



For Immediate Release

Contact: Craig Orfield
(202) 224-6770

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***ENZI SOUNDLY REJECTS DEMOCRAT GIVEAWAY TO BIG LABOR;
PLEDGES TO SUPPORT THE RIGHTS OF INDIVIDUALS
IN THE WORKPLACE***

Washington, D.C. - U.S. Senator Mike Enzi (R-WY), Ranking Member of the Senate Health, Education, Labor and Pensions (HELP) Committee, today reiterated his strong opposition to a Democrat-proposed bill that would eliminate a worker's right to cast a private ballot when deciding whether to join a union, and would expose workers to pressure, intimidation and coercion by co-workers and labor union leaders.

"There's nothing 'free' about taking away the right of an employee to make a private choice without fear and intimidation," Enzi cautioned. "The cost is the loss of majority rule, free speech, and the use of the private ballot box – important principles that should not be thrown away to satisfy special interest groups. No matter how this legislation is packaged, at its core, it simply takes away an individual's right to vote. That is a dangerous road we shouldn't travel."

"Americans get a private ballot when they choose their President, their Congressmen, their local councilmen, even their PTA leaders – why should they not have the same right in the workplace when they decide whether they want a union to become their exclusive, legal representative in their workplace? Free, fair, and private elections are a fundamental principle of American democracy."

The misnamed "Employee Free Choice Act," would also radically alter the longstanding process of collective-bargaining and set aside traditional methods used to resolve differences between workers and employers guaranteed by the National Labor Relations Act. The Free Choice Act, by setting aside those methods, would require mandatory, binding interest arbitration in all first time collective bargaining agreements that are not finalized within 90 days. This would place all decisions that cannot be resolved quickly into the hands of a third party.

"No Member would allow differences in the Senate to be resolved by an outside party," Enzi said. "We should not impose such a requirement on others that must negotiate agreements."

The bill also would end standards in place for over 70 years used to compensate parties who suffer a loss as a result of wrongful acts, by imposing unreasonable penalties on employers, while leaving penalties for union violations of employees' rights at current levels – despite the fact that there is an average of nearly 6,000 charges of harassment, intimidation, and coercion against unions each year.

In the past 15 years, union leaders have seen their numbers decline rapidly, falling 25 percent from 1990 to 2006. Private sector membership is at an all-time low of 7.4 percent. Elections held to determine whether to form a union, governed by the National Labor Relations Board, actually favor unions, with unions winning a record 61 percent of elections nationally in 2005. However, fewer and fewer elections are being held each year. Organized labor claims this is because the system is unfair. That argument does not hold water: the law and the system for organizing and holding elections have been unchanged for decades. Both were the same in the 1970s and 1980s, when NLRB elections were at 3 or 4 times the current rate, and when private sector union membership was its highest.

“The fact is that for the last decade unions have been winning a steadily increasing number of the NLRB certification elections,” Enzi said. “In fact, in FY 2005 unions won over 61 percent of the time – a rate as high as it has ever been. When you are shooting better than 61 percent from the three point line, it’s a little difficult to claim that the game is unfair, or that you need to have the line moved closer to the basket.”

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Statement of Michael B. Enzi, Ranking Member

Senate Committee on Health, Education, Labor and Pensions

March 27, 2007

**HELP COMMITTEE HEARING ON
THE “EMPLOYEE FREE CHOICE ACT”**

I want to thank Chairman Kennedy for holding this hearing and offering us the opportunity to get all the facts out on the table. This is an important issue and, unlike the process my colleagues faced in the House of Representatives, who were entirely shut out of the process, I am encouraged that the Chairman is willing to open up the card check bill to greater scrutiny here in the Senate. I believe this hearing is an important first step in that direction.

Legislative initiatives are invariably driven by real world facts and real world experience. Therefore, we should begin any review of the cleverly named “Employee Free Choice Act” by first examining some basic facts. This legislation would, in part, radically change the way that millions of employees over nearly seven decades have decided

whether or not they want a union to become their exclusive representative in the workplace. In the vast majority of instances this critical decision has been made through use of the most fundamental institution of our democracy – the private ballot. In a democratic society nothing is more sacred than the right to vote, and nothing insures truly free choice more than the use of a private ballot.

So then, what are the facts that would cause some to so quickly cast aside such fundamental guarantees as the right to vote, and the right of free speech? There is only one fact – labor unions represent a steadily declining percentage of the private sector workforce. Today, union membership among private sector employees stands at its lowest level in decades. The Labor Movement needs members because members' dues, whether taken from the employee's paycheck voluntarily or taken, in some cases, involuntarily in non-right-to-work states, are the only source of union income. Make no mistake about it. That is the only fact that is driving this proposed legislation.

There is not a Member in this body, on either side of the aisle, who would ever sanction depriving individuals of the right to vote when electing their governmental representatives. Why would we ever even consider depriving individuals of the right to vote over the issue of their workplace representatives? Why would we ever say to the working men and women of this country that democracy ends at the factory gate and individual rights have no place on the shop floor? What are the facts that could possibly support this radical notion?

First, we are told that taking away private ballots is necessary because the election process overseen by the National Labor Relations Board is increasingly tilted against unions. However, that claim simply does not withstand examination. The fact is that for the last decade unions have been winning a steadily increasing number of the NLRB certification elections. In fact, in FY 2005 unions won over 61 percent of the time – the highest win percentage ever recorded. When you are shooting better than 61 percent from the three point line, it's a little difficult to claim that the game is unfair, or that you need to have the line moved closer to the basket.

Then we are told, well wait a minute, that's not quite it. The real problem is that employers are making elections unfair. This claim doesn't stand up either.

The National Labor Relations Act guarantees the right of free speech to all parties involved in union elections. Free speech, open debate, and the free exchange of ideas and opinions are, like the private ballot election, hallmarks of a fair and democratic society.

The law, however, also prohibits conduct in the context of union organizing that is coercive or threatening. The NLRB scrupulously polices the conduct of both unions and employers during an organizing election and can invalidate any election if either party engages in misconduct affecting the results. The rate of elections invalidated because of misconduct by *either* side is extraordinarily low and has, in fact been declining. In 2005, over 2300 certification elections were conducted by the NLRB, yet the NLRB conducted

re-run elections because of misconduct by *either* the employer *or* the union in only 19 cases.

Finally, we're told, you still don't get it. It's because employers are increasingly committing unfair labor practices. Well, guess what? That's not true either. The number of allegations – and I stress the word allegations since the majority of claims are withdrawn or dismissed for want of any evidence - of employer unfair labor practices has been steadily declining for the last decade. In fact, last year, it was at the lowest level ever recorded.

Surely, however, those low membership levels must be due to an unfair law, or to unfair NLRB election procedures. Sorry, those arguments hold no water either. The National Labor Relations Act has not changed in nearly fifty years. The law and procedures governing union organizing are the same today as they were in all the years when unions enjoyed their highest level of membership among private sector workers. Such argument further ignores the fact that union's election win rates are dramatically higher today than they were ten, twenty or thirty years ago, and allegations of employer misconduct are dramatically lower than in those same times.

According to opinion poll after opinion poll, the low levels of union membership are the result of the public's perception of unions, not some problem with the law surrounding organizing that hasn't changed in decades. Those polls indicate that workers find unions increasingly irrelevant, too costly, too detached and too political. The unions have not kept pace with the modern workforce. Whether true or not, that is the public's view, and that is the problem for unions – not some manufactured problem with the underlying law.

One final thought is important to bear in mind as we consider this issue. It has never been the role of the government, or the purpose of federal labor policy to increase or maintain the level of union membership among private sector employees. Federal labor policy on this issue has always been neutral. That is why the Act specifically provides in its “bill of rights” section that employees have **both** the right to form and join labor organizations **and** the right not to do so.

Our federal labor policy has been consistently based on “rights” not bolstering union membership levels. This new proposed policy of government intervention to increase unionization will be constructed on a pile of discarded rights – the right to vote, the right to privacy, the right of free speech, and the right to contract.

I believe the Senate will stand with me to protect these most fundamental rights and to continue fostering a national labor policy that is balanced and neutral.

I look forward to hearing the testimony and engaging in a healthy exchange of ideas and differences.

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