

to prevent harm to the public where labor disputes are expanded to those employers not directly involved in such disputes.

That is not the type of unfair labor practice against an employee during the course of a union organizing campaign, where a make-whole remedy of reinstatement with full back pay is available.

Mandatory injunctions are extraordinary penalties, especially involving small businesses, since they involve expensive Federal court litigation. As such, the threat of a mandatory injunction—which, for example, would mandate the employer reinstate the employee during the investigation and prosecution of the injunction—could operate to silence the employer from communicating its views regarding unionization. This is the employer's right under section 8(c) of the National Labor Relations Act.

There has been much said recently by supporters of H.R. 800 about employer misconduct during union organizing campaigns and collective bargaining for a first contract. This has been used to justify the radical provisions of H.R. 800 denying workers of private ballot union elections, increasing anti-employer sanctions, as well as compelling interest arbitration of first contracts.

Unfortunately, much of what has been said is simply untrue or exaggerated and based on flawed information and studies of dubious quality. I cite as an example one fatally flawed study conducted by Cornell Law School Professor Kate Bronfenbrenner. It is frequently cited regarding the firing of union organizers in over one-quarter of union organizing campaigns. The study is based on a survey of union organizers for their opinion as to how often organizers are fired during a union organizing campaign. That hardly constitutes an objective, unbiased sample, and such anecdotal opinions hardly constitute the type of factual, statistical information we have the right to expect before radically changing over 70 years of national labor policy.

Also, supporters of H.R. 800 claim from an NLRB report that over 31,000 employees received back pay annually and thus presumably were fired during union organizing campaigns, which represent one worker fired every 17 minutes. That figure grossly misapplies the report and its basis. In fact, that number includes a very high percentage of workers who were already represented by unions, some for many years, who were being paid back pay because their employer took some unilateral action, such as contracting out work, without consulting their union. Therefore, a high percentage of such back pay had absolutely nothing to do with union organizing campaigns, and supporters of H.R. 800, who must know better, are simply using this statistic to exaggerate their claims. Also, supporters of H.R. 800 ignore the more accurate number that according to the NLRB's most recent annual statistics

only 2,000 employees were ordered reinstated by the Board.

As we debate over whether or not to deny private ballots to workers deciding whether or not to unionize, it is my hope that we will be able to at least hold fast and true to the facts. And there should be full debate on these facts, not simply a cursory one-day hearing, bypassed markup and we move straight to the floor. We must not rely on slogans, anecdotal stories, and questionable secretly-commissioned and selective statistics about alleged unfair labor practices.

In conclusion, those on the other side of this debate have advanced—with fervor—several misleading arguments about the so-called Employee Free Choice Act. I look forward to a debate on the facts of this legislation. We should debate. Let each side be passionate. And of course we will disagree; but let us be respectful. Most importantly, let's make sure that this is an honest debate.

As we enter this debate we should not be fooled by the misinformation from supporters of the bill:

They claim that employers coerce employees to vote no on unionization. The truth is that in less than 2 percent of cases is it found that an employer has inappropriately interfered in a union organizing election.

They claim that under the current system unions are not able to win. The truth is that unions won 62 percent of the National Labor Relations Board elections in 2005—the last year where a complete set of statistics exists.

They claim that the use of a card-check system is the best, most reliable and fair way of judging employees' true intentions of unionizing. The truth is that the use of a card-check system is an inherently unreliable indicator of an employee's true sentiments which lead me to a few other truths on their misleading reliability claim. The truth is that the card acquisition process is unregulated, meaning there is no check on potential undue influence when gathering cards; the truth is that we have found that intimidation, coercion, and pressure tactics can be—and usually are—used to obtain signatures; the truth is that often, bounties and financial incentives are paid to union organizers to obtain signatures on cards; the truth is that intentional deception and misrepresentation are often used by unions when obtaining cards; and the truth is that employees are often induced to sign cards by promises of higher pay, better benefits, and waivers of fees—of course the same employees are not made aware of the potential risks and costs of unionization. And finally, they claim that American workers want to form unions using a card check system.

The truth is that according to a recent poll 79 percent of Americans oppose the elimination of private ballots when voting in union organizing elections.

Senators should be aware this is not a free vote! The bill is not passed this

year, or is passed but vetoed, it will put those of us who voted for it on record as supporting a radical change in national labor law and labor policy. It will put us in support of a system which denies workers a secret ballot election, which has been the bedrock underpinning of national labor policy—the crown jewel of the National Labor Relations Board.

A vote for this bill, or for cloture, will put us on record as against free collective bargaining on first contracts and in support of a political, government-dictated system of compulsory interest arbitration where a federally-appointed arbitrator will dictate the wages, benefits, terms and conditions of employment binding on employees without their even having a vote to approve those terms.

And it will put us on record as supporting an unbalanced system of remedies where employers are subject to punitive sanctions, rather than remedial make whole remedies while ignoring sanctions for union unfair labor practices.

In the end, H.R. 800 will hurt workers and will take away rights they currently have under federal labor law.

In the end, it will hurt employers, leading some to look elsewhere to do business and foreign investment to turn elsewhere rather than the United States.

We will be on record, and we will be reminded of our vote today in future congresses. We must vote no on cloture, just as we should vote no on the bill.

Mr. President, I hope my statement reflects why this is such a horribly misnamed and bad bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

WELCOME TO WYOMING'S NEW SENATOR

Mr. ENZI. Mr. President, minutes ago a new Senator for the State of Wyoming was officially appointed by the Governor of Wyoming, and I want to welcome Dr. JOHN BARRASSO, now Senator BARRASSO, and introduce him to the Senate.

John is an extremely capable person who has gone through a selection process that involved 30 people who were interested in serving as Senator. He went through an interview process and a selection process and was one of three people given to the Governor from whom to select. The Governor gave each of the people a list of 42 issues of critical interest to the State of Wyoming and interviewed each of them and made a selection on that basis. Dr. JOHN BARRASSO was the selection.

I am very excited about this. I am excited about having a full roster from Wyoming. I have known JOHN for many years. I was pleased that he ran for the State Senate. He worked on a lot of conservative issues there. He was a

hard worker, and he was extremely efficient. In fact, one of the amazing things to me was that he was able to answer every e-mail almost immediately and to keep his desk clean. It is different from the way I worked when I was in the Wyoming legislature and it is much different than the way my desk looks here. So his efficiency is unmatched, and he has great knowledge of Wyoming and the issues that are important in Wyoming, which include energy, and of course health. He is an orthopedic surgeon and will make a big difference in our health care debate back here.

He is quiet but efficient and has worked across the aisle in Wyoming, and I am sure he will continue to do that here, much the way Senator Thomas and I have done. We have always worked as a team, the Wyoming delegation, and he will become a very strong team member.

I want to congratulate the Wyoming Republican Party on the process they went through. I want to particularly congratulate Fred Parady, who is the State chairman, for the way he walked into some fairly uncharted waters, particularly for that many people who were interested. He did an excellent and fair job, and one that was timely so we would be able to get to this point. He did an outstanding job.

I congratulate the Governor for the care and concern he gave and the way he went about his job and the comments he made as he did that job and as he introduced the new Senator. I think Wyoming can be a good example for the rest of the Nation to follow.

Of course, no one is going to be able to replace CRAIG THOMAS, but working with JOHN, we can ensure the representation of Wyoming in the Senate will remain second to none.

JOHN has had some interesting things he has worked on in Wyoming. He is extremely well known across the State because he has been doing virtually a nightly television spot helping people to help their own health and has given tips for a number of years doing that. I have no idea how many years he has also been the host for the Jerry Lewis telethon for Wyoming and has raised innumerable dollars for that great cause, and he does it so easily and so naturally and is such a great speaker.

Of course, he is very pleased that both of his children, Pete and Emma, have graduated from high school. Emma graduated this year. So he has gotten to watch them grow up in a very involved way through the years, and now that they are going to college, he can come to Washington, and I know he and his family are very excited about it and are great participants.

So I welcome the newest member of the Senate and let everyone know we are looking forward to a great team and his extreme capability.

Mr. President, I yield the floor.

PASSAGE OF H.R. 6

Mr. DORGAN. Mr. President, I want to thank my friend from Hawaii, the chairman of the Commerce, Science and Transportation Committee, for sponsoring this amendment that was added to energy legislation last evening.

This energy legislation seeks to expand the Nation's supply of renewable biofuels and to begin moving our base of transportation fuel toward renewable energy. Across America, including in my State of North Dakota, American farmers have the ability to grow abundant supplies of corn and energy crops from which ethanol and other transportation biofuels can be manufactured. However, our Nation's ability to produce an abundant supply of transportation biofuels will be of no use if we are not able to transport these biofuels to the population centers where they are needed. Today, due to the special qualities of biofuels, there are no pipelines that can move them to market. Thus, transportation is dependent primarily on trucks and rail, except in those rare cases where water transportation is available between the areas where the biofuels are produced and consumed.

Last week, the Government Accountability Office released a report entitled "Biofuels—DOE Lacks a Strategic Approach to Coordinate Increasing Production with Infrastructure Development and Vehicle Needs." The summary of the report states, in the second paragraph:

Existing Biofuel distribution infrastructure has limited capacity to transport the fuels and deliver them to consumers. Biofuels are transported largely by rail and the ability of that industry to meet growing demand is uncertain.

If our Nation is to realize the potential of sustainable, domestically produced transportation fuels, we can have no uncertainty concerning whether the rail industry can transport the amount of biofuels that the Nation will be producing. Therefore, Senator INOUYE and I have joined in this amendment which calls for a joint study by the Secretaries of Energy and Transportation. The study will consider two primary issues and a number of related issues. First, will there be sufficient railroad infrastructure to move the amount of biofuels the Nation will be producing? Second, will that railroad transportation occur in a competitive environment in which the cost is reasonable and the service is reliable?

Ensuring adequate, reliable, and cost-effective rail transportation for ethanol and other transportation biofuels that will become so important to the Nation is an essential element of the Nation's policy to move toward sustainable, domestic supplies of energy. I thank my friend from Hawaii, the chairman of the Commerce, Science and Transportation Committee, for joining with me to pursue this study, and I look forward to work-

ing with him to ensure that our national rail system is adequate, reliable, and competitive.

Mr. KERRY. Mr. President, yesterday the U.S. Senate passed comprehensive energy legislation that will set the course for our national energy security in the decades to come. The members of this body were able to reach important conclusions regarding the need for increased corporate average fuel economy standards, improved energy efficiency for buildings and appliances, a national standard to help accelerate the development of renewable fuels, and carbon sequestration technology to capture carbon emitted through the burning of coal. The Energy bill approved by the Senate truly represents a shift toward a comprehensive, responsible, and focused national energy policy.

Not to be forgotten in establishing this policy are America's small business owners. There are nearly 26 million small businesses in this country—nearly 26 million business owners that are focused on keeping their doors open and putting food on the table for their families. And while climate change and national energy security sometimes seem like distant threats compared to rising health care costs and staying competitive in an increasingly global economy, small business owners are telling us that energy costs are indeed a concern. The National Small Business Association recently conducted a poll of its members, asking how energy prices affected their business decisions. Seventy-five percent said that energy prices had at least a moderate effect on their businesses—with roughly the same number saying that reducing energy costs would increase their profitability. Despite these numbers, only 33 percent have invested in energy efficiency measures.

In March of this year, I convened a hearing in the Committee on Small Business and Entrepreneurship to look at what small businesses can do to confront global warming. We learned over the course of that hearing just how much can be done to help small businesses become energy efficient. We also learned just how little the current administration is doing. The Environmental Protection Agency estimates that small businesses consume roughly 30 percent of the commercial energy consumed in this country—that is roughly 2 trillion kBtu of energy per year, and it's costing small business concerns approximately \$29 million a year. Through efforts to increase energy efficiency, small businesses can contribute to America's energy security, help to combat global warming, and add to their bottom line all at the same time.

Last night, I worked with Senator SNOWE to include two amendments to H.R. 6 that will go a long way toward helping small business owners become more energy efficient. These amendments, which together represent the provisions included in S. 1657, the