge was illegal. But the company is fighting that decision and refusing to give Jeff his job back. It could be years before he gets back the job he needs.

Or consider the story of Santana Blanca, who worked as a clerk at a waste management company. On her breaks from work, Santana often confided in her friend and coworker, Iris, and sometimes they talked about a union organizing campaign going on at the company.

Unknown to Santana, company supervisors had recruited Iris to spy on workers' union activities. They even asked Iris to try to change Santana's mind about the union. A few days after Iris reported to her employer that Santana supported the union, Santana was fired.

Certainly, not all employers are bad actors. A responsible employer has nothing to fear from a union organizing effort. But, unfortunately, stories like Jeff's and Santana's are all too common.

Unscrupulous employers routinely break the law to keep unions out. They intimidate workers, harass them, and discriminate against them. They close down whole departments – or even entire plants – to avoid negotiating a union contract. They fire union activists.

The problem is widespread – twenty percent of all workers who openly support unions during an organizing campaign are fired. More than 30,000 workers in 2005 were fired or retaliated against for their union activity. It's illegal and it's unacceptable, but it happens every day.

An entire industry of anti-union consultants coaches employers on how to oppose a union organizing campaign. They teach companies to lie and to cheat. They urge businesses to identify and fire union activists, in order to intimidate the rest of the employees. They taint the union election process, and deny workers the freedom of choice they deserve.

The current NLRB process isn't a fair election. It's become a war where the playing field is slanted so there's no hope of a fair fight. If the elections that put Members of Congress in office were run this way, we wouldn't put up with it.

No one would tolerate an election where one candidate could force the voters to listen to their campaign ads, but the other couldn't even enter the state – where one candidate signs the voter's paychecks, but the other can't find out who the voters are. But that's how union elections are run.

Even when the union wins an election, employers can steal the victory by refusing to bargain fairly for a first contract. They drag their feet, delay bargaining, and prevent an agreement.

Even if they're caught and found to have broken the law, the only remedy is to go back and

engage in more of the same.

Over a third of all the workers in hard-won union elections are denied a contract because of employers' delaying tactics. They put their jobs on the line to support the union, and get nothing in return except delay and frustration.

Workers deserve better. They deserve respect. They deserve fair treatment. They deserve the freedom to choose a union. That's why we need the Employee Free Choice Act. This legislation will fix our broken system and restore employees' basic freedoms.

The core of this legislation protects the right of workers to choose their own representative through majority sign-up. If a majority of workers sign cards saying they want a union, the employer has to recognize the workers' choice.

Majority sign-up is nothing new. From 1935 until the mid-1960s, the National Labor Relations Board certified unions based on majority sign-up. Since then, the NLRB has recognized bargaining relationships based on majority sign-up if the employer agrees to do so.

Majority sign-up means basic fairness for workers. They are subjected to less pressure from employers and from coworkers. Today, employees who have gone through an election campaign are twice as likely to report that their employer coerced them to oppose the union.

Majority sign-up also benefits companies. For years, responsible employers such as Cingular Wireless and Kaiser Permanente have recognized unions chosen by their workers through majority sign-up.

These companies have found that majority sign-up minimizes conflicts and promotes a more cooperative, productive workplace. It's good for the company bottom line too.

We've all heard the argument that it's always better to have elections. But there's nothing more American than using your John Hancock to stand up for what you believe in. Just as you sign on the dotted line to join a political party, support a petition for a good cause, volunteer for community service, or make a donation to a charity, you should be able to sign a card saying you want a union.

Majority sign-up is simple. It's fair, and it ensures that if a majority of workers want a union, they'll get one. There's nothing more democratic than that.

Our legislation will also stop employers from taking away the victories of workers who have chosen a union. It requires employers to come to the table to bargain for a first contract. If there's a stalemate in negotiations, an employer can't just stonewall until workers get frustrated and give up. Our bill also provides for mediation and – when necessary – arbitration of first contract disputes.

Finally, the Employee Free Choice Act puts real teeth in the law. Today, the penalties for misconduct are so low, employers benefit from waging war rather than complying with the law. They can dismiss the insignificant fines and penalties they pay years later as a minor cost of doing business.

Certainly, many employers respect their workers and do what it takes to comply with the law. But we need to deal with the bad actors. We need to stop the lawbreaking that has become alarmingly common. It's the only way to restore the voice of American workers and put our country back on the right track.

The Senate has a clear opportunity tomorrow to take a stand for working families. By restoring fairness to the American workplace, and strengthening the voice of American workers, we can rebuild the land of opportunity, a land with good jobs and fair wages and benefits that can support a family. We can revitalize the American middle class and restore the American dream.

I urge my colleagues to vote for the Employee Free Choice Act. It's vital legislation for the economic security of our country and the dignity of our workforce.
I urge all of my colleagues to join me in voting to proceed to this important legislation.

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